IRS DEPOSITION QUESTIONS: 1. LIABILITY

1. LIABILITY

Introduction

As the laws and regulations of the U.S. are currently written, the average American is NOT liable for the income tax. U.S. Income tax law does not impose a tax on the average citizen's income, wages or otherwise.

Findings and Conclusions

With the assistance of the following series of questions, we intend to prove that even if the People had given Congress the authority, under the terms of the federal Constitution, to impose an income tax on the People, Congress has yet to do so. We will also show that:

- **There is NO U.S. income tax law or income tax regulation that explicitly imposes the income tax on the general American populace.**
- **The laws cited by the IRS in compliance with the Privacy Act and the Paperwork Reduction Act do not specify the specific legal authority that imposes the income tax on the average citizen.**
- **Key terms found in the tax statutes and as used by the IRS such as "citizen", "individual", "income" etc. are not defined clearly in the law and as used in the law, even indicate on their face that they do not apply to average Americans.**

Bottom Line: As the laws and regulations of the U.S. are currently written, the average American is NOT liable for the income tax.

Section Summary

Witnesses:

- Larry Becraft (Constitution Attorney)
- John Turner (Ex. IRS Collection Agent)
- Joseph Bannister (Ex. IRS Criminal Investigator)

Transcript

Acrobat version of this section including questions and evidence (large: 3.97 Mbytes)

Further Study On Our Website:

- IRS Due Process Meeting Worksheet
- Great IRS Hoax book:
    - Section 4.10.3: Federal (U.S.) citizens
    - Section 5.3.1: Summary of Federal Income Tax Filing Status by Citizenship and Residency
    - Section 5.4.5: No Implementing Regulations Authorizing Collection of Subtitles A through C Income Taxes
    - Section 5.5.2: You're Not the "individual" mentioned at the top of the 1040 form if you are a "U.S. citizen" residing in the Federal "United States"
    - Section 5.6.1: There's No Statute Making Anyone Liable to Pay Income Taxes

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1.1. Admit that the Internal Revenue Code is found at Title 26 of the United States Code. (WTP #1)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.2. Admit that Title 26 of the United States Code is broken down into Subtitles. (WTP #2)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.3. Admit that income taxes are set forth in Subtitle A of Title 26. (WTP #3)

- Click here for 26 U.S.C. §1 (WTP Exhibit 001)
- Click here for index to Internal Revenue Code (WTP Exhibit 002)

1.4. Admit that Subtitle A contains Sections 1 through 1564. (WTP #4)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.5. Admit that estate and gift taxes are set forth in Subtitle B of Title 26. (WTP #5)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.6. Admit that Subtitle B contains Sections 2001 through 2663. (WTP #6)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.7. Admit that employment taxes are set forth in Subtitle C of Title 26. (WTP #7)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.8. Admit that Subtitle C contains Sections 3101 through 3510. (WTP #8)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.9. Admit that miscellaneous excise taxes are set forth in Subtitle D of Title 26. (WTP #9)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.10. Admit that Subtitle D contains Sections 4041 through 4999. (WTP #10)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.11. Admit that alcohol, tobacco, and certain other excise taxes are set forth in Subtitle E of Title 26. (WTP #11)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.12. Admit that Subtitle E contains Sections 5001 through 5872. (WTP #12)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.13. Admit that procedures and administration to be followed with respect to the different taxes addressed in Subtitles A through E are set forth in Subtitle F of Title 26. (WTP #13)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.14. Admit that Subtitle F contains Sections 6001 through 7873. (WTP #14)

- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.15. Admit that Congress enacted the Privacy Act at 5 U.S.C. § 552a(e)(3). (WTP #15)

- Click here for 5 U.S.C. §552a(e)(3) (WTP Exhibit 003)

1.16. Admit that when the Internal Revenue Service requests information from an individual, the Privacy Act requires the IRS to inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual -- (WTP #16)

> *(a) the authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;*
>
> *(b) the principal purpose or purposes for which the information is intended to be used;*
>
> *(c) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and*
>
> *(d) the effects on him, if any, of not providing all or any part of the requested information.*
>
> *See 5 U.S.C. §552a(e)(3); IRS Form 1040 U.S. Individual Income Tax Return Instruction Booklet, Privacy Act Notice set out therein*

- Click here for 5 U.S.C. §552a(e)(3) (WTP Exhibit 003)
- Click here for IRS Form 1040 U.S. Individual Income Tax Return Instruction Booklet, Privacy Act Notice (WTP Exhibit 004)

1.17. (CH)Admit that Congress enacted the Paperwork Reduction Act at 44 U.S.C. § 3504(c)(3). (WTP #17)

- Click here for 44 U.S.C. §3504(c)(3) (WTP Exhibit 005)

1.18. Admit that the Paperwork Reduction Act requires the Director of the Office of Management and Budget to include with any information requests, a statement to inform the person receiving the request why the information is being collected, how it is to be used, and whether responses to the request are voluntary, required to obtain a benefit, or mandatory. (WTP #18)

- Click here for 44 U.S.C. §3504 (WTP Exhibit 005)

1.19. Admit that the Internal Revenue Service complies with the Privacy Act and Paperwork Reduction Act by setting out the required statements on the IRS Form 1040 Instruction Booklet. (WTP #19)

- Click here for IRS Form 1040 Instruction Booklet (WTP Exhibit 004)
- Click here for Notice set out therein: 26 C.F.R. §601.101 (WTP Exhibit 006)

1.20. Admit that the Privacy Act and Paperwork Reduction Act statements which the Internal Revenue Service currently uses with respect to the federal income tax state that: "Our legal right to ask for information is Internal Revenue Code Sections 6001, 6011, 6012(a) and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections." (WTP #20)

- Click here for IRS Form 1040 Instruction Booklet (WTP Exhibit 004)

1.21. Admit that Internal Revenue Code Section 6001 states: (WTP #21)

> *"Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with Section 6053(c) and copies of statements furnished by employees under Section 6053(a)."*

- Click here for 26 U.S.C. §6001 (WTP Exhibit 007)

1.22. Admit that Internal Revenue Code Section 6011 states: (WTP #22)

> *"(a) General Rule. When required by regulations prescribed by the Secretary and person made liable for any tax imposed by this title, or for the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations . . .(f) Income, estate and gift taxes. For requirement that returns of income, estate, and*

gift taxes be made whether or not there is tax liability, see subparts B and C."

- Click here for 26 U.S.C. §6011 (WTP Exhibit 008)

1.23. Admit that subparts B and C referred to at Internal Revenue Code Section 6011(g) contain Internal Revenue Code Sections 6012 through 6017a. (WTP #23)

- Click here for 26 U.S.C. §6011 (WTP Exhibit 008)
- Click here for index to Internal Revenue Code (WTP Exhibit 001)

1.24. Admit that Congress displayed its knowledge of how to make someone "liable for" a tax at 26 U.S.C. § 5005, which states that: (WTP #24)

"(a) The distiller or importer of distilled spirits shall be liable for the taxes imposed thereon by section 5001(a)(1)."

- Click here for 26 U.S.C. §5005 (WTP Exhibit 009)

1.25. Admit that Congress displayed its knowledge of how to make someone liable for a tax at 26 U.S.C. § 5703, which states that: (WTP #25)

"(a)(1) The manufacturer or importer of tobacco products and cigarette papers and tubes shall be liable for the taxes imposed therein by section 5701."

- Click here for 26 U.S.C. §5703 (WTP Exhibit 010)

1.26. Admit that the persons made liable at Internal Revenue Code Sections 5005 and 5703, for the taxes imposed at Internal Revenue Code Sections 5001(a)(1) and 5701, respectively, are the persons described at Sections 6001 and 6011 required to make returns and keep records. (WTP #26)

- Click here for 26 U.S.C. §5005 (WTP Exhibit 009)
- Click here for 26 U.S.C. §5703 (WTP Exhibit 010)
- Click here for 26 U.S.C. §5001(a)(1) (WTP Exhibit 012)
- Click here for 26 U.S.C. §5701 (WTP Exhibit 011)
- Click here for 26 U.S.C. §6001 (WTP Exhibit 007)
- Click here for 26 U.S.C. §6011 (WTP Exhibit 008)

1.27. Admit that Section 1461 is the only place in Subtitle A of the Internal Revenue Code where

Congress used the words: "liable for." (WTP #27)

- Click here for 26 U.S.C. §1461 (WTP Exhibit 013)

1.28. Admit that the person made liable by Congress at Section 1461 is a withholding agent for nonresident aliens. (WTP #28)

- Click here for 26 U.S.C. §1461 (WTP Exhibit 013)

1.29. Admit that there is a canon of statutory construction, "expressio unius est exclusio alterius", which means the express mention of one thing means the implied exclusion of another. (See Black's Law Dictionary, 6th Ed., West Publishing Co. 1990, p 581) (WTP #29)

- Click here for Black's Law Dictionary, 6th Ed., West Publising Co. 1990, p. 581 (WTP Exhibit 014)

1.30. Admit that Congress could have, but did not, make anyone else other than the withholding agent referred to in Section 1461, "liable for" any income tax imposed in Subtitle A. (WTP #30)

- Click here for 26 U.S.C. §1461 (WTP Exhibit 013)

1.31. Admit that up until 1986, the statement required by the Privacy and Paperwork Reduction Acts set out in the IRS Form 1040 instruction booklet, mentioned only Internal Revenue Code Sections 6001 and 6011 as the authority to request information. (WTP #31)

- Click here for IRS Form 1040 Instruction Booklet (WTP Exhibit 015)
- Click here for IRS Form 1040 Instruction Booklet, Privacy Act Notice set out therein, current edition (WTP Exhibit 014)

1.32. Admit that the United States Supreme Court has held in C.I.R. v. Acker, 361 U.S. 87, 89 (1959), and in U.S. v. Calamaro, 354 U.S. 351, 358-359 (1957), that a regulation that purports to create a legal requirement not imposed by Congress in the underlying statute is invalid. (WTP #32)

- Click here for C.I.R. v. Acker, 361 U.S. 87, 89 (1959) (WTP Exhibit 016)
- Click here for U.S. v. Calamaro, 354 U.S. 351, 358-359 (1957) (WTP Exhibit 017)

1.33. Admit that the 26 CFR 1.1-1 uses the following phrase: (WTP #32a)

"...all citizens of the United States, wherever resident, and all resident alien

individuals are liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States."

- Click here for 26 CFR. §1.1-1 (WTP Exhibit 021)

1.34. Admit that the statute the above regulation, 26 CFR §1.1-1 implements, which is 26 U.S.C. §1, nowhere uses the word "liable" to describe the taxes imposed in that section 1. (WTP #32b)

- Click here for 26 U.S.C. §1 (WTP Exhibit 002)

1.35. Admit that because the corresponding statute in 26 U.S.C. §1 *does not* use the word "liable" or "liable to", then the implementing regulation for the section, 26 CFR §1.1-1 cannot, which makes the implementing regulation imposing the otherwise nonexistent liability invalid and unenforceable. (WTP #32c)

- Click here for 26 U.S.C. §1

1.36. Admit that there is no statute anywhere in Subtitle A of the Internal Revenue Code which makes any person *liable* for the tax imposed in 26 U.S.C. §1 or 26 U.S.C. §871. (WTP #32d)

- Click here for 26 U.S.C. §1 (WTP Exhibit 002)
- Click here for 26 U.S.C. §871 (WTP Exhibit 017a)

1.37. Admit that 26 CFR §1.1441-1 defines the term "individual" to mean the following: (WTP #32e)

26 CFR 1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.

(c) Definitions

(3) Individual.

(i) Alien individual.

The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. 1.1-1(c).

(ii) Nonresident alien individual.

The term nonresident alien individual means a person described in section 7701(b)(1)(B), an alien individual who is a resident of a foreign country under the residence article of an income tax treaty and Sec. 301.7701(b)-7(a)(1) of this chapter, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under Sec. 301.7701(b)-1(d) of this chapter. An alien individual who has made an election under section 6013 (g) or (h) to be treated as a resident of the United States is nevertheless treated as a nonresident alien individual for purposes of withholding under chapter 3 of the Code and the regulations thereunder.

- Click here for 26 CFR. §1.1441-1 (WTP Exhibit 017b)

1.38. Admit that there is no other place anywhere in the Internal Revenue Code or 26 CFR where the word "individual" is defined. (WTP #32f)

1.39. Admit that 26 CFR §1.1441-1 is the definition for the term "individual" that appears at the top of the IRS form 1040 in the phrase "U.S. Individual Income Tax Return". (WTP #32g)

- Click here for 26 CFR. §1.1441-1 (WTP Exhibit 017b)
- Click here for IRS Form 1040 (WTP Exhibit 138)

1.40. Admit that IRS form 1040NR is the form required to be used by nonresident aliens. (WTP #32h)

- Click here for IRS Form 1040NR (WTP Exhibit 017c)

1.41. Admit that if Form 1040NR is used for nonresident aliens, the only thing left that an "individual" appearing in 26 U.S.C. §7701(a)(1) can be is an "alien" based on 26 CFR §1.1441-1. (WTP #32i)

- Click here for 26 CFR. §1.1441-1 (WTP Exhibit 017b)
- Click here for 26 U.S.C.. §7701(a)(1) (WTP Exhibit 019)

1.42. Admit that the term "citizen of the United States" is defined as follows in 26 CFR: (WTP #32j)

26 CFR §31.3121(e) State, United States, and citizen.

(b)…The term 'citizen of the United States' includes a citizen of the Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.

- Click here for 26 CFR. §31.3121(e) (WTP Exhibit 017d)

1.43. Admit that there is no other place anywhere in the Internal Revenue Code or 26 CFR where the term "citizen of the United States" or "U.S. citizen" are defined other than in 26 CFR §31.3121(e) and 26 CFR §1.1-1. (WTP #32k)

- Click here for 26 CFR. §31.3121(e) (WTP Exhibit 017d)

1.45 Admit that enforcement activities include, but are not limited to: assessment, search, seizure, collection, and a requirement to keep records.

1.46. Admit that Treasury Organization Chart downloaded directly from the Dept. of the Treasury Website at http://www.ustreas.gov/org/treasorg.pdf does not place the IRS under the UnderSecretary for Enforcement.

- Click here for Treasury Organization Chart downloaded on March 15, 2002 from Treasury Website

1.47. Admit that because IRS is not identified in the above organization chart as an enforcement agency, then they may not undertake enforcement actions except in the administration of income taxes related to Title 27 activities, which include alcohol, tobacco, and firearms.

1.48. Admit that there are no implementing regulations for Subtitle A income taxes which authorize the imposition of enforcement activities such as assessment, search, seizure, collection, and the requirement to keep records.

- Click here for IRS Due Process Meeting Worksheet

1.49. Admit that liability must be established in statute in order to make a person into a "taxpayer" subject to a tax and against whom distraint or other enforcement may be instituted.

- *"..**liability for taxation must clearly appear**[from statute imposing tax]."*
  Higley v. Commissioner of Internal Revenue, 69 F.2d 160 (1934)
- "A *tax is a legal imposition exclusively of statutory origin (37 Cyc. 724,*

725), and, naturally, liability to taxation must be read in statute, or it does not exist."

Bente v. Bugbee, 137 A. 552; 103 N.J. Law. 608 (1927)

- "*...the taxpayer must be liable for the tax. Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability.*"

Terry v. Bothke, 713 F.2d 1405, at 1414 (1983).

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SECTION 1-LIABILITY SUMMARY

Everything You Think You Know and Most of What the Government Has Told You is Not Only Deliberately Untrue, but Fraudulently Wrong

As hard as it may be to believe, there is no law that requires most American citizens to file and pay the Federal Income Tax.

There is a simple reason for this--our government does not have the authority to enact a law that compels people to pay an income tax. The government knows that fact--they have always known that. Senator Daniel Inouye, the current senator from Hawaii explains: "There is no provision of the Internal Revenue Code that specifically and unequivocally requires an individual to pay income tax." reporting the results of research performed by the Congressional Research Service.

Chief Justice of the Supreme Court, Earl Warren echoed the same fact: "Our system of taxation is based upon voluntary assessment and payment, not upon distraint." Chief Justice of the United States Supreme Court Earl Warren, Flora v. U.S., 362 US 145, at 176.

Government gets it's authority from the people and under our system of Constitutional government based on the principles of the Declaration of Independence, people simply do not have the authority to compel each other to do things--therefore, We the People cannot give our government authority we do not have. Those in power know this fact and they have purposefully over the years crafted the misshapen monster called the Income Tax to conceal the utter absence of authority.

Therefore, if average citizens are not liable for the tax, the thousands of pages of tax code DO NOT APPLY to them.

As the evidence will show, much of this confusion stems directly from the deliberate complexity, sheer volume and convoluted organization of the income tax laws and regulations. Former I.R.S. Commissioner, Shirley Peterson stated: "Eight decades of amendments to the code have produced a virtually impenetrable maze. The rules are unintelligible to most citizens. The rules are equally mysterious to many government employees who are charged with administering and enforcing the law."

In contrast, when it comes to areas of the code where the government has legitimate authority--for example the tax on alcohol--the tax laws are well written and very clearly define who is liable for paying various taxes, the specific legal authority and subject of each tax.

Indeed, it seems patently absurd that after almost 90 years, thousands of pages of laws and

regulations and numerous legislative modifications there is not, to this day, a single sentence in the U.S. tax code that clearly defines who is legally liable to pay the income tax.(see Senator Inouye's statement above)

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The file *http://familyguardian.tzo.com/TaxFreedom/Forms/Discovery/Deposition/Sect1Liability-Transcript.pdf* is a secure document that has been embedded in this document. Double click the pushpin to view.

Embedded Secure Document

The file *http://familyguardian.tzo.com/TaxFreedom/Forms/TaxExamAudit/IRSDueProcMtgWorksheet.pdf* is a secure document that has been embedded in this document. Double click the pushpin to view.

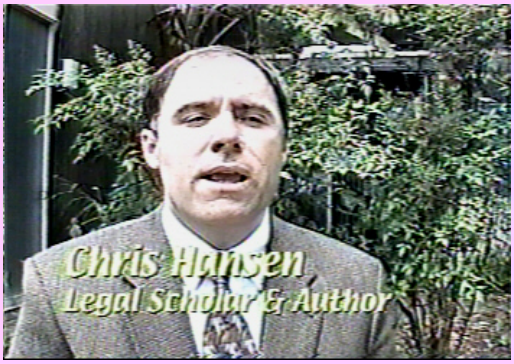
THE GREAT IRS HOAX: WHY WE DON'T OWE INCOME TAX

Go to Home Page

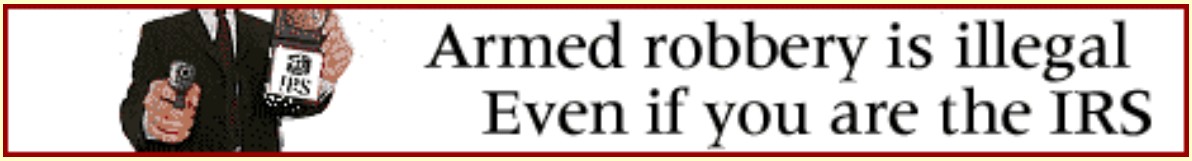
Back GO TO THE TAX AREA ON THE FAMILY GUARDIAN WEBSITE

Back GO TO INCOME TAX FREEDOM FORMS AND INSTRUCTIONS AREA

WATCH OUR FREE MOVIE ONLINE! CLICK HERE!

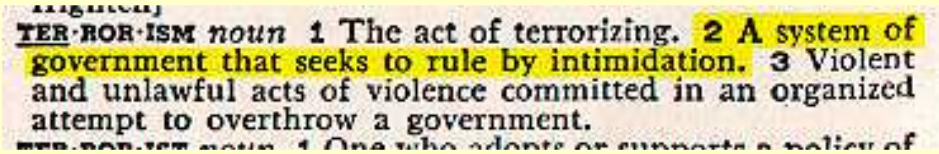


"Who is John Galt?"



"Don't steal...the government hates competition."

GOT IRS ?


TER·ROR·ISM *noun* 1 The act of terrorizing. 2 A system of government that seeks to rule by intimidation. 3 Violent and unlawful acts of violence committed in an organized attempt to overthrow a government.

Original (pre-Orwellian) Definition of
the Word "Terrorism"
Funk and Wagnalls New
Practical Standard Dictionary (1946)

Welcome to our free download page. The *Great IRS Hoax: Why We Don't Owe Income Tax* is a an ***amazing*** documentary that exposes the lie that the IRS and our tyrannical government "servants" have foisted upon us all these years:

> *"That we are liable for Subtitle A income tax as American Citizens living in the 50 states with income from within the 50 states."*

Through a detailed and very thorough legal analysis unrefuted by any of the 100,000 people who have downloaded the book, including present and former (after they learn the truth!) employees of the Treasury and IRS, it exposes how the income tax is illegal and unconstitutional as it is currently implemented and enforced by the IRS. This book might just as well be called *The Emperor Who Had No Clothes* because of the massive and blatant fraud that it exposes. The book contains detailed forms, instructions, and procedures for freeing yourself legally from the need to pay income taxes. It also has forms and procedures for litigating your case should you need to take it to court. One year of continuous research by the webmaster went into writing this very significant and incredible book. This book is *very different* from most other tax books because:

1. The book is written in part by our tens of thousands of readers and growing...***THAT'S YOU***! We invite and frequently receive good new ideas and materials from legal researchers and ordinary people like YOU, and when we get them, we add them to the book after we research and verify them for ourselves to ensure their accuracy. Please keep your excellent ideas coming, because this is a team effort, guys!
2. *We use words right out of the government's own mouth, in most cases, as evidence of most assertions we make*.
3. Ever since the first version was published back in Nov. 2000, we have invited, and even *begged*, the government continually and repeatedly, both on our website and in our book and in correspondence with the IRS and the Senate Finance Committee (click here to read our letter to Senator Grassley under "Political Activism"), and in the We The People Truth in Taxation Hearings to provide a signed affidavit on government stationary along with supporting evidence that disproves *anything* in this book . We have even promised to post the government's rebuttal on our web site *unedited* because we are more interested in the truth than in our own agenda. Yet, our

criminal government has consistently and steadfastly refused their legal duty under the First Amendment Petition Clause to answer our concerns and questions, thereby hiding from the truth and obstructing justice in violation of 18 U.S.C. Chapter 73. By their failure to answer they have defaulted and admitted to the complete truthfulness of this book. Silence constitutes acquiescence and agreement in the legal field.

> *"Evidence of failure to deny statements of others is admissible only when no other explanation is equally consistent with silence." U.S. v. Gross, 276 F.2d 816 (1960).*

If the "court of public opinion" really were a court, and if the public really were *fully educated* about the law as it is the purpose of this book to bring about, the IRS and our federal government would have been convicted long ago of the following crimes by their own treasonous words and actions thoroughly documented in this book (click here for more details):

- Establishment of the U.S. government as a "religion" in violation of First Amendment (see section 1.9.1 of this book)
- Obstruction of justice under 18 U.S.C. Chapter 73
- Conspiracy against rights under 18 U.S.C. 241
- Extortion under 18 U.S.C. 872 .
- Wrongful actions of Revenue Officers under 26 U.S.C. 7214
- Engaging in monetary transactions derived from unlawful activity under 18 U.S.C. 1957
- Mailing threatening communications under 18 U.S.C. 876
- False writings and fraud under 18 U.S.C. 1018
- Taking of property without due process of law under 26 CFR 601.106(f)(1)
- Unauthorized collection activity under 26 U.S.C. 7433
- Fraud under 18 U.S.C. 1341
- Continuing financial crimes enterprise (RICO) under 18 U.S.C. 225
- Conflict of interest of federal judges under 28 U.S.C. 455
- Treason under Article III, Section 3, Clause 1 of the U.S. Constitution
- Breach of fiduciary duty in violation of 26 CFR 2635.101, Executive order order 12731, and Public Law 96-303
- Peonage and obstructing enforcement under Thirteenth Amendment, 18 U.S.C. 1581 and 42 U.S.C. 1994
- Bank robbery under 18 U.S.C. §2113 (in the case of fraudulent notice of levies)

4. We keep the level of the writing to where a person of average intelligence and no legal background can understand and substantiate the claims we are making for himself.
5. We show you how and where to go to substantiate every claim we make and we encourage you to check the facts for yourself so you will believe what we say is absolutely accurate and truthful.
6. All inferences made are backed up by extensive legal research and justification, and therefore tend to be more convincing and authoritative and understandable than most other tax books. We assume up front that you will question *absolutely every assertion* that we make because we encourage you to do exactly that, so we try to defend every assertion in advance by answering the most important questions that we think will come up. We try to reach *no* unsubstantiated conclusions whatsoever

and we avoid the use of personal opinions or anecdotes or misleading IRS publications. Instead, we always try to back up our conclusions with evidence or an authoritative government source such as a court cite or a regulation or statute or quotes from the authors of the law themselves, and we verify every cite so we don't destroy our credibility with irrelevant or erroneous data or conclusions. Frequent corrections and feedback from our 100,000 readers (and growing) also helps considerably to ensure continual improvements in the accuracy and authority and credibility of the document.

7. Absolutely everything in the book is consistent with itself and we try very hard not to put the reader into a state of "cognitive dissonance", which is a favorite obfuscation technique of our criminal government and legal profession. No part of this book conflicts with any other part and there is complete "cognitive unity". Every point made supports and enhances every other point. If the book is truthful, then this must be the case. A true statement cannot conflict with itself or it simply can't be truthful.
8. With every point we make, we try to answer the question of "why" things are the way they are so you can understand our reasoning. We don't flood you with a bunch of rote facts to memorize without explaining why they are important and how they fit in the big picture so you can decide for yourself whether you think it is worth your time to learn them. That way you can learn to think strategically, like most lawyers do.
9. We practice exactly what we preach and what we put in the book is based on lessons learned actually doing what is described. That way you will believe what we say and see by our example that we are very sincere about everything that we are telling you. Since we aren't trying to sell you anything, then there *can't* be any other agenda than to help you learn the truth and achieve personal freedom.
10. The entire book, we believe, completely, truthfully, and convincingly answers the following very important question:

    "How can we interpret and explain federal tax law in a way that makes it completely legal and Constitutional, both from the standpoint of current law and from a historical perspective?"

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	Preface and Table of Contents	106	966		
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7	IRS Strategies and Tactics: Know Your Opponent	85	641		
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The Great IRS Hoax book draws on works from several prominent sources and authors, such as:

1. The U.S. Constitution.
2. The Family Constitution
3. Amendments to the U.S. Constitution.
4. The Declaration of Independence.
5. The United States Code (U.S.C.), Title 26 (Internal Revenue Code), both the current version and amended past versions.
6. U.S. Supreme Court Cases.
7. U.S. Tax Court findings.
8. The Code of Federal Regulations (CFR), Title 26, both the current version and amended past versions.
9. IRS Forms and Publications (directly from the IRS Website at http://www.irs.gov).
10. U.S. Treasury Department Decisions.
11. Federal District Court cases.
12. Federal Appellate (circuit) court cases.
13. Several websites.
14. A book called *Losing Your Illusions* by Gordon Phillips of the Inform America organization (http://www.informamerica.com).
15. Case studies of IRS enforcement tactics (http://www.neo-tech.com/irs-class-action/).
16. Case studies of various tax protester groups.
17. The IRS' own publications about Tax Protesters.
18. A book entitled *Why No One is Required to File Tax Returns* by William Conklin (http://www.anti-

irs.com)
19. Writings of Thomas Jefferson, the author of the Declaration of Independence.
20. Department of Justice, Tax Division, Criminal Tax Manual

Below is a complete outline of the content of this very extensive work:

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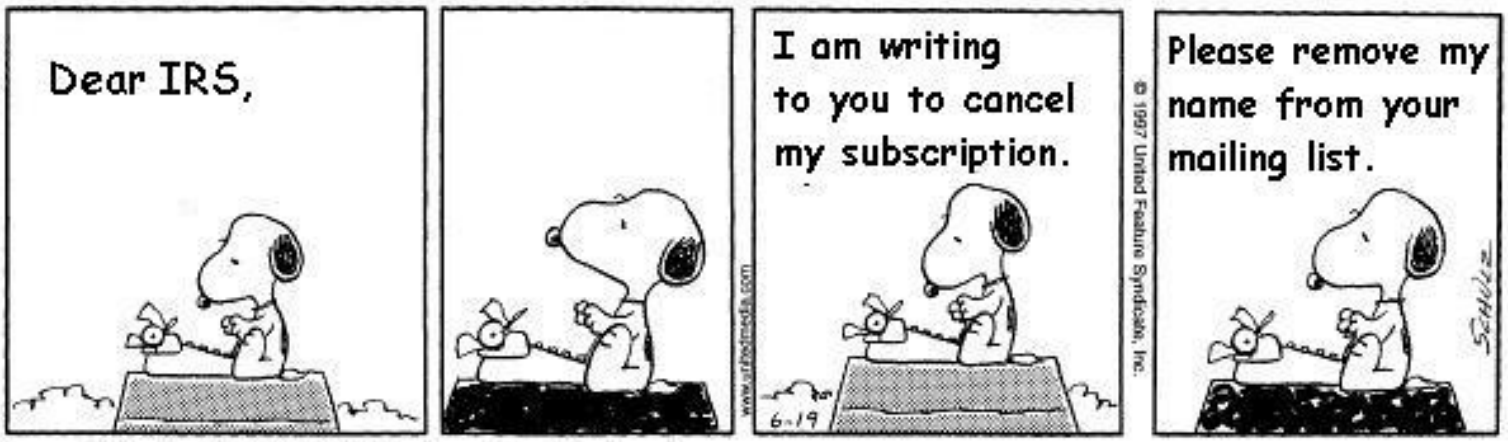

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LII
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collection home

US CODE COLLECTION

search

Search this title:

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Sec. 3504. - Authority and functions of Director

(a)

(1)

The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including burden reduction and service delivery to the public. In performing such oversight, the Director shall -

(A)

develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

(B)

provide direction and oversee -

(i)

the review and approval of the collection of information and the reduction of the information collection burden;

(ii)

agency dissemination of and public access to information;

(iii)

statistical activities;

(iv)

records management activities;

(v)

privacy, confidentiality, security, disclosure, and sharing of information; and

(vi)

the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.

(2)

The authority of the Director under this chapter shall be exercised consistent with applicable law.

(b)

With respect to general information resources management policy, the Director shall -

(1)

develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

(2)

foster greater sharing, dissemination, and access to public information, including through -

(A)

the use of the Government Information Locator Service; and

(B)

the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

(3)

initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

(4)

oversee the development and implementation of best practices in information resources management, including training; and

(5)

oversee agency integration of program and management functions with information resources management functions.

(c)

With respect to the collection of information and the control of paperwork, the Director shall -

(1)

review and approve proposed agency collections of information;

(2)

coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement, acquisition and payment, and to reduce information collection burdens on the public;

(3)

minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

(4)

maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

(5)

establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

(d)

With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to -

(1)

apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

(2)

promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

(e)

With respect to statistical policy and coordination, the Director shall -

(1)

coordinate the activities of the Federal statistical system to ensure -

(A)

the efficiency and effectiveness of the system; and

(B)

the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

(2)

ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

(3)

develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning -

(A)

statistical collection procedures and methods;

(B)

statistical data classification;

(C)

statistical information presentation and dissemination;

(D)

timely release of statistical data; and

(E)

such statistical data sources as may be required for the administration of Federal programs;

(4)

evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

(5)

promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

(6)

coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

(7)

appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

(8)

establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall -

(A)

be headed by the chief statistician; and

(B)

consist of -

(i)

the heads of the major statistical programs; and

(ii)

representatives of other statistical agencies under rotating membership; and

(9)

provide opportunities for training in statistical policy functions to employees of the Federal Government under which -

(A)

each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

(B)

all costs of the training shall be paid by the agency requesting training.

(f)

With respect to records management, the Director shall -

(1)

provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

(2)

review compliance by agencies with -

(A)

the requirements of chapters 29, 31, and 33 of this title; and

(B)

regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

(3)

oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of

information systems.

(g)

With respect to privacy and security, the Director shall -

(1)

develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

(2)

oversee and coordinate compliance with sections 552 and 552a of title 5, sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4), section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note), [1] and related information management laws; and

(3)

require Federal agencies, consistent with the standards and guidelines promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note), [1] to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

(h)

With respect to Federal information technology, the Director shall -

(1)

in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services -

(A)

develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

(B)

oversee the development and implementation of standards under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

(2)

monitor the effectiveness of, and compliance with, directives issued under division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.) and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757);

(3)

coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

(4)

ensure, through the review of agency budget proposals, information resources management plans and other means -

(A)

agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

(B)

the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

(5)

promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public

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[1] See References in Text note below.

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I.R.C. § 1

UNITED STATES CODE ANNOTATED

TITLE 26. INTERNAL REVENUE CODE

SUBTITLE A--INCOME TAXES

CHAPTER 1--NORMAL TAXES AND SURTAXES

SUBCHAPTER A--DETERMINATION OF TAX LIABILITY

PART I--TAX ON INDIVIDUALS

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Current through P.L. 107-11, approved 5-28-01

§ 1. Tax imposed

(a) [FN1] Married individuals filing joint returns and surviving spouses.--**There is hereby imposed on the taxable income of--**

(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

(2) every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following table:

If taxable income is: The tax is:

Not over $36,900 ..... 15% of taxable income.

Over $36,900 but not over

$89,150 ..... $5,535, plus 28% of the excess over $36,900.

Over $89,150 but not over

$140,000 ..... $20,165, plus 31% of the excess over $89,150.

Over $140,000 but not over

$250,000 ..... $35,928.50, plus 36% of the excess over

$140,000.

Over $250,000 ..... $75,528.50, plus 39.6% of the excess over

$250,000.

(b) [FN1] Heads of households.--There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

If taxable income is: The tax is:

Not over $29,600 ..... 15% of taxable income.

Over $29,600 but not over

$76,400 ..... $4,440, plus 28% of the excess over $29,600.

Over $76,400 but not over

$127,500 ..... $17,544, plus 31% of the excess over $76,400.

Over $127,500 but not over

$250,000..... $33,385, plus 36% of the excess over

$127,500.

Over $250,000 ..... $77,485, plus 39.6% of the excess over

$250,000.

(c) [FN1] Unmarried individuals (other than surviving spouses and heads of households).--**There is hereby imposed on the taxable income of every** individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

If taxable income is: The tax is:

Not over $22,100 ..... 15% of taxable income.

Over $22,100 but not over

$53,500 ..... $3,315, plus 28% of the excess over $22,100.

Over $53,500 but not over

$115,000 ..... $12,107, plus 31% of the excess over $53,500.

Over $115,000 but not over

$250,000 ..... $31,172, plus 36% of the excess over $115,000.

Over $250,000 ..... $79,772, plus 39.6% of the excess over

$250,000.

(d) [FN1] Married individuals filing separate returns.--There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

If taxable income is: The tax is:

Not over $18,450 ..... 15% of taxable income.

Over $18,450 but not over

$44,575 ..... $2,767.50, plus 28% of the excess over $18,450.

Over $44,575 but not over

$70,000 ..... $10,082.50, plus 31% of the excess over

$44,575.

Over $70,000 but not over

$125,000 ..... $17,964.25, plus 36% of the excess over

$70,000.

Over $125,000 ..... $37,764.25, plus 39.6% of the excess over

$125,000.

(e) [FN1] Estates and trusts.--There is hereby imposed on the taxable income of--

(1) every estate, and

(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

If taxable income is: The tax is:

Not over $1,500 ..... 15% of taxable income.

Over $1,500 but not over $3,500 . $225, plus 28% of the excess over $1,500.

Over $3,500 but not over $5,500 . $785, plus 31% of the excess over $3,500.

Over $5,500 but not over $7,500 . $1,405, plus 36% of the excess over $5,500.

Over $7,500 ..... $2,125, plus 39.6% of the excess over $7,500.

(f) Adjustments in tax tables so that inflation will not result in tax increases.--

(1) In general.--Not later than December 15 of 1993, and each subsequent calendar year, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning in the succeeding calendar year.

(2) Method of prescribing tables.--The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed--

(A) by increasing the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table by the cost-of-living adjustment for such calendar year,

(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A), and

(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

(3) Cost-of-living adjustment.--For purposes of paragraph (2), the cost-of- living adjustment for any calendar year is the percentage (if any) by which--

(A) the CPI for the preceding calendar year, exceeds

(B) the CPI for the calendar year 1992.

(4) CPI for any calendar year.--For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

(5) Consumer price index.--For purposes of paragraph (4), the term "Consumer Price Index" means the last Consumer Price Index for all-urban consumers published by the Department of Labor. For purposes of the preceding sentence, the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1986 shall be used.

(6) Rounding.--

(A) In general.--If any increase determined under paragraph (2)(A), section 63(c)(4), section 68(b)(2) or section 151(d)(4) is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

(B) Table for married individuals filing separately.--In the case of a married individual filing a separate return, subparagraph (A) (other than with respect to subsection (c)(4) of section 63 (as it applies to subsections (c)(5)(A) and (f) of such section) and section 151(d)(4)(A)) shall be applied by substituting "$25" for "$50" each place it appears.

(7) Special rule for certain brackets.--

(A) Calendar year 1994.--In prescribing the tables under paragraph (1) which apply with respect to taxable years beginning in calendar year 1994, the Secretary shall make no adjustment to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate begins under any table contained in subsection (a), (b), (c), (d), or (e).

(B) Later calendar years.--In prescribing tables under paragraph (1) which apply with respect to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts referred to in subparagraph (A) shall be

determined under paragraph (3) by substituting "1993" for "1992".

(g) Certain unearned income of minor children taxed as if parent's income.--

(1) In general.--In the case of any child to whom this subsection applies, the tax imposed by this section shall be equal to the greater of--

(A) the tax imposed by this section without regard to this subsection, or

(B) the sum of--

(i) the tax which would be imposed by this section if the taxable income of such child for the taxable year were reduced by the net unearned income of such child, plus

(ii) such child's share of the allocable parental tax.

(2) Child to whom subsection applies.--This subsection shall apply to any child for any taxable year if--

(A) such child has not attained age 14 before the close of the taxable year, and

(B) either parent of such child is alive at the close of the taxable year.

(3) Allocable parental tax.--For purposes of this subsection--

(A) In general.--The term "allocable parental tax" means the excess of--

(i) the tax which would be imposed by this section on the parent's taxable income if such income included the net unearned income of all children of the parent to whom this subsection applies, over

(ii) the tax imposed by this section on the parent without regard to this subsection.

For purposes of clause (i), net unearned income of all children of the parent shall not be taken into account in computing any exclusion, deduction, or credit of the parent.

(B) Child's share.--A child's share of any allocable parental tax of a parent shall be equal to an amount which bears the same ratio to the total allocable parental tax as the child's net unearned income bears to the aggregate net unearned income of all children of such parent to whom this subsection applies.

(C) Special rule where parent has different taxable year.--Except as provided in regulations, if the parent does not have the same taxable year as the child, the allocable parental tax shall be determined on the basis of the taxable year of the parent ending in the child's taxable year.

[(D) Redesignated (C)]

(4) Net unearned income.--For purposes of this subsection--

(A) In general.--The term "net unearned income" means the excess of--

(i) the portion of the adjusted gross income for the taxable year which is not attributable to earned income (as defined in section 911(d)(2)), over

(ii) the sum of--

(I) the amount in effect for the taxable year under section 63(c)(5)(A) (relating to limitation on standard deduction in the case of certain dependents), plus

(II) the greater of the amount described in subclause (I) or, if the child itemizes his deductions for the taxable year, the amount of the itemized deductions allowed by this chapter for the taxable year which are directly connected with the production of the portion of adjusted gross income referred to in clause (i).

(B) Limitation based on taxable income.--The amount of the net unearned income for any taxable year shall not exceed the individual's taxable income for such taxable year.

(5) Special rules for determining parent to whom subsection applies.--For purposes of this subsection, the parent whose taxable income shall be taken into account shall be--

(A) in the case of parents who are not married (within the meaning of section 7703), the custodial parent (within the meaning of section 152(e)) of the child, and

(B) in the case of married individuals filing separately, the individual with the greater taxable income.

(6) Providing of parent's TIN.--The parent of any child to whom this subsection applies for any taxable year shall provide the TIN of such parent to such child and such child shall include such TIN on the child's return of tax imposed by this section for such taxable year.

(7) Election to claim certain unearned income of child on parent's return.--

(A) In general.--If--

(i) any child to whom this subsection applies has gross income for the taxable year only from interest and dividends (including Alaska Permanent Fund dividends),

(ii) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,

(iii) no estimated tax payments for such year are made in the name and TIN of such child, and no amount has been deducted and withheld under section 3406, and

(iv) the parent of such child (as determined under paragraph (5)) elects the application of subparagraph (B),

such child shall be treated (other than for purposes of this paragraph) as having no gross income for such year and shall not be required to file a return under section 6012.

(B) Income included on parent's return.--In the case of a parent making the election under this paragraph--

(i) the gross income of each child to whom such election applies (to the extent the gross income of such child exceeds twice the amount described in paragraph (4)(A)(ii)(I)) shall be included in such parent's gross income for the taxable year,

(ii) the tax imposed by this section for such year with respect to such parent shall be the amount equal to the sum of--

(I) the amount determined under this section after the application of clause (i), plus

(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and

(iii) any interest which is an item of tax preference under section 57(a)(5) of the child shall be treated as an item of tax preference of such parent (and not of such child).

(C) Regulations.--The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph.

(h) Maximum capital gains rate.--

(1) In general.--If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of--

(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of--

(i) taxable income reduced by the net capital gain; or

(ii) the lesser of--

(I) the amount of taxable income taxed at a rate below 28 percent; or

(II) taxable income reduced by the adjusted net capital gain;

(B) 10 percent of so much of the adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of--

(i) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 28 percent, over

(ii) the taxable income reduced by the adjusted net capital gain;

(C) 20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B);

(D) 25 percent of the excess (if any) of--

(i) the unrecaptured section 1250 gain (or, if less, the net capital gain), over

(ii) the excess (if any) of--

(I) the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain, over

(II) taxable income; and

(E) 28 percent of the amount of taxable income in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

(2) Reduced capital gain rates for qualified 5-year gain.--

(A) Reduction in 10-percent rate.--In the case of any taxable year beginning after December 31, 2000, the rate under paragraph (1)(B) shall be 8 percent with respect to so much of the amount to which the 10-percent rate would otherwise apply as does not exceed qualified 5-year gain, and 10 percent with respect to the remainder of such amount.

(B) Reduction in 20-percent rate.--The rate under paragraph (1)(C) shall be 18 percent with respect to so much of the amount to which the 20-percent rate would otherwise apply as does not exceed the lesser of--

(i) the excess of qualified 5-year gain over the amount of such gain taken into account under subparagraph (A) of this paragraph; or

(ii) the amount of qualified 5-year gain (determined by taking into account only property the holding period for which begins after December 31, 2000),

and 20 percent with respect to the remainder of such amount. For purposes of determining under the preceding sentence whether the holding period of property begins after December 31, 2000, the holding period of property acquired pursuant to the exercise of an option (or other right or obligation to acquire property) shall include the period such option (or other right or obligation) was held.

(3) Net capital gain taken into account as investment income.--For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

(4) Adjusted net capital gain.--For purposes of this subsection, the term "adjusted net capital gain" means net capital gain reduced (but not below zero) by the sum of--

(A) unrecaptured section 1250 gain; and

(B) 28-percent rate gain.

(5) 28-percent rate gain.--For purposes of this subsection, the term "28- percent rate gain" means the excess (if any) of--

(A) the sum of--

(i) collectibles gain; and

(ii) section 1202 gain, over

(B) the sum of--

(i) collectibles loss;

(ii) the net short-term capital loss; and

(iii) the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.

(6) Collectibles gain and loss.--For purposes of this subsection.--

(A) In general.--The terms "collectibles gain" and "collectibles loss" mean gain or loss (respectively) from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income and such loss is taken into account in computing taxable income.

(B) Partnerships, etc.--For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

(7) Unrecaptured section 1250 gain.--For purposes of this subsection.--

(A) In general.--The term "unrecaptured section 1250 gain" means the excess (if any) of--

(i) the amount of long-term capital gain (not otherwise treated as ordinary income) which would be treated as ordinary income if section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, over

(ii) the excess (if any) of--

(I) the amount described in paragraph (5)(B); over

(II) the amount described in paragraph (5)(A).

(B) Limitation with respect to section 1231 property.--The amount described in subparagraph (A)(i) from sales, exchanges, and conversions described in section 1231(a)(3)(A) for any taxable year shall not exceed the net section 1231 gain (as defined in section 1231(c)(3)) for such year.

(8) Section 1202 gain.--For purposes of this subsection, the term "section 1202 gain" means the excess of--

(A) the gain which would be excluded from gross income under section 1202 but for the percentage limitation in section 1202(a), over

(B) the gain excluded from gross income under section 1202.

(9) Qualified 5-year gain.--For purposes of this subsection, the term "qualified 5-year gain" means the aggregate long-term capital gain from property held for more than 5 years. The determination under the preceding sentence shall be made without regard to collectibles gain, gain described in paragraph (7)(A)(i), and section 1202 gain.

(10) Coordination with recapture of net ordinary losses under section 1231.-- If any amount is treated as ordinary income under section 1231(c), such amount shall be allocated among the separate categories of net section 1231 gain (as defined in section 1231(c)(3)) in such manner as the Secretary may by forms or regulations prescribe.

(11) Regulations.--The Secretary may prescribe such regulations as are appropriate (including regulations requiring reporting) to apply this subsection in the case of sales and exchanges by pass-thru entities and of interests in such entities.

(12) Pass-thru entity defined.--For purposes of this subsection, the term "pass-thru entity" means--

(A) a regulated investment company;

(B) a real estate investment trust;

(C) an S corporation;

(D) a partnership;

(E) an estate or trust;

(F) a common trust fund;

(G) a foreign investment company which is described in section 1246(b)(1) and for which an election is in effect under section 1247; and

(H) a qualified electing fund (as defined in section 1295).

(13) Special rules.--

(A) Determination of 28-percent rate gain.--In applying paragraph (5)--

(i) the amount determined under subparagraph (A) of paragraph (5) shall include long-term capital gain (not otherwise described in such subparagraph)--

(I) which is properly taken into account for the portion of the taxable year before May 7, 1997; or

(II) from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998;

(ii) the amount determined under subparagraph (B) of paragraph (5) shall include long-term capital loss (not otherwise described in such subparagraph)--

(I) which is properly taken into account for the portion of the taxable year before May 7, 1997; or

(II) from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998; and

(iii) subparagraph (B) of paragraph (5) (as in effect immediately before the enactment of this clause) shall apply to amounts properly taken into account before January 1, 1998.

(B) Determination of unrecaptured section 1250 gain.--The amount determined under paragraph (7)(A)(i) shall not include gain--

(i) which is properly taken into account for the portion of the taxable year before May 7, 1997; or

(ii) from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998.

(C) Special rules for pass-thru entities.--In applying this paragraph with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.

(D) Charitable remainder trusts.--Subparagraphs (A) and (B)(ii) shall not apply to any capital gain distribution made by a trust described in section 664.

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2001 Electronic Update

(Aug. 16, 1954, c. 736, 68A Stat. 5; Feb. 26, 1964, Pub.L. 88-272, Title I, § 111, 78 Stat. 19; Nov. 13, 1966, Pub.L. 89-809, Title I, § 103(a) (2), 80 Stat. 1550; Dec. 30, 1969, Pub.L. 91-172, Title VIII, § 803(a), 83 Stat. 678; May 23, 1977, Pub.L. 95-30, Title I, § 101(a), 91 Stat. 127; Nov. 11, 1978, Pub.L. 95-600, Title I, § 101(a), 92 Stat. 2767; Aug. 13, 1981, Pub.L. 97-34, Title I, §§ 101(a), 104(a), 95 Stat. 176, 188; Jan. 12, 1983, Pub.L. 97-448, Title I, § 101(a)(3), 96 Stat. 2366; Oct. 22, 1986, Pub.L. 99-514, Title I, § 101(a), Title III, § 302(a), Title XIV, § 1411(a), 100 Stat. 2096, 2216, 2714; Nov. 10, 1988, Pub.L. 100-647, Title I, §§ 1001(a)(3), 1014, (e)(1) to (3), 6, 7, Title VI, § 6006(a), 102 Stat. 3349, 3561, 3562, 3686; Dec. 19, 1989,

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Sec. 552a. - Records maintained on individuals

(a) Definitions. -

For purposes of this section -

(1)

the term "agency" means agency as defined in section 552(e) [1] of this title;

(2)

the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(3)

the term "maintain" includes maintain, collect, use, or disseminate;

(4)

the term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical

history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(5)

the term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(6)

the term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13;

(7)

the term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;

(8)

the term "matching program" -

(A)

means any computerized comparison of -

(i)

two or more automated systems of records or a system of records with non-Federal records for the purpose of -

(I)

establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

(II)

recouping payments or delinquent debts under such Federal benefit programs, or

(ii)

two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

(B)

but does not include -

(i)

matches performed to produce aggregate statistical data without any personal identifiers;

(ii)

matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

(iii)

matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

(iv)

matches of tax information

(I)

pursuant to section 6103(d) of the Internal Revenue Code of 1986,

(II)

for purposes of tax administration as defined in section 6103(b)(4) of such

Code,

(III)

for the purpose of intercepting a tax refund due an individual under authority granted by section 404(e), 464, or 1137 of the Social Security Act; or

(IV)

for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

(v)

matches -

(I)

using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

(II)

conducted by an agency using only records from systems of records maintained by that agency; if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel;

(vi)

matches performed for foreign counterintelligence purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel;

(vii)

matches performed incident to a levy described in section 6103(k)(8) of the Internal Revenue Code of 1986; or

(viii)

matches performed pursuant to section 202(x)(3) or 1611(e)(1) of the Social Security Act (42 U.S.C. 402(x)(3), 1382(e)(1));

(9)

the term ''recipient agency'' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

(10)

the term ''non-Federal agency'' means any

State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

(11)

the term ''source agency'' means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a matching program;

(12)

the term ''Federal benefit program'' means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

(13)

the term ''Federal personnel'' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).

(b) Conditions of Disclosure. -

No agency shall disclose any record which is

contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be -

(1)

to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2)

required under section 552 of this title;

(3)

for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

(4)

to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

(5)

to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6)

to the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

(7)

to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8)

to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9)

to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10)

to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11)

pursuant to the order of a court of competent jurisdiction; or

(12)

to a consumer reporting agency in accordance with section 3711(e) of title 31.

(c) Accounting of Certain Disclosures. -

Each agency, with respect to each system of records under its control, shall -

(1)

except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of -

(A)

the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

(B)

the name and address of the person or agency to whom the disclosure is made;

(2)

retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3)

except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

(4)

inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) Access to Records. -

Each agency that maintains a system of records shall -

(1)

upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the

agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence;

(2)

permit the individual to request amendment of a record pertaining to him and -

(A)

not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(B)

promptly, either -

(i)

make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii)

inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

(3)

permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and if, after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection (g)(1)(A) of this section;

(4)

in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

(5)

nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(e) Agency Requirements. -

Each agency that maintains a system of records shall -

(1)

maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

(2)

collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(3)

inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual -

(A)

the authority (whether granted by

statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(B)

the principal purpose or purposes for which the information is intended to be used;

(C)

the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

(D)

the effects on him, if any, of not providing all or any part of the requested information;

(4)

subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include -

(A)

the name and location of the system;

(B)

the categories of individuals on whom

records are maintained in the system;

(C)

the categories of records maintained in the system;

(D)

each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(E)

the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(F)

the title and business address of the agency official who is responsible for the system of records;

(G)

the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(H)

the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its

content; and

(I)

the categories of sources of records in the system;

(5)

maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(6)

prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

(7)

maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(8)

make reasonable efforts to serve notice on an individual when any record on such

individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(9)

establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

(10)

establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained;

(11)

at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency; and

(12)

if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.

(f) Agency Rules. -

In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall -

(1)

establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

(2)

define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

(3)

establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including

special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;

(4)

establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

(5)

establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall biennially compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

(g)

(1) Civil Remedies. -

Whenever any agency

(A)

makes a determination under subsection (d)(3) of this section not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;

(B)

refuses to comply with an individual request under subsection (d)(1) of this section;

(C)

fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(D)

fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual,

the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

(2)

(A)

In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

(B)

The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(3)

(A)

In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

(B)

The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(4)

In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of -

(A)

actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of $1,000; and

(B)

the costs of the action together with reasonable attorney fees as determined by the court.

(5)

An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years

from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

(h) Rights of Legal Guardians. -

For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

Search this title:

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Notes
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Topical references

(i)

(1) Criminal Penalties. -

Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any

person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2)

Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

(3)

Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

(j) General Exemptions. -

The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is -

(1)

maintained by the Central Intelligence Agency; or

(2)

maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of

(A)

information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(B)

information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(C)

reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of

this title, the reasons why the system of records is to be exempted from a provision of this section.

(k) Specific Exemptions. -

The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of this section if the system of records is -

(1)

subject to the provisions of section 552(b)(1) of this title;

(2)

investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: Provided, however, That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in

confidence;

(3)

maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18;

(4)

required by statute to be maintained and used solely as statistical records;

(5)

investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6)

testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7)

evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(l)

(1) Archival Records. -

Each agency record which is accepted by the Archivist of the United States for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Archivist of the United States shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

(2)

Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e)(4)(A) through (G) of this section) shall be published in the Federal Register.

(3)

Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be exempt from the requirements of this section except subsections (e)(4)(A) through (G) and (e)(9) of this section.

(m)

(1) Government Contractors. -

When an agency provides by a contract for the operation by or on behalf of the agency

of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

(2)

A consumer reporting agency to which a record is disclosed under section 3711(e) of title 31 shall not be considered a contractor for the purposes of this section.

(n) Mailing Lists. -

An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(o) Matching Agreements. -

(1)

No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying -

(A)

the purpose and legal authority for conducting the program;

(B)

the justification for the program and the anticipated results, including a specific estimate of any savings;

(C)

a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

(D)

procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to -

(i)

applicants for and recipients of financial assistance or payments under Federal benefit programs, and

(ii)

applicants for and holders of positions as Federal personnel,

that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

(E)

procedures for verifying information produced in such matching program as required by subsection (p);

(F)

procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

(G)

procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

(H)

prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

(I)

procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program

by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

(J)

information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

(K)

that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

(2)

(A)

A copy of each agreement entered into pursuant to paragraph (1) shall -

(i)

be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

(ii)

be available upon request to the public.

(B)

No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

(C)

Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

(D)

Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if -

(i)

such program will be conducted without any change; and

(ii)

each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

(p) Verification and Opportunity to Contest Findings. -

(1)

In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until -

(A)

(i)

the agency has independently verified the information; or

(ii)

the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that -

(I)

the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

(II)

there is a high degree of confidence that the information provided to the recipient agency is accurate;

(B)

the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

(C)

(i)

the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

(ii)

in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

(2)

Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of -

(A)

the amount of any asset or income involved;

(B)

whether such individual actually has or had access to such asset or income for such individual's own use; and

(C)

the period or periods when the individual actually had such asset or income.

(3)

Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.

(q) Sanctions. -

(1)

Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

(2)

No source agency may renew a matching agreement unless -

(A)

the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

(B)

the source agency has no reason to believe that the certification is inaccurate.

(r) Report on New Systems and Matching Programs. -

Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.

(s) Biennial Report. -

The President shall biennially submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report -

(1)

describing the actions of the Director of the Office of Management and Budget pursuant to section 6 of the Privacy Act of 1974 during the preceding 2 years;

(2)

describing the exercise of individual rights of access and amendment under this section during such years;

(3)

identifying changes in or additions to systems of records;

(4)

containing such other information concerning administration of this section as may be necessary or useful to the Congress in reviewing the effectiveness of this section in carrying out the purposes of the Privacy Act of 1974.

(t)

(1) Effect of Other Laws. -

No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section.

(2)

No agency shall rely on any exemption in this section to withhold from an individual any record which is otherwise accessible to such individual under the provisions of section 552 of this title.

(u) Data Integrity Boards. -

(1)

Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

(2)

Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

(3)

Each Data Integrity Board -

(A)

shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes,

regulations, and guidelines;

(B)

shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

(C)

shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

(D)

shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including -

(i)

matching programs in which the agency has participated as a source agency or recipient agency;

(ii)

matching agreements proposed under

subsection (o) that were disapproved by the Board;

(iii)

any changes in membership or structure of the Board in the preceding year;

(iv)

the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

(v)

any violations of matching agreements that have been alleged or identified and any corrective action taken; and

(vi)

any other information required by the Director of the Office of Management and Budget to be included in such report;

(E)

shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

(F)

shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

(G)

shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

(H)

may review and report on any agency matching activities that are not matching programs.

(4)

(A)

Except as provided in subparagraphs (B) and (C), a Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective. [2] ''cost-effective.''

(B)

The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not

required.

(C)

A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

(5)

(A)

If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(B)

The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that -

(i)

the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

(ii)

there is adequate evidence that the matching agreement will be cost-effective; and

(iii)

the matching program is in the public interest.

(C)

The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

(D)

If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

(6)

In the reports required by paragraph (3)(D), agency matching activities that are not matching programs may be reported on an

aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations.

(v) Office of Management and Budget Responsibilities. -

The Director of the Office of Management and Budget shall -

(1)

develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

(2)

provide continuing assistance to and oversight of the implementation of this section by agencies

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[1] See References in Text note below.

[2] So in original. Probably should be

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Sec. 552a. - Records maintained on individuals

(a) Definitions. -

For purposes of this section -

(1)

the term ''agency'' means agency as defined in section 552(e) [1] of this title;

(2)

the term ''individual'' means a citizen of the United States or an alien lawfully admitted for permanent residence;

(3)

the term ''maintain'' includes maintain, collect, use, or disseminate;

(4)

the term ''record'' means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(5)

the term ''system of records'' means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(6)

the term ''statistical record'' means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13;

(7)

the term ''routine use'' means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;

(8)

the term ''matching program'' -

(A)

means any computerized comparison of -

(i)

two or more automated systems of records or a system of records with non-Federal records for the purpose of -

(I)

establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

(II)

recouping payments or delinquent debts under such Federal benefit programs, or

(ii)

two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

(B)

but does not include -

(i)

matches performed to produce aggregate statistical data without any personal identifiers;

(ii)

matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

(iii)

matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

(iv)

matches of tax information

(I)

pursuant to section 6103(d) of the Internal Revenue Code of 1986,

(II)

for purposes of tax administration as defined in section 6103(b)(4) of such Code,

(III)

for the purpose of intercepting a tax refund due an individual under authority granted by section 404(e), 464, or 1137 of the Social Security Act; or

(IV)

for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

(v)

matches -

(I)

using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

(II)

conducted by an agency using only records from systems of records maintained by that agency; if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel;

(vi)

matches performed for foreign counterintelligence purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel;

(vii)

matches performed incident to a levy described in section 6103(k)(8) of the Internal Revenue Code of 1986; or

(viii)

matches performed pursuant to section 202(x)(3) or 1611(e)(1) of the Social Security Act (42 U.S.C. 402(x)(3), 1382(e)(1));

(9)

the term ''recipient agency'' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

(10)

the term ''non-Federal agency'' means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

(11)

the term ''source agency'' means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a matching program;

(12)

the term ''Federal benefit program'' means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

(13)

the term ''Federal personnel'' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).

(b) Conditions of Disclosure. -

No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be -

(1)

to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2)

required under section 552 of this title;

(3)

for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

(4)

to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

(5)

to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6)

to the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

(7)

to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8)

to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9)

to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10)

to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11)

pursuant to the order of a court of competent jurisdiction; or

(12)

to a consumer reporting agency in accordance with section 3711(e) of title 31.

(c) Accounting of Certain Disclosures. -

Each agency, with respect to each system of records under its control, shall -

(1)

except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of -

(A)

the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

(B)

the name and address of the person or agency to whom the disclosure is made;

(2)

retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3)

except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

(4)

inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) Access to Records. -

Each agency that maintains a system of records shall -

(1)

upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence;

(2)

permit the individual to request amendment of a record pertaining to him and -

(A)

not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(B)

promptly, either -

(i)

make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii)

inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

(3)

permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review,

complete such review and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and if, after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection (g)(1)(A) of this section;

(4)

in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

(5)

nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(e) Agency Requirements. -

Each agency that maintains a system of records shall -

(1)

maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

(2)

collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(3)

inform each individual whom it asks to supply information, on the form which it uses to collect the

information or on a separate form that can be retained by the individual -

(A)

the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(B)

the principal purpose or purposes for which the information is intended to be used;

(C)

the routine uses which may be made of the information, as published pursuant to paragraph (4) (D) of this subsection; and

(D)

the effects on him, if any, of not providing all or any part of the requested information;

(4)

subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include -

(A)

the name and location of the system;

(B)

the categories of individuals on whom records are maintained in the system;

(C)

the categories of records maintained in the system;

(D)

each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(E)

the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(F)

the title and business address of the agency official who is responsible for the system of records;

(G)

the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(H)

the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and

(I)

the categories of sources of records in the system;

(5)

maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(6)

prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

(7)

maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(8)

make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(9)

establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

(10)

establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained;

(11)

at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency; and

(12)

if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.

(f) Agency Rules. -

In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall -

(1)

establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

(2)

define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

(3)

establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;

(4)

establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

(5)

establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall biennially compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

(g)

(1) Civil Remedies. -

Whenever any agency

(A)

makes a determination under subsection (d)(3) of this section not to amend an individual's record in

accordance with his request, or fails to make such review in conformity with that subsection;

(B)

refuses to comply with an individual request under subsection (d)(1) of this section;

(C)

fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(D)

fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual,

the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

(2)

(A)

In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

(B)

The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(3)

(A)

In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and

order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

(B)

The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(4)

In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of -

(A)

actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of $1,000; and

(B)

the costs of the action together with reasonable attorney fees as determined by the court.

(5)

An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by

reason of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

(h) Rights of Legal Guardians. -

For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(i)

(1) Criminal Penalties. -

Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2)

Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

(3)

Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

(j) General Exemptions. -

The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is -

(1)

maintained by the Central Intelligence Agency; or

(2)

maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of

(A)

information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(B)

information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(C)

reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(k) Specific Exemptions. -

The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of this section if the system of records is -

(1)

subject to the provisions of section 552(b)(1) of this title;

(2)

investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: Provided, however, That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(3)

maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18;

(4)

required by statute to be maintained and used solely as statistical records;

(5)

investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6)

testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7)

evaluation material used to determine potential for promotion in the armed services, but only to the extent

that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(l)

(1) Archival Records. -

Each agency record which is accepted by the Archivist of the United States for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Archivist of the United States shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

(2)

Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e)(4)(A) through (G) of this section) shall be published in the Federal Register.

(3)

Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained

by the National Archives and shall be exempt from the requirements of this section except subsections (e)(4)(A) through (G) and (e)(9) of this section.

(m)

(1) Government Contractors. -

When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

(2)

A consumer reporting agency to which a record is disclosed under section 3711(e) of title 31 shall not be considered a contractor for the purposes of this section.

(n) Mailing Lists. -

An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(o) Matching Agreements. -

(1)

No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying -

(A)

the purpose and legal authority for conducting the program;

(B)

the justification for the program and the anticipated results, including a specific estimate of any

savings;

(C)

a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

(D)

procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to -

(i)

applicants for and recipients of financial assistance or payments under Federal benefit programs, and

(ii)

applicants for and holders of positions as Federal personnel,

that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

(E)

procedures for verifying information produced in such matching program as required by subsection (p);

(F)

procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

(G)

procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

(H)

prohibitions on duplication and redisclosure of records provided by the source agency within or

outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

(I)

procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

(J)

information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

(K)

that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

(2)

(A)

A copy of each agreement entered into pursuant to paragraph (1) shall -

(i)

be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

(ii)

be available upon request to the public.

(B)

No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

(C)

Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data

Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

(D)

Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if -

(i)

such program will be conducted without any change; and

(ii)

each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

(p) Verification and Opportunity to Contest Findings. -

(1)

In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until -

(A)

(i)

the agency has independently verified the information; or

(ii)

the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that -

(I)

the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

(II)

there is a high degree of confidence that the information provided to the recipient agency is accurate;

(B)

the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

(C)

(i)

the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

(ii)

in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

(2)

Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of -

(A)

the amount of any asset or income involved;

(B)

whether such individual actually has or had access to such asset or income for such individual's own use; and

(C)

the period or periods when the individual actually

had such asset or income.

(3)

Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.

(q) Sanctions. -

(1)

Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

(2)

No source agency may renew a matching agreement unless -

(A)

the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

(B)

the source agency has no reason to believe that the certification is inaccurate.

(r) Report on New Systems and Matching Programs. -

Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.

(s) Biennial Report. -

The President shall biennially submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report -

(1)

describing the actions of the Director of the Office of Management and Budget pursuant to section 6 of the Privacy Act of 1974 during the preceding 2 years;

(2)

describing the exercise of individual rights of access and amendment under this section during such years;

(3)

identifying changes in or additions to systems of records;

(4)

containing such other information concerning administration of this section as may be necessary or useful to the Congress in reviewing the effectiveness of this section in carrying out the purposes of the Privacy Act of 1974.

(t)

(1) Effect of Other Laws. -

No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section.

(2)

No agency shall rely on any exemption in this section to withhold from an individual any record which is otherwise accessible to such individual under the provisions of section 552 of this title.

(u) Data Integrity Boards. -

(1)

Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

(2)

Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

(3)

Each Data Integrity Board -

(A)

shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

(B)

shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

(C)

shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

(D)

shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including -

(i)

matching programs in which the agency has participated as a source agency or recipient agency;

(ii)

matching agreements proposed under subsection

(o) that were disapproved by the Board;

(iii)

any changes in membership or structure of the Board in the preceding year;

(iv)

the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

(v)

any violations of matching agreements that have been alleged or identified and any corrective action taken; and

(vi)

any other information required by the Director of the Office of Management and Budget to be included in such report;

(E)

shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

(F)

shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

(G)

shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

(H)

may review and report on any agency matching activities that are not matching programs.

(4)

(A)

Except as provided in subparagraphs (B) and (C), a Data Integrity Board shall not approve any written

agreement for a matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective. [2] ''cost-effective.''

(B)

The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

(C)

A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

(5)

(A)

If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(B)

The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that -

(i)

the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

(ii)

there is adequate evidence that the matching agreement will be cost-effective; and

(iii)

the matching program is in the public interest.

(C)

The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

(D)

If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

(6)

In the reports required by paragraph (3)(D), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations.

(v) Office of Management and Budget Responsibilities. -

The Director of the Office of Management and Budget shall -

(1)

develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

(2)

provide continuing assistance to and oversight of the implementation of this section by agencies

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[1] See References in Text note below.

[2] So in original. Probably should be

Prev | Next

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Note. This booklet does not contain any tax forms.

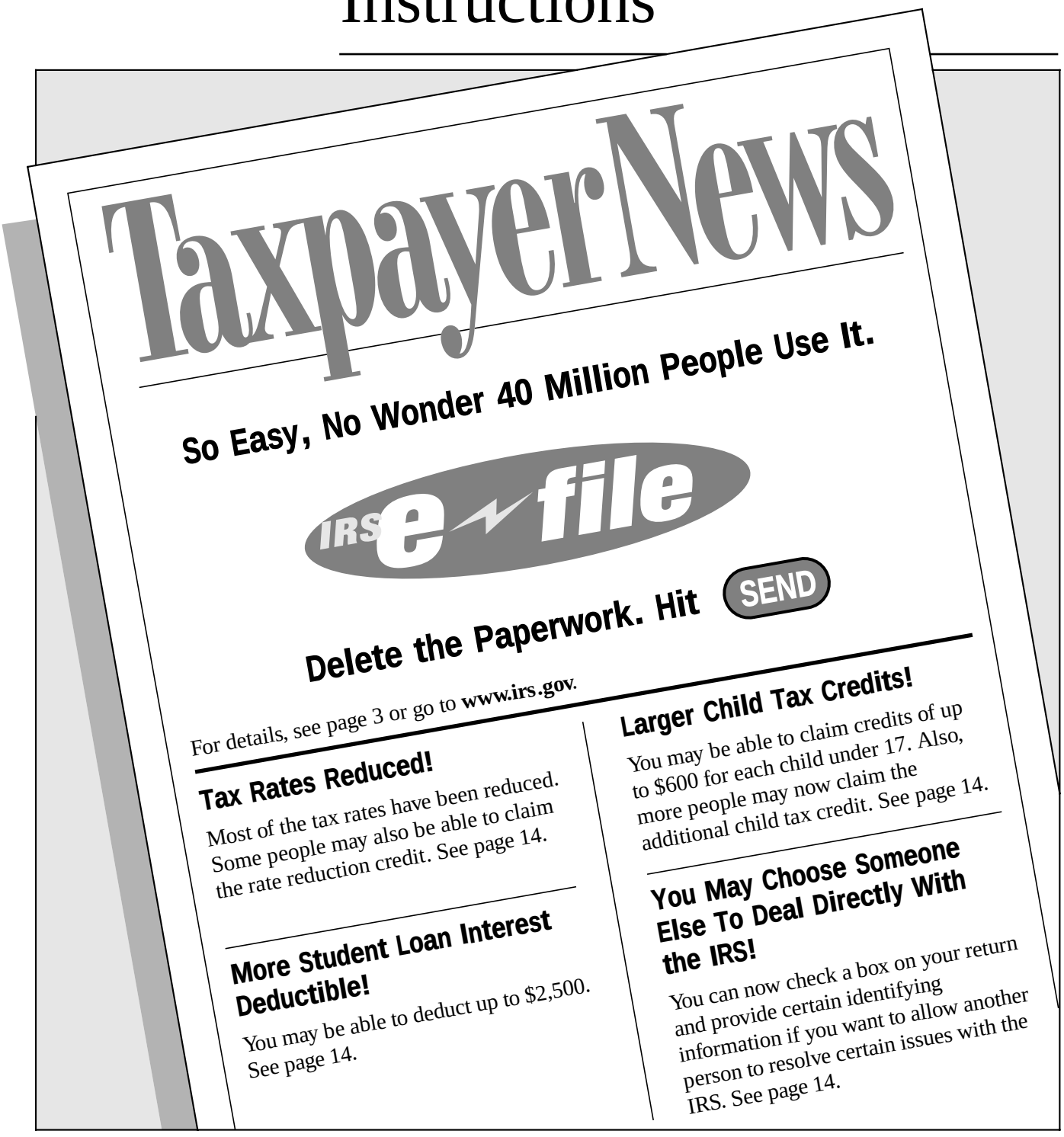
IRS

Department of the Treasury
Internal Revenue Service

www.irs.gov

2001 1040

Instructions



The Internal Revenue Service ● *Working to put service first*

Cat. No. 11325E

A Message From the Commissioner

Dear Taxpayer:

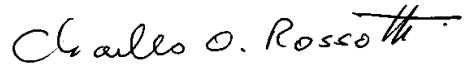
We know that preparing your tax return is not always an easy task. We at the IRS are working as hard as we can, within the limits of the law, to make filing simpler and easier for you.

Here are some of the things we have done that may help you file and pay your taxes more easily.

- If you have capital gains, we have made the tax computation on Schedule D easier for most taxpayers by removing 14 lines.
- You can designate another person (such as your preparer, relative, or friend) to discuss your return with the IRS to resolve questions that may arise in processing your return. Just fill out the Third Party Designee section on your return.
- If you have questions about how to fill out your return, you can get many of the answers 24 hours a day from our Frequently Asked Questions section on our popular web site at www.irs.gov/tax_edu/faq/index.html.
- If you need a form, you can download it directly from the IRS Web Site at www.irs.gov.
- In most cases, you can now file your return and pay your taxes electronically without any paper forms required. Just visit our web site and it will provide you a choice of many web sites on which you can prepare your return and file it with the IRS. You can use a credit or debit card to pay any balance due. Last year, over 40 million people filed electronically—and got the benefits of much faster refunds, much less chance of receiving an error notice from the IRS, and positive confirmation that their returns were received.
- If you cannot file by April 15 and need an extension to file, you can get one automatically by telephone by calling 1-888-796-1074. Remember, even if you get an extension, you still have to pay any taxes due by April 15 and you can do this by phone as well.

We know there is a lot more for us to do to serve you better and we plan many more improvements in the future. If you have specific suggestions how we can make it easier for you to file and pay your taxes, please e-mail them to us through the IRS Web Site at www.irs.gov/help/email2.html.

Sincerely,



Charles O. Rossotti

The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all.

So Easy, No Wonder 40 Million People Love It.

- **Accuracy!** Your chance of getting an error notice from the IRS is significantly reduced.
- **Security!** Your privacy and security are assured.
- **Electronic Signatures!** Create your own Personal Identification Number (PIN) and file a completely paperless return through your tax preparation software or tax professional. There is nothing to mail!
- **Proof of Acceptance!** You receive an electronic acknowledgement within 48 hours that the IRS has accepted your return for processing.
- **Fast Refunds!** You get your refund in half the time, even faster and safer with Direct Deposit—in as few as 10 days.
- **FREE/Low-Cost Filing!** Check out the IRS Web Site at www.irs.gov for IRS *e-file* partners offering free or low-cost filing options to taxpayers who qualify.
- **Electronic Payment Options!** Convenient, safe, and secure electronic payment options are available. *e-file* and pay in a single step. Schedule an electronic funds withdrawal from your bank account (up to and including April 15, 2002) or pay by credit card.
- **Federal/State *e-file!*** Prepare and file your Federal and state returns together and double the benefits you get from *e-file.*

Get all the details on page 55 or check out the IRS Web Site at www.irs.gov.

IRS e-file

Delete the Paperwork. Hit SEND

Tax Return Page Reference

Questions about what to put on a line? Help is on the page number in the circle.

Form **1040** Department of the Treasury—Internal Revenue Service **U.S. Individual Income Tax Return** 2001 (99) IRS Use Only—Do not write or staple in this space.

OMB No. 1545-0074

Label (19) (See instructions on page 19.) **Use the IRS label.** Otherwise, please print or type.

LABEL HERE

For the year Jan. 1–Dec. 31, 2001, or other tax year beginning , 2001, ending , 20

Your first name and initial | Last name | **Your social security number** (19)

If a joint return, spouse's first name and initial | Last name | **Spouse's social security number** (19)

FOR REFERENCE ONLY—DO NOT FILE

Home address (number and street). If you have a P.O. box, see page 19. | Apt. no.

City, town or post office, state, and ZIP code. If you have a foreign address, see page 19.

▲ Important! ▲ You **must** enter your SSN(s) above.

Presidential Election Campaign (See page 19.) (19) **Note.** Checking "Yes" will not change your tax or reduce your refund. Do you, or your spouse if filing a joint return, want $3 to go to this fund? . . . ► **You** ☐ Yes ☐ No **Spouse** ☐ Yes ☐ No

Filing Status

(19) Check only one box.

1 ☐ Single

2 ☐ Married filing joint return (even if only one had income)

3 ☐ Married filing separate return. Enter spouse's social security no. above and full name here. ►

4 ☐ Head of household (with qualifying person). (See page 19.) If the qualifying person is a child but not your dependent, enter this child's name here. ►

5 ☐ Qualifying widow(er) with dependent child (year spouse died ►). (See page 19.)

Exemptions (19)

6a ☐ **Yourself.** If your parent (or someone else) can claim you as a dependent on his or her tax return, **do not** check box 6a . . . .

b ☐ **Spouse** . . . .

c **Dependents:**

(1) First name / Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) ✓ if qualifying child for child tax credit (see page 20)
	(20)		☐ (20)
			☐
			☐
			☐
			☐
			☐

If more than six dependents, see page 20. (20)

No. of boxes checked on 6a and 6b ____

No. of your children on 6c who:
- **lived with you** ____
- **did not live with you due to divorce or separation (see page 20)** (20) ____

Dependents on 6c not entered above ____

Add numbers entered on lines above ► ☐

d Total number of exemptions claimed . . . .

Income

(53) **Attach Forms W-2 and W-2G here. Also attach Form(s) 1099-R if tax was withheld.**

(21) If you did not get a W-2, see page 21.

Enclose, but do not attach, any payment. Also, please use **Form 1040-V.** (52)

7	Wages, salaries, tips, etc. Attach Form(s) W-2		7 (21)
8a	**Taxable** interest. Attach Schedule B if required		8a (21)
b	**Tax-exempt** interest. **Do not** include on line 8a (B-1)	8b (21)	
9	Ordinary dividends. Attach Schedule B if required (B-1)		9 (21)
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 22)		10 (22)
11	Alimony received		11 (23)
12	Business income or (loss). Attach Schedule C or C-EZ		12 (23)
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ► ☐		13 (23)
14	Other gains or (losses). Attach Form 4797		14 (23)
15a	Total IRA distributions 15a (23)	**b** Taxable amount (see page 23)	15b (23)
16a	Total pensions and annuities 16a (23)	**b** Taxable amount (see page 23)	16b (23)
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E		17
18	Farm income or (loss). Attach Schedule F		18
19	Unemployment compensation		19 (25)
20a	Social security benefits 20a (25)	**b** Taxable amount (see page 25)	20b (25)
21	Other income. List type and amount (see page 27) (27)		21
22	Add the amounts in the far right column for lines 7 through 21. This is your **total income** ►		22

Adjusted Gross Income

23	IRA deduction (see page 27)	23 (27)	
24	Student loan interest deduction (see page 28)	24 (28)	
25	Archer MSA deduction. Attach Form 8853	25 (29)	
26	Moving expenses. Attach Form 3903	26 (29)	
27	One-half of self-employment tax. Attach Schedule SE	27 (30)	
28	Self-employed health insurance deduction (see page 30)	28 (30)	
29	Self-employed SEP, SIMPLE, and qualified plans	29 (30)	
30	Penalty on early withdrawal of savings	30 (30)	
31a	Alimony paid **b** Recipient's SSN ►	31a (30)	
32	Add lines 23 through 31a		32 (30)
33	Subtract line 32 from line 22. This is your **adjusted gross income** ►		33 (31)

Tax Return Page Reference

Questions about what to put on a line? Help is on the page number in the circle.

Tax and Credits

Standard Deduction for—

- People who checked any box on line 35a or 35b **or** who can be claimed as a dependent, see page 31.
- All others:

Single, $4,550

Head of household, $6,650

Married filing jointly or Qualifying widow(er), $7,600

Married filing separately, $3,800

(31)

34	Amount from line 33 (adjusted gross income)		34 (31)
35a	Check if: ☐ **You** were 65 or older, ☐ Blind; ☐ **Spouse** was 65 or older, ☐ Blind. Add the number of boxes checked above and enter the total here ▶ 35a		(31)
b	If you are married filing separately and your spouse itemizes deductions, or you were a dual-status alien, see page 31 and check here (A-1) ▶ 35b ☐		
36	**Itemized deductions** (from Schedule A) **or** your **standard deduction** (see left margin)		36 (31)
37	Subtract line 36 from line 34		37
38	If line 34 is $99,725 or less, multiply $2,900 by the total number of exemptions claimed on line 6d. If line 34 is over $99,725, see the worksheet on page 32		38 (32)
39	**Taxable income.** Subtract line 38 from line 37. If line 38 is more than line 37, enter -0-		39
40	**Tax** (see page 33). Check if any tax is from **a** ☐ Form(s) 8814 **b** ☐ Form 4972		40 (33)
41	**Alternative minimum tax** (see page 34). Attach Form 6251		41 (34)
42	Add lines 40 and 41 ▶		42
43	Foreign tax credit. Attach Form 1116 if required	43 (34)	
44	Credit for child and dependent care expenses. Attach Form 2441	44 (35)	
45	Credit for the elderly or the disabled. Attach Schedule R	45 (35)	
46	Education credits. Attach Form 8863	46 (36)	
47	Rate reduction credit. See the worksheet on page 36	47 NEW (36)	
48	Child tax credit (see page 37)	48 (37)	
49	Adoption credit. Attach Form 8839	49 (39)	
50	Other credits from: **a** ☐ Form 3800 **b** ☐ Form 8396 **c** ☐ Form 8801 **d** ☐ Form (specify) _____	50 (39)	
51	Add lines 43 through 50. These are your **total credits**		51 (39)
52	Subtract line 51 from line 42. If line 51 is more than line 42, enter -0- ▶		52

Other Taxes

53	Self-employment tax. Attach Schedule SE		53
54	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137		54 (39)
55	Tax on qualified plans, including IRAs, and other tax-favored accounts. Attach Form 5329 if required		55 (39)
56	Advance earned income credit payments from Form(s) W-2		56 (39)
57	Household employment taxes. Attach Schedule H		57 (39)
58	Add lines 52 through 57. This is your **total tax** ▶		58 (39)

Payments

If you have a qualifying child, attach Schedule EIC.

59	Federal income tax withheld from Forms W-2 and 1099	59 (40)	
60	2001 estimated tax payments and amount applied from 2000 return	60 (40)	
61a	**Earned income credit (EIC)**	61a (41)	
b	Nontaxable earned income 61b (43)		
62	Excess social security and RRTA tax withheld (see page 51)	62 (51)	
63	Additional child tax credit. Attach Form 8812	63 (51)	
64	Amount paid with request for extension to file (see page 51)	64 (51)	
65	Other payments. Check if from **a** ☐ Form 2439 **b** ☐ Form 4136	65 (51)	
66	Add lines 59, 60, 61a, and 62 through 65. These are your **total payments** ▶		66

Refund

Direct deposit? See page 51 and fill in 68b, 68c, and 68d.

67	If line 66 is more than line 58, subtract line 58 from line 66. This is the amount you **overpaid**		67 (51)
68a	Amount of line 67 you want **refunded to you** (51) ▶		68a
▶ b	Routing number ▶ **c** Type: ☐ Checking ☐ Savings		
▶ d	Account number		
69	Amount of line 67 you want **applied to your 2002 estimated tax** ▶ 69		

Amount You Owe

70	**Amount you owe.** Subtract line 66 from line 58. For details on how to pay, see page 52 ▶		70 (52)
71	Estimated tax penalty. Also include on line 70	71 (52)	

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 53)? ☐ **Yes.** Complete the following. ☐ **No**

Designee's name ▶ NEW (53) Phone no. ▶ ( ) Personal identification number (PIN) ▶

Sign Here

Joint return? See page 19. Keep a copy for your records.

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

Your signature (53)	Date	Your occupation	Daytime phone number ( ) (53)
Spouse's signature. If a joint return, **both** must sign.	Date	Spouse's occupation	

Paid Preparer's Use Only

Preparer's signature (53)	Date	Check if self-employed ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code		EIN	
		Phone no. ( )	

IRS Customer Service Standards

At the IRS, our goal is to continually improve the quality of our services. To achieve that goal, we have developed customer service standards in the following areas:

- **Easier filing and payment options**
- **Access to information**
- **Accuracy**
- **Prompt refunds**
- **Initial contact resolution**
- **Canceling penalties**
- **Resolving problems**
- **Simpler forms**

If you would like information about the IRS standards and a report of our accomplishments, see **Pub. 2183.**

Help With Unresolved Tax Issues

Office of the Taxpayer Advocate

Contacting Your Taxpayer Advocate

If you have attempted to deal with an IRS problem unsuccessfully, you should contact your Taxpayer Advocate.

The Taxpayer Advocate independently represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels.

While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

Handling Your Tax Problems

Your assigned personal advocate will listen to your point of view and will work with you to address your concerns. You can expect the advocate to provide you with:

- A "fresh look" at your new or on-going problem
- Timely acknowledgment
- The name and phone number of the individual assigned to your case
- Updates on progress
- Timeframes for action
- Speedy resolution
- Courteous service

Information You Should Be Prepared To Provide

- Your name, address, and social security number (or employer identification number)
- Your telephone number and hours you can be reached
- The type of tax return and year(s) involved
- A detailed description of your problem
- Your previous attempts to solve the problem and the office you contacted, and
- Description of the hardship you are facing (if applicable)

How To Contact Your Taxpayer Advocate

- Call the Taxpayer Advocate's toll-free number: **1-877-777-4778**
- Call, write, or fax the Taxpayer Advocate office in your area (see **Pub. 1546** for addresses and phone numbers)
- TTY/TDD help is available by calling 1-800-829-4059

Quick and Easy Access to Tax Help and Forms

Note. If you live outside the United States, see **Pub. 54** to find out how to get help and forms.

Personal Computer

You can access the IRS Web Site 24 hours a day, 7 days a week, at **www.irs.gov** to:

- Download forms, instructions, and publications
- See answers to frequently asked tax questions
- Search publications on-line by topic or keyword
- Figure your withholding allowances using our W-4 calculator
- Send us comments or request help by e-mail
- Sign up to receive local and national tax news by e-mail

You can also reach us using File Transfer Protocol at ftp.irs.gov

Fax

You can get over 100 of the most requested forms and instructions 24 hours a day, 7 days a week, by fax. Just call **703-368-9694** from the telephone connected to the fax machine. See pages 8 and 9 for a list of the items available.

For help with transmission problems, call the FedWorld Help Desk at **703-487-4608.**

Long-distance charges may apply.

Mail

You can order forms, instructions, and publications by completing the order blank on page 57. You should receive your order within 10 days after we receive your request.

Phone

You can order forms and publications and receive automated information 24 hours a day, 7 days a week, by phone.

Forms and Publications

Call **1-800-TAX-FORM** (1-800-829-3676) to order current year forms, instructions, and publications, and prior year forms and instructions. You should receive your order within 10 days.

TeleTax Topics

Call **1-800-829-4477** to listen to pre-recorded messages covering about 150 tax topics. See pages 11 and 12 for a list of the topics.

Refund Information

You can check the status of your 2001 refund using TeleTax's Refund Information service. See page 11.

Walk-In

You can pick up some of the most requested forms, instructions, and publications at many IRS offices, post offices, and libraries. Some IRS offices, libraries, city and county government offices, credit unions, grocery stores, office supply stores, and copy centers have an extensive collection of products available to photocopy or print from a CD-ROM.

CD-ROM

Order **Pub. 1796,** Federal Tax Products on CD-ROM, and get:

- Current year forms, instructions, and publications
- Prior year forms, instructions, and publications
- Frequently requested tax forms that may be filled in electronically, printed out for submission, and saved for recordkeeping
- The Internal Revenue Bulletin

Buy the CD-ROM on the Internet at **www.irs.gov/cdorders** from the National Technical Information Service (NTIS) for $21 (no handling fee) or call **1-877-CDFORMS** (1-877-233-6767) toll free to buy the CD-ROM for $21 (plus a $5 handling fee).

You can also get help in other ways—See page 56 for information.

Forms by Fax

The following forms and instructions are available through our **Tax Fax** service 24 hours a day, 7 days a week. Just call **703-368-9694** from the telephone connected to the fax machine. Long-distance charges may apply. When you call, you will hear instructions on how to use the service. Select the option for getting forms. Then, enter the **Catalog Number** (Cat. No.) shown below for each item you want. When you hang up the phone, the fax will begin.

Name of Form or Instructions	Title of Form or Instructions	Cat. No.	No. of Pages
Form SS-4	Application for Employer Identification Number	16055	2
Instr. SS-4		62736	6
Form SS-8	Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding	16106	5
Form W-2c	Corrected Wage and Tax Statement	61437	8
Form W-3c	Transmittal of Corrected Wage and Tax Statements	10164	2
Instr. W-2c and W-3c		25978	4
Form W-4	Employee's Withholding Allowance Certificate	10220	2
Form W-4P	Withholding Certificate for Pension or Annuity Payments	10225	4
Form W-5	Earned Income Credit Advance Payment Certificate	10227	3
Form W-7	Application for IRS Individual Taxpayer Identification Number	10229	3
Form W-7A	Application for Taxpayer Identification Number for Pending U.S. Adoptions	24309	2
Form W-7P	Application for Preparer Tax Identification Number	26781	1
Form W-9	Request for Taxpayer Identification Number and Certification	10231	2
Instr. W-9		20479	2
Form W-9S	Request for Student's or Borrower's Taxpayer Identification Number and Certification	25240	2
Form W-10	Dependent Care Provider's Identification and Certification	10437	1
Form 709	U.S. Gift (and Generation-Skipping Transfer) Tax Return	16783	4
Instr. 709		16784	12
Form 709A	U.S. Short Form Gift Tax Return	10171	3
Form 843	Claim for Refund and Request for Abatement	10180	1
Instr. 843		11200	2
Form 940	Employer's Annual Federal Unemployment (FUTA) Tax Return	11234	2
Instr. 940		13660	6
Form 940-EZ	Employer's Annual Federal Unemployment (FUTA) Tax Return	10983	2
Instr. 940-EZ		25947	5
Form 941	Employer's Quarterly Federal Tax Return	17001	4
Instr. 941		14625	4
Form 941c	Supporting Statement To Correct Information	11242	4
Form 990	Return of Organization Exempt From Income Tax	11282	6
Instr. 990 & 990-EZ	General Instructions for Forms 990 and 990-EZ	22386	14
Instr. 990	Specific Instructions for Form 990	50002	18
Schedule A (Form 990 or 990-EZ)	Organization Exempt Under Section 501(c)(3)	11285	6
Instr. Sch. A		11294	14
Form 990-EZ	Short Form Return of Organization Exempt From Income Tax	10642	2
Instr. 990-EZ	Specific Instructions for Form 990-EZ	50003	9
Form 1040	U.S. Individual Income Tax Return	11320	2
Instr. 1040	Line Instructions for Form 1040	11325	34
Instr. 1040	General Information for Form 1040	24811	26
Tax Table and Tax Rate Sch.	Tax Table and Tax Rate Schedules (Form 1040)	24327	13
Schedules A&B (Form 1040)	Itemized Deductions & Interest and Ordinary Dividends	11330	2
Instr. Sch. A&B		24328	8
Schedule C (Form 1040)	Profit or Loss From Business (Sole Proprietorship)	11334	2
Instr. Sch. C		24329	8
Schedule C-EZ (Form 1040)	Net Profit From Business (Sole Proprietorship)	14374	2
Schedule D (Form 1040)	Capital Gains and Losses	11338	2
Instr. Sch. D		24331	9
Schedule D-1 (Form 1040)	Continuation Sheet for Schedule D	10424	2
Schedule E (Form 1040)	Supplemental Income and Loss	11344	2
Instr. Sch. E		24332	6
Schedule EIC (Form 1040A or 1040)	Earned Income Credit	13339	2
Schedule F (Form 1040)	Profit or Loss From Farming	11346	2
Instr. Sch. F		24333	6
Schedule H (Form 1040)	Household Employment Taxes	12187	2
Instr. Sch. H		21451	8
Schedule J (Form 1040)	Farm Income Averaging	25513	1
Instr. Sch. J		25514	7
Schedule R (Form 1040)	Credit for the Elderly or the Disabled	11359	2
Instr. Sch. R		11357	4
Schedule SE (Form 1040)	Self-Employment Tax	11358	2
Instr. Sch. SE		24334	4
Form 1040A	U.S. Individual Income Tax Return	11327	2
Schedule 1 (Form 1040A)	Interest and Ordinary Dividends for Form 1040A Filers	12075	1
Schedule 2 (Form 1040A)	Child and Dependent Care Expenses for Form 1040A Filers	10749	2
Instr. Sch. 2		30139	3
Schedule 3 (Form 1040A)	Credit for the Elderly or the Disabled for Form 1040A Filers	12064	2
Instr. Sch. 3		12059	4
Form 1040-ES	Estimated Tax for Individuals	11340	7
Form 1040EZ	Income Tax Return for Single and Joint Filers With No Dependents	11329	2

Name of Form or Instructions	Title of Form or Instructions	Cat. No.	No. of Pages
Form 1040NR	U.S. Nonresident Alien Income Tax Return	11364	5
Instr. 1040NR		11368	40
Form 1040NR-EZ	U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents	21534	2
Instr. 1040NR-EZ		21718	16
Form 1040-V	Payment Voucher	20975	2
Form 1040X	Amended U.S. Individual Income Tax Return	11360	2
Instr. 1040X		11362	6
Form 1116	Foreign Tax Credit	11440	2
Instr. 1116		11441	12
Form 1310	Statement of Person Claiming Refund Due a Deceased Taxpayer	11566	2
Form 2106	Employee Business Expenses	11700	2
Instr. 2106		64188	4
Form 2106-EZ	Unreimbursed Employee Business Expenses	20604	2
Form 2120	Multiple Support Declaration	11712	1
Form 2210	Underpayment of Estimated Tax by Individuals, Estates, and Trusts	11744	3
Instr. 2210		63610	6
Form 2290	Heavy Highway Vehicle Use Tax Return	11250	3
Instr. 2290		27231	8
Form 2441	Child and Dependent Care Expenses	11862	2
Instr. 2441		10842	3
Form 2553	Election by a Small Business Corporation	18629	2
Instr. 2553		49978	4
Form 2555	Foreign Earned Income	11900	3
Instr. 2555		11901	4
Form 2555-EZ	Foreign Earned Income Exclusion	13272	2
Instr. 2555-EZ		14623	3
Form 2688	Application for Additional Extension of Time To File U.S. Individual Income Tax Return	11958	2
Form 2848	Power of Attorney and Declaration of Representative	11980	2
Instr. 2848		11981	4
Form 3903	Moving Expenses	12490	2
Form 4136	Credit for Federal Tax Paid on Fuels	12625	4
Form 4137	Social Security and Medicare Tax on Unreported Tip Income	12626	2
Form 4506	Request for Copy or Transcript of Tax Form	41721	2
Form 4562	Depreciation and Amortization	12906	2
Instr. 4562		12907	12
Form 4684	Casualties and Thefts	12997	2
Instr. 4684		12998	4
Form 4797	Sales of Business Property	13086	2
Instr. 4797		13087	7
Form 4835	Farm Rental Income and Expenses	13117	2
Form 4868	Application for Automatic Extension of Time To File U.S. Individual Income Tax Return	13141	4
Form 4952	Investment Interest Expense Deduction	13177	2
Form 4972	Tax on Lump-Sum Distributions	13187	4
Form 5329	Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts	13329	2
Instr. 5329		13330	4
Form 6198	At-Risk Limitations	50012	1
Instr. 6198		50013	8
Form 6251	Alternative Minimum Tax—Individuals	13600	2
Instr. 6251		64277	8
Form 6252	Installment Sale Income	13601	4
Form 6781	Gains and Losses From Section 1256 Contracts and Straddles	13715	3
Form 8271	Investor Reporting of Tax Shelter Registration Number	61924	2
Form 8283	Noncash Charitable Contributions	62299	2
Instr. 8283		62730	4
Form 8300	Report of Cash Payments Over $10,000 Received in a Trade or Business	62133	4
Form 8332	Release of Claim to Exemption for Child of Divorced or Separated Parents	13910	1
Form 8379	Injured Spouse Claim and Allocation	62474	2
Form 8582	Passive Activity Loss Limitations	63704	3
Instr. 8582		64294	12
Form 8586	Low-Income Housing Credit	63987	2
Form 8606	Nondeductible IRAs and Coverdell ESAs	63966	2
Instr. 8606		25399	8
Form 8615	Tax for Children Under Age 14 With Investment Income of More Than $1,500	64113	1
Instr. 8615		28914	2
Form 8718	User Fee for Exempt Organization Determination Letter Request	64728	1
Form 8801	Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts	10002	4
Form 8809	Request for Extension of Time To File Information Returns	10322	2
Form 8812	Additional Child Tax Credit	10644	2
Form 8814	Parents' Election To Report Child's Interest and Dividends	10750	2
Form 8815	Exclusion of Interest From Series EE and I U.S. Savings Bonds Issued After 1989	10822	2
Form 8822	Change of Address	12081	2
Form 8824	Like-Kind Exchanges	12311	4
Form 8829	Expenses for Business Use of Your Home	13232	1
Instr. 8829		15683	4
Form 8839	Qualified Adoption Expenses	22843	2
Instr. 8839		23077	4
Form 8850	Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits	22851	2
Instr. 8850		24833	2
Form 8853	Archer MSAs and Long-Term Care Insurance Contracts	24091	2
Instr. 8853		24188	8
Form 8857	Request for Innocent Spouse Relief	24647	4
Form 8859	District of Columbia First-Time Homebuyer Credit	24779	2
Form 8862	Information To Claim Earned Income Credit After Disallowance	25145	2
Instr. 8862		25343	2
Form 8863	Education Credits	25379	3
Form 9465	Installment Agreement Request	14842	2

Partial List of Publications

The following publications are available through the IRS Web Site 24 hours a day, 7 days a week, at **www.irs.gov.** You can also order publications by calling **1-800-TAX-FORM** (1-800-829-3676) or by completing the order blank on page 57. You should receive your order within 10 days after we receive your request. For a complete list of available publications, see **Pub. 910.**

Pub. No.	Title
1	Your Rights as a Taxpayer
3	Armed Forces' Tax Guide
17	Your Federal Income Tax (For Individuals)
225	Farmer's Tax Guide
334	Tax Guide for Small Business (For Individuals Who Use Schedule C or C-EZ)
378	Fuel Tax Credits and Refunds
463	Travel, Entertainment, Gift, and Car Expenses
501	Exemptions, Standard Deduction, and Filing Information
502	Medical and Dental Expenses
503	Child and Dependent Care Expenses
504	Divorced or Separated Individuals
505	Tax Withholding and Estimated Tax
508	Tax Benefits for Work-Related Education
509	Tax Calendars for 2002
514	Foreign Tax Credit for Individuals
516	U.S. Government Civilian Employees Stationed Abroad
517	Social Security and Other Information for Members of the Clergy and Religious Workers
519	U.S. Tax Guide for Aliens
520	Scholarships and Fellowships
521	Moving Expenses
523	Selling Your Home
524	Credit for the Elderly or the Disabled
525	Taxable and Nontaxable Income
526	Charitable Contributions
527	Residential Rental Property
529	Miscellaneous Deductions
530	Tax Information for First-Time Homeowners
531	Reporting Tip Income
533	Self-Employment Tax
534	Depreciating Property Placed in Service Before 1987
535	Business Expenses
537	Installment Sales
541	Partnerships
544	Sales and Other Dispositions of Assets
547	Casualties, Disasters, and Thefts
550	Investment Income and Expenses
551	Basis of Assets
552	Recordkeeping for Individuals
553	Highlights of 2001 Tax Changes
554	Older Americans' Tax Guide
555	Community Property
556	Examination of Returns, Appeal Rights, and Claims for Refund
559	Survivors, Executors, and Administrators
561	Determining the Value of Donated Property
564	Mutual Fund Distributions
570	Tax Guide for Individuals With Income From U.S. Possessions
575	Pension and Annuity Income
584	Casualty, Disaster, and Theft Loss Workbook (Personal-Use Property)
587	Business Use of Your Home (Including Use by Day-Care Providers)
590	Individual Retirement Arrangements (IRAs)
593	Tax Highlights for U.S. Citizens and Residents Going Abroad
594	The IRS Collection Process
595	Tax Highlights for Commercial Fishermen
596	Earned Income Credit (EIC)
721	Tax Guide to U.S. Civil Service Retirement Benefits
901	U.S. Tax Treaties
907	Tax Highlights for Persons With Disabilities
908	Bankruptcy Tax Guide
910	Guide To Free Tax Services
911	Direct Sellers
915	Social Security and Equivalent Railroad Retirement Benefits
919	How Do I Adjust My Tax Withholding?
925	Passive Activity and At-Risk Rules
926	Household Employer's Tax Guide
929	Tax Rules for Children and Dependents
936	Home Mortgage Interest Deduction
946	How To Depreciate Property
947	Practice Before the IRS and Power of Attorney
950	Introduction to Estate and Gift Taxes
967	The IRS Will Figure Your Tax
968	Tax Benefits for Adoption
970	Tax Benefits for Higher Education
971	Innocent Spouse Relief
972	Child Tax Credit
1542	Per Diem Rates
1544	Reporting Cash Payments of Over $10,000
1546	The Taxpayer Advocate Service of the IRS
3920	Tax Relief for Victims of Terrorist Attacks

Spanish Language Publications

1SP	Your Rights as a Taxpayer
579SP	How To Prepare Your Federal Income Tax Return
594SP	The IRS Collection Process
596SP	Earned Income Credit
850	English-Spanish Glossary of Words and Phrases Used in Publications Issued by the Internal Revenue Service
1544SP	Reporting Cash Payments of Over $10,000

What Is TeleTax?

Call TeleTax at **1-800-829-4477** for:

- **Refund information.** Check the status of your **2001** refund.
- **Recorded tax information.** There are about 150 topics that answer many Federal tax questions.
- **2001 advance payment (rebate) information.** Find out the amount of your advance payment (before offset). You may need this information to complete the Rate Reduction Credit Worksheet on page 36.

How Do You Use TeleTax?

Refund Information

Refund information is not available until at least 4 weeks after you file your return (3 weeks if you file electronically), and sometimes is not available for up to 6 weeks. Please wait at least 4 weeks from the date you filed before calling to check the status of your refund. Do not send in a copy of your return unless asked to do so.

Be sure to have a copy of your 2001 tax return available because you will need to know the first social security number shown on your return, the filing status, and the **exact** whole-dollar amount of your refund. Then, call **1-800-829-4477** and follow the recorded instructions.

Refunds are sent out weekly on Fridays. If you call to check the status of your refund and are not given the date it will be issued, please wait until the next week before calling back.

Recorded Tax Information

Recorded tax information is available 24 hours a day, 7 days a week. Select the number of the topic you want to hear. Then, call **1-800-829-4477.** Have paper and pencil handy to take notes.

Topics by Personal Computer

TeleTax topics are also available using a personal computer and modem (go to **www.irs.gov**).

TeleTax Topics

All topics are available in Spanish.

Topic No. — Subject

IRS Help Available

101 IRS services—Volunteer tax assistance, toll-free telephone, walk-in assistance, and outreach programs
102 Tax assistance for individuals with disabilities and the hearing impaired
103 Intro. to Federal taxes for small businesses/self-employed
104 Taxpayer Advocate program—Help for problem situations
105 Public libraries—Tax information tapes and reproducible tax forms

IRS Procedures

151 Your appeal rights
152 Refunds—How long they should take
153 What to do if you haven't filed your tax return (Nonfilers)
154 Form W-2—What to do if not received
155 Forms and Publications—How to order
156 Copy of your tax return—How to get one
157 Change of address—How to notify IRS
158 Ensuring proper credit of payments

Collection

201 The collection process
202 What to do if you can't pay your tax
203 Failure to pay child support and Federal nontax and state income tax obligations
204 Offers in compromise
205 Innocent spouse relief

Alternative Filing Methods

251 Signing your return with a self-select PIN
252 Electronic filing
253 Substitute tax forms
254 How to choose a paid tax preparer
255 TeleFile

General Information

301 When, where, and how to file
302 Highlights of tax changes
303 Checklist of common errors when preparing your tax return
304 Extensions of time to file your tax return
305 Recordkeeping
306 Penalty for underpayment of estimated tax
307 Backup withholding
308 Amended returns
309 Roth IRA contributions
310 Coverdell education savings accounts
311 Power of attorney information

Filing Requirements, Filing Status, and Exemptions

351 Who must file?
352 Which form—1040, 1040A, or 1040EZ?
353 What is your filing status?
354 Dependents
355 Estimated tax
356 Decedents

Types of Income

401 Wages and salaries
402 Tips
403 Interest received
404 Dividends
405 Refunds of state and local taxes
406 Alimony received
407 Business income
408 Sole proprietorship
409 Capital gains and losses
410 Pensions and annuities
411 Pensions—The general rule and the simplified method
412 Lump-sum distributions
413 Rollovers from retirement plans
414 Rental income and expenses
415 Renting vacation property and renting to relatives
416 Farming and fishing income
417 Earnings for clergy
418 Unemployment compensation
419 Gambling income and expenses
420 Bartering income

(Continued on page 12)

TeleTax Topics

(Continued)

Topic No.	Subject
421	Scholarship and fellowship grants
422	Nontaxable income
423	Social security and equivalent railroad retirement benefits
424	401(k) plans
425	Passive activities—Losses and credits
426	Other income
427	Stock options
428	Roth IRA distributions
429	Traders
430	Demutualization
431	Sale of assets held for more than 5 years
	Adjustments to Income
451	Individual retirement arrangements (IRAs)
452	Alimony paid
453	Bad debt deduction
454	Tax shelters
455	Moving expenses
456	Student loan interest deduction
457	Deduction for higher education expenses (for 2002)
	Itemized Deductions
501	Should I itemize?
502	Medical and dental expenses
503	Deductible taxes
504	Home mortgage points
505	Interest expense
506	Contributions
507	Casualty and theft losses
508	Miscellaneous expenses
509	Business use of home
510	Business use of car
511	Business travel expenses
512	Business entertainment expenses
513	Educational expenses
514	Employee business expenses
515	Disaster area losses
	Tax Computation
551	Standard deduction
552	Tax and credits figured by the IRS
553	Tax on a child's investment income
554	Self-employment tax
555	Ten-year tax option for lump-sum distributions
556	Alternative minimum tax
557	Tax on early distributions from traditional and Roth IRAs
558	Tax on early distributions from retirement plans
	Tax Credits
601	Earned income credit (EIC)
602	Child and dependent care credit
603	Credit for the elderly or the disabled
604	Advance earned income credit
605	Education credits
606	Child tax credits
607	Adoption credit
608	Excess social security and RRTA tax withheld
609	Rate reduction credit
	IRS Notices
651	Notices—What to do
652	Notice of underreported income—CP 2000
653	IRS notices and bills, penalties, and interest charges
	Basis of Assets, Depreciation, and Sale of Assets
701	Sale of your home
703	Basis of assets
704	Depreciation
705	Installment sales
	Employer Tax Information
751	Social security and Medicare withholding rates
752	Form W-2—Where, when, and how to file
753	Form W-4—Employee's Withholding Allowance Certificate
754	Form W-5—Advance earned income credit
755	Employer identification number (EIN)—How to apply
756	Employment taxes for household employees
757	Form 941—Deposit requirements
758	Form 941—Employer's Quarterly Federal Tax Return
759	Form 940 and 940-EZ—Deposit requirements
760	Form 940 and Form 940-EZ—Employer's Annual Federal Unemployment Tax Returns
761	Tips—Withholding and reporting
762	Independent contractor vs. employee
	Magnetic Media Filers—1099 Series and Related Information Returns
801	Who must file magnetically
802	Applications, forms, and information
803	Waivers and extensions
804	Test files and combined Federal and state filing
805	Electronic filing of information returns
	Tax Information for Aliens and U.S. Citizens Living Abroad
851	Resident and nonresident aliens
852	Dual-status alien
853	Foreign earned income exclusion—General
854	Foreign earned income exclusion—Who qualifies?
855	Foreign earned income exclusion—What qualifies?
856	Foreign tax credit
857	Individual Taxpayer Identification Number—Form W-7
858	Alien tax clearance
	Tax Information for Puerto Rico Residents (in Spanish only)
901	Who must file a U.S. income tax return in Puerto Rico
902	Deductions and credits for Puerto Rico filers
903	Federal employment taxes in Puerto Rico
904	Tax assistance for Puerto Rico residents

Topic numbers are effective January 1, 2002.

Calling the IRS

If you cannot answer your question by using one of the methods listed on page 7, please call us for assistance at **1-800-829-1040.** You will not be charged for the call unless your phone company charges you for local calls. Our normal hours of operation are Monday through Friday from 7:00 a.m. to 10:00 p.m. local time. Beginning December 31, 2001, through April 16, 2002, assistance will also be available on Saturday from 9:00 a.m. to 5:00 p.m. local time. Assistance provided to callers from Alaska and Hawaii will be based on the hours of operation in the Pacific Time zone.

If you want to check the status of your **2001 refund,** call **TeleTax** at **1-800-829-4477** (see page 11 for instructions).

Employee Plans. If you own a business and have questions about starting a pension or other employee plan, an existing plan, or filing **Form 5500**, call our **Tax Exempt/Government Entities Customer Account Services** at **1-877-829-5500.** Assistance is available Monday through Friday from 8:00 a.m. to 9:30 p.m. EST. If you have questions about an individual retirement arrangement (IRA), call **1-800-829-1040.**

Exempt Organizations. If you have questions about exempt organizations, including the types of tax-exempt organizations, or you want to verify an organization's charitable status, call our **Tax Exempt/Government Entities Customer Account Services** at **1-877-829-5500.** Assistance is available Monday through Friday from 8:00 a.m. to 9:30 p.m. EST.

Before You Call

IRS representatives care about the quality of the service we provide to you, our customer. You can help us provide accurate, complete answers to your questions by having the following information available.

- The tax form, schedule, or notice to which your question relates.
- The facts about your particular situation. The answer to the same question often varies from one taxpayer to another because of differences in their age, income, whether they can be claimed as a dependent, etc.
- The name of any IRS publication or other source of information that you used to look for the answer.

To maintain your account security, you may be asked for the following information, which you should also have available.

- Your social security number.
- The amount of refund and filing status shown on your tax return.
- The "Caller ID Number" shown at the top of any notice you received.
- Your personal identification number (PIN) if you have one.
- Your date of birth.
- The numbers in your street address.
- Your ZIP code.

If you are asking for an installment agreement to pay your tax, you will be asked for the highest amount you can pay each month and the date on which you can pay it.

Evaluation of Services Provided. The IRS uses several methods to evaluate the quality of this telephone service. One method is for a second IRS representative to sometimes listen in on or record telephone calls. Another is to ask some callers to complete a short survey at the end of the call.

Making the Call

Call **1-800-829-1040** (for TTY/TDD help, call 1-800-829-4059). We have redesigned our menus to allow callers with pulse or rotary dial telephones to speak their responses when requested to do so. First, you will be provided a series of options that will request touch-tone responses. If a touch-tone response is not received, you will then hear a series of options and be asked to speak your selections. After your touch-tone or spoken response is received, the system will direct your call to the appropriate assistance. You can do the following within the system.

- Order tax forms and publications.
- Find out the status of your refund or what you owe.
- Determine if we have adjusted your account or received payments you made.
- Request a transcript of your account.
- Find out where to send your tax return or payment.
- Request more time to pay or set up a monthly installment agreement.

Before You Hang Up

If you do not fully understand the answer you receive, or you feel our representative may not fully understand your question, our representative needs to know this. He or she will be happy to take additional time to be sure your question is answered fully.

By law, you are responsible for paying your share of Federal income tax. If we should make an error in answering your question, you are still responsible for the payment of the correct tax. Should this occur, however, you will not be charged any penalty.

Before You Fill In Form 1040

See **How To Avoid Common Mistakes** on page 54.

If you were in the Kosovo or Persian Gulf area (for example, you supported operations in a qualified hazardous duty area), see **Pub. 3.**

TIP For details on the changes for 2001 and 2002, see **Pub. 553.**

What's New for 2001?

Tax Rates Reduced. Most of the tax rates have been reduced and are reflected in the Tax Table that begins on page 59 and the Tax Rate Schedules on page 71. In addition, a new 10% tax rate applies to certain dependents. **Dependents** may be able to use the **Tax Computation Worksheet for Certain Dependents** to figure their tax. This worksheet gives the benefit of a new 10% rate. See the instructions for line 40 that begin on page 33. Dependents cannot take the rate reduction credit mentioned below.

Rate Reduction Credit. You may be able to take a new credit of up to the amount shown below for your 2001 filing status. But you cannot take this credit if you received (before offset) an advance payment of your 2001 taxes that was equal to or more than the amount shown below. See the worksheet on page 36.

- Single or married filing separately—$300
- Head of household—$500
- Married filing jointly or qualifying widow(er)—$600

Advance Payment Not Taxable. Any amount you received as an advance payment of your 2001 taxes is not taxable and should not be reported on your return.

Larger Child Tax Credits. If you have at least one child who was under age 17 at the end of 2001, you may be able to take a credit on line 48 of up to $600 for each qualifying child. You may also be able to take the additional child tax credit on line 63 if your credit on line 48 is less than $600 for each qualifying child. See the instructions for line 48 that begin on page 37 and the instructions for line 63 on page 51.

Student Loan Interest Deduction. If you paid interest on a qualified student loan, you may be able to deduct up to $2,500 of the interest. See the instructions for line 24 that begin on page 28.

Third Party Designee. If you want to allow the IRS to discuss your 2001 tax return with a family member, friend, or any other person you choose, check the "Yes" box in the Third Party Designee area of your return and enter the requested information. See page 53 for details.

Schedule D Tax Computation Simplified. To make the tax computation easier for most people with capital gains, 14 lines have been removed from Part IV of Schedule D.

IRA Deduction. You may be able to take an IRA deduction if you were covered by a retirement plan and your modified adjusted gross income is less than $43,000 ($63,000 if married filing jointly or qualifying widow(er)). See the instructions for line 23 that begin on page 27.

Education (Ed) IRAs. Ed IRAs are now called Coverdell education savings accounts (ESAs).

Earned Income Credit (EIC). You may be able to take this credit if you earned less than $32,121 (less than $10,710 if you do not have any qualifying children). See the instructions for lines 61a and 61b that begin on page 41.

Alternative Minimum Tax (AMT). The AMT exemption amounts have been increased. See the instructions for line 41 that begin on page 34.

Standard Mileage Rates. The rate for business use of your vehicle is 34½ cents a mile. The rate for use of your vehicle to get medical care is 12 cents a mile.

Mailing Your Return. You may be mailing your return to a different address this year because the IRS has changed the filing location for several areas. If you received an envelope with your tax package, please use it. Otherwise, see **Where Do You File?** on the back cover.

Tax Relief for Victims of Terrorist Attacks. See **Pub. 3920.**

Other Information

Did You Convert an IRA to a Roth IRA in 1998? If you did, see **1998 Roth IRA Conversions** on page 23 to find out the taxable amount you must report in 2001 on line 15b.

Parent of a Kidnapped Child. The parent of a child who is presumed by law enforcement authorities to have been kidnapped by someone who is not a family member may be able to take the child into account in determining his or her eligibility for the head of household or qualifying widow(er) filing status, deduction for dependents, child tax credit, and the earned income credit (EIC). For details, see **Pub. 501** (**Pub. 596** for the EIC).

Payments to Holocaust Victims. Restitution payments received by holocaust victims or their heirs after 1999 (and certain interest earned on the payments) are not taxable. If you reported these amounts on your 2000 return or used them to compute any amount affecting your 2000 tax liability, you may need to file **Form 1040X** to amend your 2000 return. For more details, see **Pub. 525.**

What To Look for in 2002

Reduced Tax Rates. Most of the tax rates will decrease by ½% and a new 10% tax rate will apply to all filers.

New Deduction for Higher Education Expenses. You may be able to deduct up to $3,000 of the qualified education expenses you pay for yourself, your spouse, or your dependents if your 2002 modified AGI is $130,000 or less.

New Credit for Elective Deferrals and IRA Contributions. You may be able to take a credit of up to $1,000 for qualified retirement savings contributions if your 2002 modified AGI is $50,000 or less.

IRA Deduction Expanded. You, and your spouse if filing jointly, may be able to take an IRA deduction of up to $3,000 ($3,500 if you will be age 50 or older at the end of 2002). If you are covered by a retirement plan, you may be able to take an IRA deduction if your 2002 modified AGI is less than $44,000 ($64,000 if married filing jointly or qualifying widow(er)).

Student Loan Interest Deduction. The 60-month limit will no longer apply and the modified AGI limit will increase.

Self-Employed Health Insurance Deduction. You may be able to deduct up to 70% of your health insurance expenses.

Adoption Credit. You may be able to take a credit of up to $10,000 for the qualified adoption expenses you pay to adopt a child.

EIC Computation Simplified. Nontaxable earned income and modified AGI will not be taken into account in determining if you are eligible for the credit or the amount of your credit.

Coverdell ESAs. You may be able to contribute up to $2,000 to a Coverdell ESA.

Filing Requirements

These rules apply to all U.S. citizens, regardless of where they live, and resident aliens.

Do You Have To File?

Use **Chart A, B,** or **C** to see if you must file a return. U.S. citizens who lived in or had income from a U.S. possession should see **Pub. 570.** Residents of Puerto Rico can use TeleTax topic 901 (see page 11) to see if they must file.

Even if you do not otherwise have to file a return, you should file one to get a refund of any Federal income tax withheld. You should also file if you are eligible for the earned income credit or the additional child tax credit.

Exception for Children Under Age 14. If you are planning to file a return for your child who was under age 14 on January 1, 2002, and certain other conditions apply, you may elect to report your child's income on your return. But you must use **Form 8814** to do so. If you make this election, your child does not have to file a return. For details, use TeleTax topic 553 (see page 11) or see Form 8814.

Nonresident Aliens and Dual-Status Aliens. These rules also apply to nonresident aliens and dual-status aliens who were married to U.S. citizens or residents at the end of 2001 and who have elected to be taxed as resident aliens. Other nonresident aliens and dual-status aliens have different filing requirements. They may have to file **Form 1040NR** or **Form 1040NR-EZ.** Specific rules apply to determine if you are a resident or nonresident alien. See **Pub. 519** for details, including the rules for students and scholars who are aliens.

When Should You File?

Not later than **April 15, 2002.** If you file after this date, you may have to pay interest and penalties. See page 56.

What if You Cannot File on Time?

You can get an automatic 4-month extension if, by April 15, 2002, you **either:**

- File **Form 4868 or**
- File for an extension by phone, using tax software, or through a tax professional. If you expect to owe tax with your return, you can even pay part or all of it by electronic funds withdrawal or credit card (American Express® Card, Discover® Card, or MasterCard® card). See Form 4868 for details.

An automatic 4-month extension to file does not extend the time to pay your tax. See Form 4868.

If you are a U.S. citizen or resident, you may qualify for an automatic extension of time to file without filing Form 4868 or filing for an extension by phone, using tax software, or through a tax professional. You qualify if, on the due date of your return, you meet one of the following conditions.

- You live outside the United States and Puerto Rico **and** your main place of business or post of duty is outside the United States and Puerto Rico.
- You are in military or naval service on duty outside the United States and Puerto Rico.

This extension gives you an extra 2 months to file and pay the tax, but interest will be charged from the original due date of the return on any unpaid tax. You must attach a statement to your return showing that you meet the requirements.

Where Do You File?

See the back cover of this booklet for filing instructions and addresses. For details on using a private delivery service to mail your return or payment, see page 18.

Chart A—For Most People

IF your filing status is . . .	AND at the end of 2001 you were* . . .	THEN file a return if your gross income** was at least . . .
Single	under 65 65 or older	$7,450 8,550
Married filing jointly***	under 65 (both spouses) 65 or older (one spouse) 65 or older (both spouses)	$13,400 14,300 15,200
Married filing separately	any age	$2,900
Head of household (see page 19)	under 65 65 or older	$9,550 10,650
Qualifying widow(er) with dependent child (see page 19)	under 65 65 or older	$10,500 11,400

** If you turned 65 on January 1, 2002, you are considered to be age 65 at the end of 2001.*

*** **Gross income** means all income you received in the form of money, goods, property, and services that is not exempt from tax including any income from sources outside the United States (even if you may exclude part or all of it). **Do not** include social security benefits unless you are married filing a separate return and you lived with your spouse at any time in 2001.*

**** If you did not live with your spouse at the end of 2001 (or on the date your spouse died) and your gross income was at least $2,900, you must file a return regardless of your age.*

Chart B—For Children and Other Dependents (See the instructions for line 6c on page 20 to find out if someone can claim you as a dependent.)

If your parent (or someone else) can claim you as a dependent, use this chart to see if you must file a return.

In this chart, **unearned income** includes taxable interest, ordinary dividends, and capital gain distributions. **Earned income** includes wages, tips, and taxable scholarship and fellowship grants. **Gross income** is the total of your unearned and earned income.

If your gross income was $2,900 or more, you usually cannot be claimed as a dependent unless you were under age 19 **or** a student under age 24. For details, see **Pub. 501.**

Single dependents. Were you **either** age 65 or older **or** blind?

☐ **No.** You must file a return if **any** of the following apply.

- Your **unearned income** was over $750.
- Your **earned income** was over $4,550.
- Your **gross income** was more than the **larger** of—
  - $750 **or**
  - Your earned income (up to $4,300) plus $250.

☐ **Yes.** You must file a return if **any** of the following apply.

- Your unearned income was over $1,850 ($2,950 if 65 or older **and** blind).
- Your earned income was over $5,650 ($6,750 if 65 or older **and** blind).
- Your gross income was more than—

The larger of:	Plus	This amount:
• $750 **or** • Your earned income (up to $4,300) plus $250	}	$1,100 ($2,200 if 65 or older **and** blind)

Married dependents. Were you **either** age 65 or older **or** blind?

☐ **No.** You must file a return if **any** of the following apply.

- Your unearned income was over $750.
- Your earned income was over $3,800.
- Your gross income was at least $5 and your spouse files a separate return and itemizes deductions.
- Your gross income was more than the **larger** of—
  - $750 **or**
  - Your earned income (up to $3,550) plus $250.

☐ **Yes.** You must file a return if **any** of the following apply.

- Your unearned income was over $1,650 ($2,550 if 65 or older **and** blind).
- Your earned income was over $4,700 ($5,600 if 65 or older **and** blind).
- Your gross income was at least $5 and your spouse files a separate return and itemizes deductions.
- Your gross income was more than—

The larger of:	Plus	This amount:
• $750 **or** • Your earned income (up to $3,550) plus $250	}	$900 ($1,800 if 65 or older **and** blind)

Chart C—Other Situations When You Must File

You must file a return if any of the four conditions below apply for 2001.

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1. You owe any special taxes, such as:

- Social security and Medicare tax on tips you did not report to your employer,
- Uncollected social security and Medicare or RRTA tax on tips you reported to your employer or on group-term life insurance,
- Alternative minimum tax,
- Recapture taxes (see the instructions for lines 40 and 58 that begin on pages 33 and 39), or
- Tax on a qualified plan, including an individual retirement arrangement (IRA), or other tax-favored account. But if you are filing a return only because you owe this tax, you can file **Form 5329** by itself.

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2. You received any advance earned income credit (EIC) payments from your employer. These payments are shown in box 9 of your W-2 form.

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3. You had net earnings from self-employment of at least $400.

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4. You had wages of $108.28 or more from a church or qualified church-controlled organization that is exempt from employer social security and Medicare taxes.

Where To Report Certain Items From 2001 Forms W-2, 1098, and 1099

Report on Form 1040, line 59, any amounts shown on these forms as **Federal income tax withheld.** If you itemize your deductions, report on Schedule A, line 5, any amounts shown on these forms as **state or local income tax withheld.**

Form	Item and Box in Which it Should Appear	Where To Report if Filing Form 1040
W-2	Wages, salaries, tips, etc. (box 1)	Form 1040, line 7
	Allocated tips (box 8)	See **Tip income** on page 21
	Advance EIC payment (box 9)	Form 1040, line 56
	Dependent care benefits (box 10)	Form 2441, line 10
	Adoption benefits (box 12, code **T**)	Form 8839, line 18
	Employer contributions to an MSA (box 12, code **R**)*	Form 8853, line 3b
W-2G	Gambling winnings (box 1)	Form 1040, line 21 (Schedule C or C-EZ for professional gamblers)
1098	Mortgage interest (box 1) Points (box 2)	Schedule A, line 10**
	Refund of overpaid interest (box 3)	Form 1040, line 21, but first see the instructions on Form 1098**
1098-E	Student loan interest (box 1)	See the instructions for Form 1040, line 24, that begin on page 28**
1099-A	Acquisition or abandonment of secured property	See Pub. 544
1099-B	Stocks, bonds, etc. (box 2)	Schedule D
	Bartering (box 3)	See Pub. 525
	Aggregate profit or (loss) on futures contracts (box 9)	Form 6781
1099-C	Canceled debt (box 2)	Form 1040, line 21, but first see the instructions on Form 1099-C**
1099-DIV	Ordinary dividends (box 1)	Form 1040, line 9
	Total capital gain distributions (box 2a)	Form 1040, line 13, or, if required, Schedule D, line 13, column (f)
	28% rate gain (box 2b)	Schedule D, line 13, column (g)
	Qualified 5-year gain (box 2c)	See the worksheet for Schedule D, line 29, on page D-8
	Unrecaptured section 1250 gain (box 2d)	See the worksheet for Schedule D, line 19, on page D-7
	Section 1202 gain (box 2e)	See the instructions for Schedule D
	Nontaxable distributions (box 3)	See the instructions for Form 1040, line 9, that begin on page 21
	Investment expenses (box 5)	Schedule A, line 22
	Foreign tax paid (box 6)	Form 1040, line 43, or Schedule A, line 8
1099-G	Unemployment compensation (box 1)	Form 1040, line 19. But if you repaid any unemployment compensation in 2001, see the instructions for line 19 on page 25
	State or local income tax refunds (box 2)	See the instructions for Form 1040, line 10, that begin on page 22**
	Qualified state tuition program earnings (box 5)	Form 1040, line 21
	Taxable grants (box 6)	Form 1040, line 21**
	Agriculture payments (box 7)	See the Schedule F instructions or Pub. 225

* *MSAs were renamed Archer MSAs after Form W-2 was released for print.*

** *If the item relates to an activity for which you are required to file Schedule C, C-EZ, E, or F or Form 4835, report the taxable or deductible amount allocable to the activity on that schedule or form instead.*

(Continued on page 18)

Form	Item and Box in Which it Should Appear	Where To Report if Filing Form 1040
1099-INT	Interest income (box 1)	Form 1040, line 8a
	Early withdrawal penalty (box 2)	Form 1040, line 30
	Interest on U.S. savings bonds and Treasury obligations (box 3)	See the instructions for Form 1040, line 8a, on page 21
	Investment expenses (box 5)	Schedule A, line 22
	Foreign tax paid (box 6)	Form 1040, line 43, or Schedule A, line 8
1099-LTC	Long-term care and accelerated death benefits	See Pub. 502 and the instructions for Form 8853
1099-MISC	Rents (box 1)	See the instructions for Schedule E
	Royalties (box 2)	Schedule E, line 4 (timber, coal, iron ore royalties, see Pub. 544)
	Other income (box 3)	Form 1040, line 21*
	Nonemployee compensation (box 7)	Schedule C, C-EZ, or F. But if you were not self-employed, see the instructions on Form 1099-MISC.
	Other (boxes 5, 6, 8, 9, 10, 13, and 14)	See the instructions on Form 1099-MISC
1099-MSA	Distributions from MSAs**	Form 8853
1099-OID	Original issue discount (box 1) Other periodic interest (box 2)	See the instructions on Form 1099-OID
	Early withdrawal penalty (box 3)	Form 1040, line 30
1099-PATR	Patronage dividends and other distributions from a cooperative (boxes 1, 2, 3, and 5)	Schedule C, C-EZ, or F or Form 4835, but first see the instructions on Form 1099-PATR
	Credits (boxes 7 and 8)	Form 3468 or Form 5884
	Patron's AMT adjustment (box 9)	Form 6251, line 14j
1099-R	Distributions from IRAs***	See the instructions for Form 1040, lines 15a and 15b, on page 23
	Distributions from pensions, annuities, etc.	See the instructions for Form 1040, lines 16a and 16b, that begin on page 23
	Capital gain (box 3)	See the instructions on Form 1099-R
1099-S	Gross proceeds from real estate transactions (box 2)	Form 4797, Form 6252, or Schedule D. But if the property was your home, see the instructions for Schedule D to find out if you must report the sale or exchange.
	Buyer's part of real estate tax (box 5)	See the instructions for Schedule A, line 6, on page A-2*

* *If the item relates to an activity for which you are required to file Schedule C, C-EZ, E, or F or Form 4835, report the taxable or deductible amount allocable to the activity on that schedule or form instead.*

** *This includes distributions from Archer and Medicare+Choice MSAs.*

*** *This includes distributions from Roth, SEP, and SIMPLE IRAs; and Coverdell education savings accounts (ESAs).*

Private Delivery Services

You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. The most recent list of designated private delivery services was published by the IRS in October 2001. The list includes only the following:

- Airborne Express (Airborne): Overnight Air Express Service, Next Afternoon Service, and Second Day Service.
- DHL Worldwide Express (DHL): DHL "Same Day" Service, and DHL USA Overnight.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, and FedEx 2Day.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.

Private delivery services cannot deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.

Line Instructions for Form 1040

Name and Address

Use the Peel-Off Label

Using your peel-off name and address label in this booklet will speed the processing of your return. It also prevents common errors that can delay refunds or result in unnecessary notices. Put the label on your return **after** you have finished it. Cross out any errors and print the correct information. Add any missing items, such as your apartment number.

Address Change

If the address on your peel-off label is not your current address, cross out your old address and print your new address. If you plan to move after filing your return, see page 54.

Name Change

If you changed your name, be sure to report the change to your local Social Security Administration office **before** filing your return. This prevents delays in processing your return and issuing refunds. It also safeguards your future social security benefits. See page 54 for more details. If you received a peel-off label, cross out your former name and print your new name.

What If You Do Not Have a Label?

Print or type the information in the spaces provided. If you are married filing a separate return, enter your husband's or wife's name on line 3 instead of below your name.

If you filed a joint return for 2000 and you are filing a joint return for 2001 with the same spouse, be sure to enter your names and SSNs in the same order as on your 2000 return.

P.O. Box

Enter your box number **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. **Do not** abbreviate the country name.

Death of a Taxpayer

See page 55.

Social Security Number (SSN)

An incorrect or missing SSN may increase your tax or reduce your refund. **To apply for an SSN,** get **Form SS-5** from your local Social Security Administration (SSA) office or call the SSA at 1-800-772-1213. Fill in Form SS-5 and return it to the SSA. It usually takes about 2 weeks to get an SSN.

Check that your SSN is correct on your Forms W-2 and 1099. If not, see page 54 for more details.

IRS Individual Taxpayer Identification Numbers (ITINs) for Aliens

The IRS will issue you an ITIN if you are a nonresident or resident alien and you do not have and are not eligible to get an SSN. **To apply for an ITIN,** file **Form W-7** with the IRS. It usually takes about 4-6 weeks to get an ITIN. **Enter your ITIN wherever your SSN is requested on your tax return.**

Note. An ITIN is for tax use only. It does not entitle you to social security benefits or change your employment or immigration status under U.S. law.

Nonresident Alien Spouse

If your spouse is a nonresident alien and you file a joint or separate return, your spouse must have either an SSN or an ITIN.

Presidential Election Campaign Fund

This fund helps pay for Presidential election campaigns. The fund reduces candidates' dependence on large contributions from individuals and groups and places candidates on an equal financial footing in the general election. If you want $3 to go to this fund, check the "Yes" box. If you are filing a joint return, your spouse may also have $3 go to the fund. If you check "Yes," your tax or refund will not change.

Filing Status

Check **only** the filing status that applies to you. The ones that will usually give you the lowest tax are listed last.

- Married filing separately.
- Single.
- **Head of household.** This status is for unmarried people who paid over half the cost of keeping up a home for a qualifying person, such as a child who lived with you or your dependent parent. Certain married people who lived apart from their spouse for the last 6 months of 2001 may also be able to use this status.
- Married filing jointly or Qualifying widow(er) with dependent child. The **Qualifying widow(er)** status is for certain people whose spouse died in 1999 or 2000 and who had a child living with them whom they can claim as a dependent.

Joint and Several Tax Liability. If you file a joint return, both you and your spouse are generally responsible for the tax and any interest or penalties due on the return. This means that if one spouse does not pay the tax due, the other may have to. However, see **Innocent Spouse Relief** on page 54.

More than one filing status may apply to you. Choose the one that will give you the lowest tax. If you are not sure about your filing status, use TeleTax topic 353 (see page 11) or see **Pub. 501.**

Exemptions

You usually can deduct $2,900 on line 38 for each exemption you can take.

Line 6b

Spouse

Check the box on line 6b if you file either **(a)** a joint return or **(b)** a separate return and your spouse had no income and is not filing a return. However, **do not** check the box if your spouse can be claimed as a dependent on another person's return.

Need more information or forms? See page 7.

Line 6c

Dependents

You can take an exemption for each of your dependents. The following is a brief description of the five tests that must be met for a person to qualify as your dependent. If you have **more than six** dependents, attach a statement to your return with the required information.

Relationship Test. The person must be either your relative or have lived in your home as a family member all year. If the person is not your relative, the relationship must not violate local law.

Joint Return Test. If the person is married, he or she cannot file a joint return. But the person can file a joint return if the return is filed only as a claim for refund **and** no tax liability would exist for either spouse if they had filed separate returns.

Citizen or Resident Test. The person must be a U.S. citizen or resident alien, or a resident of Canada or Mexico. There is an exception for certain adopted children. To find out who is a **resident alien,** use TeleTax topic 851 (see page 11) or see **Pub. 519.**

Income Test. The person's gross income must be less than $2,900. But your child's gross income can be $2,900 or more if he or she was either **(a) under age 19** at the end of 2001 or **(b) under age 24** at the end of 2001 and was a **student.**

Support Test. You must have provided over half of the person's total support in 2001. But there are two exceptions to this test: One for children of divorced or separated parents and one for persons supported by two or more taxpayers.

TIP For more details about the tests, including any exceptions that apply, see **Pub. 501.**

Line 6c, Column (2)

You must enter each dependent's social security number (SSN). Be sure the name and SSN entered agree with the dependent's social security card. Otherwise, at the time we process your return, we may disallow the exemption claimed for the dependent and reduce or disallow any other tax benefits (such as the child tax credit and the earned income credit) based on that dependent. If the name or SSN on the dependent's social security card is not correct, call the Social Security Administration at 1-800-772-1213.

TIP For details on how your dependent can get an SSN, see page 19. If your dependent will not have a number by April 15, 2002, see **What if You Cannot File on Time?** on page 15.

If your dependent child was born and died in 2001 and you do not have an SSN for the child, you may attach a copy of the child's birth certificate instead and enter "Died" in column (2).

Adoption Taxpayer Identification Numbers (ATINs). If you have a dependent who was placed with you by an authorized placement agency and you do not know his or her SSN, you must get an ATIN for the dependent from the IRS. An authorized placement agency includes any person authorized by state law to place children for legal adoption. See **Form W-7A** for details.

Line 6c, Column (4)

Check the box in this column if your dependent is a qualifying child for the child tax credit (defined below). If you have at least one qualifying child, you may be able to take the child tax credit on line 48 and the additional child tax credit on line 63.

Qualifying Child for Child Tax Credit. A qualifying child for purposes of the child tax credit is a child who:

- Is claimed as your dependent on line 6c, **and**
- Was **under age 17** at the end of 2001, **and**
- Is your son, daughter, adopted child, grandchild, stepchild, or foster child, **and**
- Is a U.S. citizen or resident alien.

Note. The above requirements are not the same as the requirements to be a qualifying child for the earned income credit.

A child placed with you by an authorized placement agency for legal adoption is an **adopted child** even if the adoption is not final. An authorized placement agency includes any person authorized by state law to place children for legal adoption.

A **grandchild** is any descendant of your son, daughter, or adopted child and includes your great-grandchild, great-great-grandchild, etc.

A **foster child** is any child you cared for as your own child and who:

- Is **(a)** your brother, sister, stepbrother, or stepsister; **(b)** a descendant (such as a child, including an adopted child) of your brother, sister, stepbrother, or stepsister; **or (c)** a child placed with you by an authorized placement agency **and**
- Lived with you for all of 2001. A child who was born or died in 2001 is considered to have lived with you for all of 2001 if your home was the child's home for the entire time he or she was alive during 2001.

Children Who Did Not Live With You Due to Divorce or Separation

If you are claiming a child who did not live with you under the rules explained in **Pub. 501** for children of divorced or separated parents, attach **Form 8332** or similar statement to your return. But see **Exception** below. If your divorce decree or separation agreement went into effect after 1984 and it states you can claim the child as your dependent without regard to any condition, such as payment of support, you may attach a copy of the following pages from the decree or agreement instead.

- Cover page (put the other parent's SSN on that page),
- The page that states you can claim the child as your dependent, and
- Signature page with the other parent's signature and date of agreement.

Note. You must attach the required information even if you filed it in an earlier year.

Exception. You do not have to attach Form 8332 or similar statement if your divorce decree or written separation agreement went into effect before 1985 and it states that you can claim the child as your dependent.

Other Dependent Children

Include the total number of children who did not live with you for reasons other than divorce or separation on the line labeled "Dependents on 6c not entered above." Include dependent children who lived in Canada or Mexico during 2001.

Income

Foreign-Source Income

You must report unearned income, such as interest, dividends, and pensions, from sources outside the United States unless exempt by law or a tax treaty. You must also report earned income, such as wages and tips, from sources outside the United States.

If you worked abroad, you may be able to exclude part or all of your earned income. For details, see **Pub. 54** and **Form 2555** or **2555-EZ.**

Community Property States

Community property states are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. If you and your spouse lived in a community property state, you must usually follow state law to determine what is community income and what is separate income. For details, see **Pub. 555.**

Rounding Off to Whole Dollars

To round off cents to the nearest whole dollar on your forms and schedules, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. If you do round off, do so for all amounts. But if you have to add two or more amounts to figure the amount to enter on a line, include cents when adding and only round off the total.

Line 7

Wages, Salaries, Tips, etc.

Enter the total of your wages, salaries, tips, etc. If a joint return, also include your spouse's income. For most people, the amount to enter on this line should be shown in box 1 of their **Form(s) W-2.** But the following types of income must also be included in the total on line 7.

- Wages received as a **household employee** for which you did not receive a W-2 form because your employer paid you less than $1,300 in 2001. Also, enter "HSH" and the amount not reported on a W-2 form on the dotted line next to line 7.
- **Tip income** you did not report to your employer. Also include **allocated tips** shown on your W-2 form(s) unless you can prove that you received less. Allocated tips should be shown in box 8 of your W-2 form(s). They are not included as income in box 1. See **Pub. 531** for more details.

CAUTION You may owe social security and Medicare tax on unreported or allocated tips. See the instructions for line 54 on page 39.

- **Dependent care benefits,** which should be shown in box 10 of your W-2 form(s). But first complete **Form 2441** to see if you may exclude part or all of the benefits.
- **Employer-provided adoption benefits,** which should be shown in box 12 of your W-2 form(s) with code **T.** But first complete **Form 8839** to see if you may exclude part or all of the benefits.
- **Scholarship and fellowship grants** not reported on a W-2 form. Also, enter "SCH" and the amount on the dotted line next to line 7. **Exception.** If you were a degree candidate, include on line 7 **only** the amounts you used for expenses other than tuition and course-related expenses. For example, amounts used for room, board, and travel must be reported on line 7.
- **Excess salary deferrals.** The amount deferred should be shown in box 12 of your W-2 form and the "Retirement plan" box in box 13 should be checked. If the total amount you (or your spouse if filing jointly) deferred for 2001 under **all** plans was more than $10,500, include the excess on line 7. But a different limit may apply if amounts were deferred under a tax-sheltered annuity plan or an eligible plan of a state or local government or tax-exempt organization. See **Pub. 525** for details.

CAUTION You may **not** deduct the amount deferred. It is not included as income in box 1 of your W-2 form.

- **Disability pensions** shown on **Form 1099-R** if you have not reached the minimum retirement age set by your employer. Disability pensions received after you reach that age and other pensions shown on Form 1099-R (other than payments from an IRA* or a Coverdell education savings account (ESA)) are reported on lines 16a and 16b. Payments from an IRA or a Coverdell ESA are reported on lines 15a and 15b.
- **Corrective distributions** shown on **Form 1099-R** of **(a)** excess salary deferrals plus earnings and **(b)** excess contributions plus earnings to a retirement plan. But do not include distributions from an IRA* or a Coverdell ESA on line 7. Instead, report them on lines 15a and 15b.

**This includes a Roth, SEP, or SIMPLE IRA.*

Were You a Statutory Employee?

If you were, the "Statutory employee" box in box 13 of your W-2 form should be checked. Statutory employees include full-time life insurance salespeople, certain agent or commission drivers and traveling salespeople, and certain homeworkers. If you have related business expenses to deduct, report the amount shown in box 1 of your W-2 form on **Schedule C** or **C-EZ** along with your expenses.

Missing or Incorrect Form W-2?

If you do not get a W-2 form from your employer by January 31, 2002, use TeleTax topic 154 (see page 11) to find out what to do. Even if you do not get a Form W-2, you must still report your earnings on line 7. If you lose your Form W-2 or it is incorrect, ask your employer for a new one.

Line 8a

Taxable Interest

Each payer should send you a **Form 1099-INT** or **Form 1099-OID.** Enter your total taxable interest income on line 8a. But you must fill in and attach **Schedule B** if the total is over $400 or any of the other conditions listed at the beginning of the Schedule B instructions (see page B-1) apply to you.

Interest credited in 2001 on deposits that you could not withdraw because of the bankruptcy or insolvency of the financial institution may not have to be included in your 2001 income. For details, see **Pub. 550.**

TIP If you get a 2001 Form 1099-INT for U.S. savings bond interest that includes amounts you reported before 2001, see Pub. 550.

Line 8b

Tax-Exempt Interest

If you received any tax-exempt interest, such as from municipal bonds, report it on line 8b. Include any exempt-interest dividends from a mutual fund or other regulated investment company. **Do not** include interest earned on your IRA or Coverdell education savings account.

Line 9

Ordinary Dividends

Each payer should send you a **Form 1099-DIV.** Enter your total ordinary dividends on line 9. But you must fill in and attach **Schedule B** if the total is over $400 or you received, as a nominee, ordinary dividends that actually belong to someone else.

Capital Gain Distributions

If you received any capital gain distributions, see the instructions for line 13 on page 23.

(Continued on page 22)

Nontaxable Distributions

Some distributions are nontaxable because they are a return of your cost (or other basis). They will not be taxed until you recover your cost (or other basis). You must reduce your cost (or other basis) by these distributions. After you get back all of your cost (or other basis), you must report these distributions as capital gains on **Schedule D.** For details, see **Pub. 550.**

TIP Dividends on insurance policies are a partial return of the premiums you paid. **Do not** report them as dividends. Include them in income only if they exceed the total of all net premiums you paid for the contract.

Line 10

Taxable Refunds, Credits, or Offsets of State and Local Income Taxes

TIP None of your refund is taxable if, in the year you paid the tax, you **did not** itemize deductions.

If you received a refund, credit, or offset of state or local income taxes in 2001, you may receive a **Form 1099-G.** If you chose to apply part or all of the refund to your 2001 estimated state or local income tax, the amount applied is treated as received in 2001. If the refund was for a tax you paid in 2000 and you itemized deductions for 2000, use the worksheet below to see if any of your refund is taxable.

Exception. See **Recoveries** in **Pub. 525** instead of using the worksheet below if **any** of the following apply.

- You received a refund in 2001 that is for a tax year other than 2000.
- You received a refund other than an income tax refund, such as a real property tax refund, in 2001 of an amount deducted or credit claimed in an earlier year.
- Your 2000 taxable income was less than zero.
- You made your last payment of 2000 estimated state or local income tax in 2001.
- You owed alternative minimum tax in 2000.
- You could not deduct the full amount of credits you were entitled to in 2000 because the total credits exceeded the amount shown on your 2000 Form 1040, line 42, minus any foreign tax credit shown on line 43 of that form.
- You could be claimed as a dependent by someone else in 2000.

Also, see **Tax Benefit Rule** in Pub. 525 instead of using the worksheet below if **all three** of the following apply.

1. You had to use the Itemized Deductions Worksheet in the 2000 Schedule A instructions because your 2000 adjusted gross income was over: $128,950 if single, married filing jointly, head of household, or qualifying widow(er); $64,475 if married filing separately.

(Continued on page 23)

State and Local Income Tax Refund Worksheet—Line 10

Keep for Your Records

1. Enter the income tax refund from **Form(s) 1099-G** (or similar statement). But **do not** enter more than the amount on your 2000 Schedule A (Form 1040), line 5 . . . . . **1.** _____

2. Enter your total allowable itemized deductions from your 2000 Schedule A (Form 1040), line 28 . . . . . **2.** _____

Note. If the filing status on your 2000 Form 1040 was married filing separately and your spouse itemized deductions in 2000, skip lines 3, 4, and 5, and enter the amount from line 2 on line 6.

3. Enter the amount shown below for the filing status claimed on your **2000** Form 1040.
- Single—$4,400
- Married filing jointly or qualifying widow(er)—$7,350
- Married filing separately—$3,675
- Head of household—$6,450

. . . **3.** _____

4. Did you fill in line 35a on your 2000 Form 1040?
- ☐ **No.** Enter -0-.
- ☐ **Yes.** Multiply the number on line 35a of your 2000 Form 1040 by: $850 if your 2000 filing status was married filing jointly or separately or qualifying widow(er); $1,100 if your 2000 filing status was single or head of household

4. _____

5. Add lines 3 and 4 . . . . . **5.** _____

6. Is the amount on line 5 less than the amount on line 2?
- ☐ **No.** STOP None of your refund is taxable.
- ☐ **Yes.** Subtract line 5 from line 2 . . . . . **6.** _____

7. Taxable part of your refund. Enter the **smaller** of line 1 or line 6 here and on Form 1040, line 10 . . . . . **7.** _____

2. You could not deduct all of the amount on line 1 of the 2000 Itemized Deductions Worksheet.

3. The amount on line 8 of that 2000 worksheet would be more than the amount on line 4 of that worksheet if the amount on line 4 were reduced by 80% of the refund you received in 2001.

Line 11

Alimony Received

Enter amounts received as alimony or separate maintenance. You must let the person who made the payments know your social security number. If you do not, you may have to pay a $50 penalty. For more details, use TeleTax topic 406 (see page 11) or see **Pub. 504.**

Line 12

Business Income or (Loss)

If you operated a business or practiced your profession as a sole proprietor, report your income and expenses on **Schedule C** or **C-EZ.**

Line 13

Capital Gain or (Loss)

If you had a capital gain or loss, including any **capital gain distributions** from a mutual fund, you **must** complete and attach **Schedule D.**

Exception. You do not have to file Schedule D if **all three** of the following apply.

1. The only amounts you have to report on Schedule D are capital gain distributions from box 2a of **Forms 1099-DIV** or substitute statements.

2. None of the Forms 1099-DIV or substitute statements have an amount in box 2b (28% rate gain), box 2c (qualified 5-year gain), box 2d (unrecaptured section 1250 gain), or box 2e (section 1202 gain).

3. You are not filing **Form 4952** (relating to investment interest expense deduction) **or** the amount on line 4e of that form is zero or blank.

If all three of the above apply, enter your capital gain distributions on line 13 and check the box on that line. Also, be sure you use the **Capital Gain Tax Worksheet** on page 34 to figure your tax.

Line 14

Other Gains or (Losses)

If you sold or exchanged assets used in a trade or business, see the Instructions for **Form 4797.**

Lines 15a and 15b

IRA Distributions

Note. If you converted part or all of an individual retirement arrangement (IRA) to a Roth IRA in 1998 and you chose to report the taxable amount over 4 years, see **1998 Roth IRA Conversions** on this page.

You should receive a **Form 1099-R** showing the amount of any distribution from your IRA or Coverdell education savings account (ESA). Unless otherwise noted in the line 15a and 15b instructions, an IRA includes a traditional IRA, Roth IRA, simplified employee pension (SEP) IRA, and a savings incentive match plan for employees (SIMPLE) IRA. Except as provided below, leave line 15a blank and enter the total distribution on line 15b.

Exception 1. Enter the total distribution on line 15a if you rolled over part or all of the distribution from one:

- IRA to another IRA of the same type (for example, from one traditional IRA to another traditional IRA),
- Coverdell ESA to another, or
- SEP or SIMPLE IRA to a traditional IRA.

Also, put "Rollover" next to line 15b. If the total distribution was rolled over, enter zero on line 15b. If the total was not rolled over, enter the part not rolled over on line 15b unless **Exception 2** applies to the part not rolled over.

If you rolled over the distribution **(a)** in 2002 or **(b)** from a conduit IRA into a qualified plan, attach a statement explaining what you did.

Exception 2. If **any** of the following apply, enter the total distribution on line 15a and use **Form 8606** and its instructions to figure the amount to enter on line 15b.

- You received a distribution from an IRA (other than a Roth IRA) and you made nondeductible contributions to any of your traditional or SEP IRAs for 2001 or an earlier year. If you made nondeductible contributions to these IRAs for 2001, also see **Pub. 590.**
- You received a distribution from a Roth IRA or Coverdell ESA.
- You converted part or all of a traditional, SEP, or SIMPLE IRA to a Roth IRA in 2001.
- You had a 2000 or 2001 IRA or Coverdell ESA contribution returned to you, with the related earnings or less any loss, by the due date (including extensions) of your tax return for that year.
- You made excess contributions to your IRA for an earlier year and had them returned to you in 2001.
- You recharacterized part or all of a contribution to a Roth IRA as a traditional IRA contribution, or vice versa.

Note. If you received more than one distribution, figure the taxable amount of each distribution and enter the total of the taxable amounts on line 15b. Enter the total amount of those distributions on line 15a.

You may have to pay an additional tax if **(a)** you received an early distribution from your IRA and the total was not rolled over or **(b)** you were born before July 1, 1930, and received less than the minimum required distribution from your traditional, SEP, and SIMPLE IRAs. See the instructions for line 55 on page 39 for details.

1998 Roth IRA Conversions. If you converted an IRA to a Roth IRA in 1998 and you chose to report the taxable amount over 4 years, leave line 15a blank and enter on line 15b the amount from your **1998 Form 8606,** line 17. **But** see the 2001 Instructions for Form 8606 for the amount to enter on line 15b if **(a)** you rounded the amount on line 17 of your 1998 Form 8606 to the next higher whole dollar or **(b)** you received a distribution from a Roth IRA in 1998, 1999, or 2000.

Lines 16a and 16b

Pensions and Annuities

You should receive a **Form 1099-R** showing the amount of your pension and annuity payments. See page 25 for details on rollovers and lump-sum distributions. **Do not** include the following payments on lines 16a and 16b. Instead, report them on line 7.

- Disability pensions received before you reach the minimum retirement age set by your employer.
- Corrective distributions of excess salary deferrals or excess contributions to retirement plans.

(Continued on page 24)

Need more information or forms? See page 7.

TIP Attach Form(s) 1099-R to Form 1040 if any Federal income tax was withheld.

Fully Taxable Pensions and Annuities

If your pension or annuity is fully taxable, enter it on line 16b; **do not** make an entry on line 16a. Your payments are fully taxable if **either** of the following applies.

- You did not contribute to the cost (see page 25) of your pension or annuity **or**
- You got your entire cost back tax free before 2001.

Fully taxable pensions and annuities also include military retirement pay shown on Form 1099-R. For details on military disability pensions, see **Pub. 525.** If you received a **Form RRB-1099-R,** see **Pub. 575** to find out how to report your benefits.

Partially Taxable Pensions and Annuities

Enter the total pension or annuity payments you received in 2001 on line 16a. If your Form 1099-R does not show the taxable amount, you must use the General Rule explained in **Pub. 939** to figure the taxable part to enter on line 16b. But if your annuity starting date (defined on page 25) was **after** July 1, 1986, see page 25 to find out if you must use the Simplified Method to figure the taxable part.

You can ask the IRS to figure the taxable part for you for an $85 fee. For details, see Pub. 939.

(Continued on page 25)

Simplified Method Worksheet—Lines 16a and 16b

Keep for Your Records

Before you begin: √ If you are the beneficiary of a deceased employee or former employee who died **before** August 21, 1996, see Pub. 939 to find out if you are entitled to a death benefit exclusion of up to $5,000. If you are, include the exclusion in the amount entered on line 2 below.

Note. If you had more than one partially taxable pension or annuity, figure the taxable part of each separately. Enter the total of the taxable parts on Form 1040, line 16b. Enter the total pension or annuity payments received in 2001 on Form 1040, line 16a.

1.	Enter the total pension or annuity payments received in 2001. Also, enter this amount on Form 1040, line 16a		**1.** _____
2.	Enter your cost in the plan at the annuity starting date	**2.** _____	
3.	Enter the appropriate number from **Table 1** below. **But** if your annuity starting date was **after** 1997 **and** the payments are for your life and that of your beneficiary, enter the appropriate number from **Table 2** below	**3.** _____	
4.	Divide line 2 by the number on line 3	**4.** _____	
5.	Multiply line 4 by the number of months for which this year's payments were made. If your annuity starting date was **before** 1987, skip lines 6 and 7 and enter this amount on line 8. Otherwise, go to line 6	**5.** _____	
6.	Enter the amount, if any, recovered tax free in years after 1986	**6.** _____	
7.	Subtract line 6 from line 2	**7.** _____	
8.	Enter the **smaller** of line 5 or line 7		**8.** _____
9.	**Taxable amount.** Subtract line 8 from line 1. Enter the result, but not less than zero. Also, enter this amount on Form 1040, line 16b. If your Form 1099-R shows a larger amount, use the amount on this line instead of the amount from Form 1099-R		**9.** _____

Table 1 for Line 3 Above

IF the age at annuity starting date (see page 25) was . . .	AND your annuity starting date was— **before** November 19, 1996, enter on line 3 . . .	AND your annuity starting date was— **after** November 18, 1996, enter on line 3 . . .
55 or under	300	360
56–60	260	310
61–65	240	260
66–70	170	210
71 or older	120	160

Table 2 for Line 3 Above

IF the combined ages at annuity starting date (see page 25) were . . .	THEN enter on line 3 . . .
110 or under	410
111–120	360
121–130	310
131–140	260
141 or older	210

If your Form 1099-R shows a taxable amount, you may report that amount on line 16b. But you may be able to report a lower taxable amount by using the General Rule or the Simplified Method.

Annuity Starting Date

Your annuity starting date is the later of the first day of the first period for which you received a payment, or the date the plan's obligations became fixed.

Simplified Method

You **must** use the Simplified Method if **(a)** your annuity starting date (defined above) was **after** July 1, 1986, and you used this method last year to figure the taxable part or **(b)** your annuity starting date was **after** November 18, 1996, and **all three** of the following apply.

1. The payments are for **(a)** your life or **(b)** your life and that of your beneficiary.

2. The payments are from a qualified employee plan, a qualified employee annuity, or a tax-sheltered annuity.

3. On your annuity starting date, either you were under age 75 or the number of years of guaranteed payments was fewer than 5. See Pub. 575 for the definition of guaranteed payments.

If you must use the Simplified Method, complete the worksheet on page 24 to figure the taxable part of your pension or annuity. For more details on the Simplified Method, see Pub. 575 or **Pub. 721** for U.S. Civil Service retirement.

If you received U.S. Civil Service retirement benefits and you chose the alternative annuity option, use the worksheet in Pub. 721. **Do not** use the worksheet on page 24.

Age (or Combined Ages) at Annuity Starting Date

If you are the retiree, use your age on the annuity starting date. If you are the survivor of a retiree, use the retiree's age on his or her annuity starting date. **But** if your annuity starting date was after 1997 and the payments are for your life and that of your beneficiary, use your combined ages on the annuity starting date.

If you are the beneficiary of an employee who died, see Pub. 575. If there is more than one beneficiary, see Pub. 575 or Pub. 721 to figure each beneficiary's taxable amount.

Cost

Your cost is generally your net investment in the plan as of the annuity starting date. It does not include pre-tax contributions. Your net investment should be shown in box 9b of Form 1099-R for the first year you received payments from the plan.

Rollovers

A rollover is a tax-free distribution of cash or other assets from one retirement plan that is contributed to another plan. Use lines 16a and 16b to report a rollover, including a direct rollover, from one qualified employer's plan to another or to an IRA or SEP.

Enter on line 16a the total distribution before income tax or other deductions were withheld. This amount should be shown in box 1 of **Form 1099-R.** From the total on line 16a, subtract any contributions (usually shown in box 5) that were taxable to you when made. From that result, subtract the amount that was rolled over either directly or within 60 days of receiving the distribution. Enter the remaining amount, even if zero, on line 16b. Also, put "Rollover" next to line 16b.

Special rules apply to partial rollovers of property. For more details on rollovers, including distributions under qualified domestic relations orders, see Pub. 575.

Lump-Sum Distributions

If you received a lump-sum distribution from a profit-sharing or retirement plan, your Form 1099-R should have the "Total distribution" box in box 2b checked. You may owe an additional tax if you received an early distribution from a qualified retirement plan and the total amount was not rolled over. For details, see the instructions for line 55 on page 39.

Enter the total distribution on line 16a and the taxable part on line 16b.

You may be able to pay less tax on the distribution if you were born before 1936, you meet certain other conditions, and you choose to use **Form 4972** to figure the tax on any part of the distribution. You may also be able to use Form 4972 if you are the beneficiary of a deceased employee who was born before 1936. For details, see Form 4972.

Line 19

Unemployment Compensation

You should receive a **Form 1099-G** showing the total unemployment compensation paid to you in 2001.

If you received an overpayment of unemployment compensation in 2001 and you repaid any of it in 2001, subtract the amount you repaid from the total amount you received. Enter the result on line 19. Also, enter "Repaid" and the amount you repaid on the dotted line next to line 19. If, in 2001, you repaid unemployment compensation that you included in gross income in an earlier year, you may deduct the amount repaid on **Schedule A,** line 22. But if you repaid more than $3,000, see **Repayments** in **Pub. 525** for details on how to report the repayment.

Lines 20a and 20b

Social Security Benefits

You should receive a **Form SSA-1099** showing in box 3 the total social security benefits paid to you. Box 4 will show the amount of any benefits you repaid in 2001. If you received railroad retirement benefits treated as social security, you should receive a **Form RRB-1099.**

Use the worksheet on page 26 to see if any of your benefits are taxable.

Exception. Do not use the worksheet on page 26 if **any** of the following apply.

- You made contributions to a traditional IRA for 2001 and you were covered by a retirement plan at work or through self-employment. Instead, use the worksheets in **Pub. 590** to see if any of your social security benefits are taxable and to figure your IRA deduction.
- You repaid any benefits in 2001 and your total repayments (box 4) were more than your total benefits for 2001 (box 3). **None** of your benefits are taxable for 2001. In addition, you may be able to take an itemized deduction for part of the excess repayments if they were for benefits you included in gross income in an earlier year. For more details, see **Pub. 915.**
- You file **Form 2555, 2555-EZ, 4563,** or **8815,** or you exclude employer-provided adoption benefits or income from sources within Puerto Rico. Instead, use the worksheet in Pub. 915.

Need more information or forms? See page 7.

Social Security Benefits Worksheet—Lines 20a and 20b

Keep for Your Records

Before you begin:

- √ Complete Form 1040, lines 21, 23, and 25 through 31a, if they apply to you.
- √ Figure any amount to be entered on the dotted line next to line 32 (see page 30).
- √ If you are married filing separately and you **lived apart** from your spouse for all of 2001, enter "D" to the right of the word "benefits" on line 20a.
- √ Be sure you have read the **Exception** on page 25 to see if you can use this worksheet instead of a publication to find out if any of your benefits are taxable.

1. Enter the total amount from **box 5** of **all** your **Forms SSA-1099** and **RRB-1099** . . . . . **1.** _____

2. Is the amount on line 1 more than zero?

☐ **No.** STOP None of your social security benefits are taxable.

☐ **Yes.** Enter one-half of line 1 . . . . . **2.** _____

3. Add the amounts on Form 1040, lines 7, 8a, 9 through 14, 15b, 16b, 17 through 19, and 21. Do not include amounts from box 5 of Forms SSA-1099 or RRB-1099 . . . . . **3.** _____

4. Enter the amount, if any, from Form 1040, line 8b . . . . . **4.** _____

5. Add lines 2, 3, and 4 . . . . . **5.** _____

6. Add the amounts on Form 1040, lines 23, and 25 through 31a, and any amount you entered on the dotted line next to line 32 . . . . . **6.** _____

7. Subtract line 6 from line 5. If zero or less, **stop here.** None of your social security benefits are taxable . . . . . **7.** _____

8. Enter: $25,000 if single, head of household, qualifying widow(er), or married filing separately and you **lived apart** from your spouse for all of 2001; $32,000 if married filing jointly; -0- if married filing separately and you lived with your spouse at any time in 2001. . . . . **8.** _____

9. Is the amount on line 8 less than the amount on line 7?

☐ **No.** STOP None of your social security benefits are taxable. You do not have to enter any amounts on lines 20a or 20b of Form 1040. **But** if you are married filing separately and you **lived apart** from your spouse for all of 2001, enter -0- on line 20b. Be sure you entered "D" to the right of the word "benefits" on line 20a.

☐ **Yes.** Subtract line 8 from line 7 . . . . . **9.** _____

10. Enter: $9,000 if single, head of household, qualifying widow(er), or married filing separately and you **lived apart** from your spouse for all of 2001; $12,000 if married filing jointly; -0- if married filing separately and you lived with your spouse at any time in 2001. . . . . **10.** _____

11. Subtract line 10 from line 9. If zero or less, enter -0- . . . . . **11.** _____

12. Enter the **smaller** of line 9 or line 10. . . . . **12.** _____

13. Enter one-half of line 12 . . . . . **13.** _____

14. Enter the **smaller** of line 2 or line 13. . . . . **14.** _____

15. Multiply line 11 by 85% (.85). If line 11 is zero, enter -0- . . . . . **15.** _____

16. Add lines 14 and 15 . . . . . **16.** _____

17. Multiply line 1 by 85% (.85). . . . . **17.** _____

18. Taxable social security benefits. Enter the **smaller** of line 16 or line 17 . . . . . **18.** _____

- Enter the amount from line 1 above on Form 1040, line 20a.
- Enter the amount from line 18 above on Form 1040, line 20b.

TIP If part of your benefits are taxable for 2001 **and** they include benefits paid in 2001 that were for an earlier year, you may be able to reduce the taxable amount. See Pub. 915 for details.

Line 21

Other Income

Do not report on this line any income from **self-employment** or fees received as a notary public. Instead, you **must** use **Schedule C, C-EZ,** or **F,** even if you do not have any business expenses. Also, **do not** report on line 21 any nonemployee compensation shown on **Form 1099-MISC.** Instead, see the chart on page 18 to find out where to report that income.

Use line 21 to report any other income not reported on your return or other schedules. See examples below. List the type and amount of income. If necessary, show the required information on an attached statement. For more details, see **Miscellaneous Taxable Income** in **Pub. 525.**

Do not report any nontaxable income on line 21, such as an advance payment of your 2001 taxes; child support; money or property that was inherited, willed to you, or received as a gift; or life insurance proceeds received because of a person's death.

Examples of **income to report** on line 21 are:

- Prizes and awards.
- Gambling winnings, including lotteries, raffles, a lump-sum payment from the sale of a right to receive future lottery payments, etc. For details on gambling losses, see the instructions for **Schedule A,** line 27, on page A-6.
- Jury duty fees. Also, see the instructions for line 32 on page 30.
- Alaska Permanent Fund dividends.
- Qualified state tuition program earnings.
- Reimbursements or other amounts received for items deducted in an earlier year, such as medical expenses, real estate taxes, or home mortgage interest. See **Recoveries** in Pub. 525 for details on how to figure the amount to report.
- Income from the rental of personal property if you engaged in the rental for profit but were not in the business of renting such property. Also, see the instructions for line 32 on page 30.
- Income from an activity not engaged in for profit. See **Pub. 535.**
- Loss on certain corrective distributions of excess deferrals. See Pub. 525.

Adjusted Gross Income

Line 23

IRA Deduction

If you made any nondeductible contributions to a traditional individual retirement arrangement (IRA) for 2001, you **must** report them on **Form 8606.**

If you made contributions to a traditional IRA for 2001, you may be able to take an IRA deduction. But you, or your spouse if filing a joint return, must have had earned income to do so. For IRA purposes, earned income includes certain alimony received. See **Pub. 590** for details. You should receive a statement by May 31, 2002, that shows all contributions to your traditional IRA for 2001.

Use the worksheet on page 28 to figure the amount, if any, of your IRA deduction. **But read the following list before you fill in the worksheet.**

- If you were age 70½ or older at the end of 2001, you **cannot** deduct any contributions made to your traditional IRA for 2001 or treat them as nondeductible contributions.
- You **cannot** deduct contributions to a Roth IRA or a Coverdell education savings account.

If you made contributions to both a traditional IRA and a Roth IRA for 2001, **do not** use the worksheet on page 28. Instead, use the worksheet in **Pub. 590** to figure the amount, if any, of your IRA deduction.

- You **cannot** deduct contributions to a 401(k) plan, section 457 plan, SIMPLE plan, or the Federal Thrift Savings Plan. These amounts are not included as income in box 1 of your W-2 form.
- If you made contributions to your IRA in 2001 that you deducted for 2000, **do not** include them in the worksheet.
- If you received a distribution from a nonqualified deferred compensation plan or section 457 plan that is included in box 1 of your W-2 form, **do not** include that distribution on line 8 of the worksheet. The distribution should be shown in box 11 of your W-2 form. If it is not, contact your employer for the amount of the distribution.
- You must file a joint return to deduct contributions to your spouse's IRA. Enter the total IRA deduction for you and your spouse on line 23.
- Do not include rollover contributions in figuring your deduction. Instead, see the instructions for lines 15a and 15b on page 23.
- Do not include trustees' fees that were billed separately and paid by you for your IRA. These fees can be deducted only as an itemized deduction on **Schedule A.**
- If the total of your IRA deduction on line 23 plus any nondeductible contribution to your traditional IRAs shown on Form 8606 is less than your total traditional IRA contributions for 2001, see Pub. 590 for special rules.

By April 1 of the year after the year in which you turn age 70½, you must start taking minimum required distributions from your traditional IRA. If you do not, you may have to pay a 50% additional tax on the amount that should have been distributed. For details, including how to figure the minimum required distribution, see Pub. 590.

Were You Covered by a Retirement Plan?

If you were covered by a retirement plan (qualified pension, profit-sharing (including 401(k)), annuity, SEP, SIMPLE, etc.) at work or through self-employment, your IRA deduction may be reduced or eliminated. But you can still make contributions to an IRA even if you cannot deduct them. In any case, the income earned on your IRA contributions is not taxed until it is paid to you.

The "Retirement plan" box in box 13 of your W-2 form should be checked if you were covered by a plan at work even if you were not vested in the plan. You are also covered by a plan if you were self-employed and had a SEP, SIMPLE, or qualified retirement plan.

If you were covered by a retirement plan and you file **Form 2555, 2555-EZ,** or **8815,** or you exclude employer-provided adoption benefits, see Pub. 590 to figure the amount, if any, of your IRA deduction.

Married Persons Filing Separately. If you were not covered by a retirement plan but your spouse was, **you** are considered covered by a plan unless you **lived apart** from your spouse for all of 2001.

Need more information or forms? See page 7.

Line 24

Student Loan Interest Deduction

Use the worksheet on page 29 to figure your student loan interest deduction if **all five** of the following apply.

1. You paid interest in 2001 on a qualified student loan (see page 29).

2. At least part of the interest paid in 2001 was paid during the first 60 months that interest payments were required to be made. See **Example** on page 29.

3. Your filing status is any status **except** married filing separately.

4. Your modified adjusted gross income (AGI) is less than: $55,000 if single, head of household, or qualifying widow(er); $75,000 if married filing jointly. Use lines 3 through 5 of the worksheet on page 29 to figure your modified AGI.

5. You are not claimed as a dependent on someone's (such as your parent's) 2001 tax return.

Exception. Use **Pub. 970** instead of the worksheet on page 29 to figure your student loan interest deduction if you file **Form 2555, 2555-EZ,** or **4563**, or you exclude income from sources within Puerto Rico.

IRA Deduction Worksheet—Line 23

Keep for Your Records

Before you begin:

√ Complete Form 1040, lines 25 through 31a, if they apply to you.

√ Figure any amount to be entered on the dotted line next to line 32 (see page 30).

√ Be sure you have read the list on page 27.

		Your IRA	Spouse's IRA
1a.	Were you covered by a retirement plan (see page 27)?	**1a.** ☐ Yes ☐ No	
1b.	If married filing jointly, was your spouse covered by a retirement plan?		**1b.** ☐ Yes ☐ No
	Next. If you checked "No" on line 1a, and, if married filing jointly, "No" on line 1b, skip lines 2–6, enter $2,000 on line 7a (and 7b if applicable), and go to line 8. Otherwise, go to line 2.		
2.	Enter the amount shown below that applies to you. • Single, head of household, or married filing separately and you **lived apart** from your spouse for all of 2001, enter $43,000 • Qualifying widow(er), enter $63,000 • Married filing jointly, enter $63,000 in both columns. But if you checked "No" on either line 1a or 1b, enter $160,000 for the person who was not covered by a plan • Married filing separately and you lived with your spouse at any time in 2001, enter $10,000	**2a.** _____	**2b.** _____
3.	Enter the amount from Form 1040, line 22 . . . . . **3.** _____		
4.	Add amounts on Form 1040, lines 25 through 31a, and any amount you entered on the dotted line next to line 32 . . . **4.** _____		
5.	Subtract line 4 from line 3. Enter the result in both columns	**5a.** _____	**5b.** _____
6.	Is the amount on line 5 less than the amount on line 2?		
	☐ **No.** STOP None of your IRA contributions are deductible. For details on nondeductible IRA contributions, see Form 8606.		
	☐ **Yes.** Subtract line 5 from line 2 in each column. **If the result is $10,000 or more, enter $2,000 on line 7 for that column**	**6a.** _____	**6b.** _____
7.	Multiply lines 6a and 6b by 20% (.20). If the result is not a multiple of $10, increase it to the next multiple of $10 (for example, increase $490.30 to $500). If the result is $200 or more, enter the result. But if it is less than $200, enter $200 . . .	**7a.** _____	**7b.** _____
8.	Enter your wages, and your spouse's if filing jointly, and other earned income from Form 1040, minus any deductions on Form 1040, lines 27 and 29. Do not reduce wages by any loss from self-employment . . . . . **8.** _____		
	CAUTION If married filing jointly and line 8 is less than $4,000, **stop here** and see Pub. 590 to figure your IRA deduction.		
9.	Enter traditional IRA contributions made, or that will be made by April 15, 2002, for 2001 to your IRA on line 9a and to your spouse's IRA on line 9b	**9a.** _____	**9b.** _____
10.	On line 10a, enter the **smallest** of line 7a, 8, or 9a. On line 10b, enter the **smallest** of line 7b, 8, or 9b. This is the most you can deduct. Add the amounts on lines 10a and 10b and enter the total on Form 1040, line 23. Or, if you want, you may deduct a smaller amount and treat the rest as a nondeductible contribution (see Form 8606)	**10a.** _____	**10b.** _____

Example. You took out a qualified student loan in 1994 while in college. You had 6 years to repay the loan and your first monthly payment was due July 1996, after you graduated. You made a payment every month as required. If you meet items **3** through **5** listed on page 28, you may use only the interest you paid for January through June 2001 to figure your deduction. June is the end of the 60-month period (July 1996–June 2001).

Qualified Student Loan. This is any loan you took out to pay the qualified higher education expenses for yourself, your spouse, or anyone who was your dependent when the loan was taken out. The person for whom the expenses were paid must have been an eligible student (defined on this page). However, a loan is not a qualified student loan if **(a)** any of the proceeds were used for other purposes or **(b)** the loan was from either a related person or a person who borrowed the proceeds under a qualified employer plan or a contract purchased under such a plan. To find out who is a related person, see Pub. 970.

Qualified higher education expenses generally include tuition, fees, room and board, and related expenses such as books and supplies. The expenses must be for education in a degree, certificate, or similar program at an eligible educational institution. An eligible educational institution includes most colleges, universities, and certain vocational schools. You must reduce the expenses by the following nontaxable benefits.

- Employer-provided educational assistance benefits that are not included in box 1 of your W-2 form(s).
- Excludable U.S. series EE and I savings bond interest from **Form 8815.**
- Qualified distributions from a Coverdell education savings account.
- Any scholarship, educational assistance allowance, or other payment (but **not** gifts, inheritances, etc.) excluded from income.

For more details on these expenses, see Pub. 970.

An **eligible student** is a person who:

- Was enrolled in a degree, certificate, or other program (including a program of study abroad that was approved for credit by the institution at which the student was enrolled) leading to a recognized educational credential at an eligible educational institution **and**
- Carried at least half the normal full-time workload for the course of study he or she was pursuing.

Line 25

Archer MSA Deduction

If you made a contribution to an Archer MSA for 2001, you may be able to take this deduction. See **Form 8853.**

Line 26

Moving Expenses

If you moved in connection with your job or business or started a new job, you may be able to take this deduction. But your new workplace must be at least 50 miles farther from your old home than your old home was from your old workplace. If you had no former workplace, your new workplace must be at least 50 miles from your old home. Use TeleTax topic 455 (see page 11) or see **Form 3903.**

Student Loan Interest Deduction Worksheet—Line 24

Keep for Your Records

Before you begin:

- √ Complete Form 1040, lines 25 through 31a, if they apply to you.
- √ Figure any amount to be entered on the dotted line next to line 32 (see page 30).
- √ See the instructions for line 24 that begin on page 28.
- √ Be sure you have read the **Exception** on page 28 to see if you can use this worksheet instead of Pub. 970 to figure your deduction.

1. Enter the total interest you paid in 2001 on qualified student loans (defined above). Do not include interest that was required to be paid after the first 60 months		**1.** _____
2. Enter the **smaller** of line 1 or $2,500		**2.** _____
3. Enter the amount from Form 1040, line 22	**3.** _____	
4. Enter the total of the amounts from Form 1040, line 23, lines 25 through 31a, plus any amount you entered on the dotted line next to line 32	**4.** _____	
5. Subtract line 4 from line 3	**5.** _____	
6. Enter the amount shown below for your filing status. • Single, head of household, or qualifying widow(er)—$40,000 • Married filing jointly—$60,000	**6.** _____	
7. Is the amount on line 5 more than the amount on line 6? ☐ **No.** Skip lines 7 and 8, enter -0- on line 9, and go to line 10. ☐ **Yes.** Subtract line 6 from line 5	**7.** _____	
8. Divide line 7 by $15,000. Enter the result as a decimal (rounded to at least three places). Do not enter more than "1.000"		**8.** . _____
9. Multiply line 2 by line 8		**9.** _____
10. Student loan interest deduction. Subtract line 9 from line 2. Enter the result here and on Form 1040, line 24. **Do not** include this amount in figuring any other deduction on your return (such as on Schedule A, C, E, etc.)		**10.** _____

Need more information or forms? See page 7.

Line 27

One-Half of Self-Employment Tax

If you were self-employed and owe self-employment tax, fill in **Schedule SE** to figure the amount of your deduction.

Line 28

Self-Employed Health Insurance Deduction

You may be able to deduct part of the amount paid for health insurance for yourself, your spouse, and dependents if **either** of the following applies.

- You were self-employed and had a net profit for the year.
- You received wages in 2001 from an S corporation in which you were a more-than-2% shareholder. Health insurance benefits paid for you may be shown in box 14 of your W-2 form.

The insurance plan must be established under your business. But if you were also eligible to participate in any subsidized health plan maintained by your or your spouse's employer for any month or part of a month in 2001, amounts paid for health insurance coverage for that month cannot be used to figure the deduction. For example, if you were eligible to participate in a subsidized health plan maintained by your spouse's employer from September 30 through December 31, you cannot use amounts paid for health insurance coverage for September through December to figure your deduction. For more details, see **Pub. 535.**

If you qualify to take the deduction, use the worksheet below to figure the amount you can deduct.

Exception. Use Pub. 535 instead of the worksheet below to find out how to figure your deduction if **any** of the following apply.

- You had more than one source of income subject to self-employment tax.
- You file **Form 2555** or **2555-EZ.**
- You are using amounts paid for qualified long-term care insurance to figure the deduction.

Line 29

Self-Employed SEP, SIMPLE, and Qualified Plans

If you were self-employed or a partner, you may be able to take this deduction. See **Pub. 560** or, if you were a minister, **Pub. 517.**

Line 30

Penalty on Early Withdrawal of Savings

The **Form 1099-INT** or **Form 1099-OID** you received will show the amount of any penalty you were charged.

Lines 31a and 31b

Alimony Paid

If you made payments to or for your spouse or former spouse under a divorce or separation instrument, you may be able to take this deduction. Use TeleTax topic 452 (see page 11) or see **Pub. 504.**

Line 32

Include in the total on line 32 any of the following adjustments. To find out if you can take the deduction, see the form or publication indicated. On the dotted line next to line 32, enter the amount of your deduction and identify it as indicated.

- Performing-arts-related expenses (see **Form 2106** or **2106-EZ**). Identify as "QPA."
- Jury duty pay given to your employer (see **Pub. 525**). Identify as "Jury Pay."
- Deductible expenses related to income reported on line 21 from the rental of personal property engaged in for profit. Identify as "PPR."
- Reforestation amortization (see **Pub. 535**). Identify as "RFST."
- Repayment of supplemental unemployment benefits under the Trade Act of 1974 (see **Pub. 525**). Identify as "Sub-Pay TRA."
- Contributions to section 501(c)(18) pension plans (see **Pub. 525**). Identify as "501(c)(18)."
- Contributions by certain chaplains to section 403(b) plans (see **Pub. 517**). Identify as "403(b)."
- Deduction for clean-fuel vehicles (see **Pub. 535**). Identify as "Clean-Fuel."
- Employee business expenses of fee-basis state or local government officials (see **Form 2106** or **2106-EZ**). Identify as "FBO."

Self-Employed Health Insurance Deduction Worksheet—Line 28

Keep for Your Records

Before you begin:

√ Complete Form 1040, line 29, if it applies to you.

√ Be sure you have read the **Exception** above to see if you can use this worksheet instead of Pub. 535 to figure your deduction.

1.	Enter the total amount paid in 2001 for health insurance coverage established under your business for 2001 for you, your spouse, and dependents. But do not include amounts for any month you were eligible to participate in an employer-sponsored health plan	**1.**
2.	Multiply line 1 by 60% (.60)	**2.**
3.	Enter your net profit and any other earned income* from the business under which the insurance plan is established, minus any deductions you claim on Form 1040, lines 27 and 29	**3.**
4.	**Self-employed health insurance deduction.** Enter the **smaller** of line 2 or line 3 here and on Form 1040, line 28. **Do not** include this amount in figuring any medical expense deduction on Schedule A (Form 1040)	**4.**

* ***Earned income*** *includes net earnings and gains from the sale, transfer, or licensing of property you created. It does not include capital gain income. If you were a more-than-2% shareholder in the S corporation under which the insurance plan is established, earned income is your wages from that corporation.*

Line 33

If line 33 is less than zero, you may have a net operating loss that you can carry to another tax year. See **Pub. 536.**

Tax and Credits

Line 35a

If you were age 65 or older or blind, check the appropriate box(es) on line 35a. If you were married and checked the box on line 6b of Form 1040 and your spouse was age 65 or older or blind, also check the appropriate box(es) for your spouse. Be sure to enter the total number of boxes checked.

Age

If you were age 65 or older on January 1, 2002, check the "65 or older" box on your 2001 return.

Blindness

If you were partially blind as of December 31, 2001, you must get a statement certified by your eye doctor or registered optometrist that:

- You cannot see better than 20/200 in your better eye with glasses or contact lenses or
- Your field of vision is 20 degrees or less.

If your eye condition is not likely to improve beyond the conditions listed above, you can get a statement certified by your eye doctor or registered optometrist to this effect instead.

You must keep the statement for your records.

Line 35b

If your spouse itemizes deductions on a separate return or if you were a dual-status alien, check the box on line 35b. But if you were a dual-status alien and you file a joint return with your spouse who was a U.S. citizen or resident at the end of 2001 and you and your spouse agree to be taxed on your combined worldwide income, **do not** check the box.

Line 36

Itemized Deductions or Standard Deduction

In most cases, your Federal income tax will be less if you take the **larger** of:

- Your itemized deductions or
- Your standard deduction.

CAUTION

If you checked the box on **line 35b,** your standard deduction is zero.

Itemized Deductions

To figure your itemized deductions, fill in **Schedule A.**

Standard Deduction

Most people can find their standard deduction by looking at the amounts listed under "All others" to the left of line 36 of Form 1040. But if you checked **any** box on **line 35a, or** you (or your spouse if filing jointly) can be claimed as a dependent on someone's 2001 return, use the worksheet below or the chart on page 32, whichever applies, to figure your standard deduction. Also, if you checked the box on **line 35b,** your standard deduction is zero, even if you were age 65 or older or blind.

Electing To Itemize for State Tax or Other Purposes

If you itemize even though your itemized deductions are less than your standard deduction, enter "IE" on the dotted line next to line 36.

Standard Deduction Worksheet for Dependents—Line 36

Keep for Your Records

Use this worksheet **only** if someone can claim you, or your spouse if filing jointly, as a dependent.

1.	Add $250 to your **earned income*.** Enter the total	**1.**	
2.	Minimum standard deduction	**2.**	**750.00**
3.	Enter the **larger** of line 1 or line 2	**3.**	
4.	Enter the amount shown below for your filing status. • Single—$4,550 • Married filing separately—$3,800 • Married filing jointly or qualifying widow(er)—$7,600 • Head of household—$6,650	**4.**	
5.	**Standard deduction.**		
a.	Enter the **smaller** of line 3 or line 4. If under 65 and not blind, **stop here** and enter this amount on Form 1040, line 36. **Otherwise,** go to line 5b	**5a.**	
b.	If 65 or older or blind, multiply the number on Form 1040, line 35a, by: $1,100 if single or head of household; $900 if married filing jointly or separately, or qualifying widow(er)	**5b.**	
c.	Add lines 5a and 5b. Enter the total here and on Form 1040, line 36	**5c.**	

***Earned income** includes wages, salaries, tips, professional fees, and other compensation received for personal services you performed. It also includes any amount received as a scholarship that you must include in your income. Generally, your earned income is the total of the amount(s) you reported on Form 1040, lines 7, 12, and 18, minus the amount, if any, on line 27.*

Need more information or forms? See page 7.

Standard Deduction Chart for People Age 65 or Older or Blind—Line 36

Do not use this chart if someone can claim you, or your spouse if filing jointly, as a dependent. Instead use the worksheet on page 31.

Enter the number from the box on line 35a of Form 1040 . . . . . ▶ ☐

CAUTION Do not use the number of exemptions from line 6d.

IF your filing status is . . .	AND the number in the box above is . . .	THEN your standard deduction is . . .
Single	1	$5,650
	2	6,750
Married filing jointly or Qualifying widow(er)	1	$8,500
	2	9,400
	3	10,300
	4	11,200
Married filing separately	1	$4,700
	2	5,600
	3	6,500
	4	7,400
Head of household	1	$7,750
	2	8,850

Deduction for Exemptions Worksheet—Line 38

Keep for Your Records

1. Is the amount on Form 1040, line 34, more than the amount shown on line 4 below for your filing status?

☐ **No.** STOP Multiply $2,900 by the total number of exemptions claimed on Form 1040, line 6d, and enter the result on line 38.

☐ **Yes.** *Continue*

2. Multiply $2,900 by the total number of exemptions claimed on Form 1040, line 6d . . . . . **2.** _____

3. Enter the amount from Form 1040, line 34 . . . . . **3.** _____

4. Enter the amount shown below for your filing status.

- Single—$132,950
- Married filing jointly or qualifying widow(er)—$199,450
- Married filing separately—$99,725
- Head of household—$166,200

. . . **4.** _____

5. Subtract line 4 from line 3 . . . . . **5.** _____

Note. If line 5 is more than: $122,500 if single, married filing jointly, head of household, or qualifying widow(er); $61,250 if married filing separately, **stop here.** You **cannot** take a deduction for exemptions.

6. Divide line 5 by: $2,500 if single, married filing jointly, head of household, or qualifying widow(er); $1,250 if married filing separately. If the result is not a whole number, increase it to the next higher whole number (for example, increase 0.0004 to 1) . . . . . **6.** _____

7. Multiply line 6 by 2% (.02) and enter the result as a decimal . . . . . **7.** _____

8. Multiply line 2 by line 7 . . . . . **8.** _____

9. **Deduction for exemptions.** Subtract line 8 from line 2. Enter the result here and on Form 1040, line 38 **9.** _____

Line 40

Tax

Do you want the IRS to figure your tax for you?

☐ **Yes.** See **Pub. 967** for details, including who is eligible and what to do. If you have paid too much, we will send you a refund. If you did not pay enough, we will send you a bill.

☐ **No.** Use one of the following methods to figure your tax. Also include in the total on line 40 any of the following taxes.

- Tax from **Forms 8814** and **4972.** Be sure to check the appropriate box(es).
- Tax from recapture of an education credit. You may owe this tax if **(a)** you claimed an education credit in an earlier year **and (b)** you, your spouse if filing jointly, or your dependent received in 2001 either tax-free educational assistance or a refund of qualified expenses. See **Form 8863** for more details. If you owe this tax, enter the amount and "ECR" on the dotted line next to line 40.

Tax Table or Tax Rate Schedules. If your taxable income is less than $100,000, you **must** use the Tax Table, which starts on page 59, to figure your tax. Be sure you use the correct column. If your taxable income is $100,000 or more, use the Tax Rate Schedules on page 71.

Exception. Do not use the Tax Table or Tax Rate Schedules to figure your tax if **either 1** or **2** below applies.

1. You are required to figure your tax using the **Tax Computation Worksheet for Certain Dependents** below, **Form 8615, Schedule D,** or the **Capital Gain Tax Worksheet** on page 34.

2. You use **Schedule J** (for farm income) to figure your tax.

Tax Computation Worksheet for Certain Dependents. If you, or your spouse if filing jointly, can be claimed as a dependent on someone's 2001 return, you must use the worksheet below to figure your tax unless you received (before offset) an advance payment of your 2001 taxes. If any of the other methods listed in item **1** or **2** above apply to you, follow the **Special Rules** on the worksheet to figure your tax. Your tax may be less if this worksheet applies.

Form 8615. Form 8615 must generally be used to figure the tax for any child who was under age 14 on January 1, 2002, and who had more than $1,500 of investment income, such as taxable interest, ordinary dividends, or capital gains (including capital gain distributions). But if neither of the child's parents was alive on December 31, 2001, do not use Form 8615 to figure the child's tax.

Schedule D. If you had a net capital gain on Schedule D (both lines 16 and 17 of Schedule D are gains) and the amount on Form 1040, line 39, is more than zero, use Part IV of Schedule D to figure your tax.

Capital Gain Tax Worksheet. If you received capital gain distributions but you are not required to file Schedule D, use the worksheet on page 34 to figure your tax.

Schedule J. If you had income from farming, your tax may be less if you choose to figure it using income averaging on Schedule J.

Tax Computation Worksheet for Certain Dependents—Line 40

Keep for Your Records

Before you begin:

√ Be sure you can use this worksheet (see **Tax Computation Worksheet for Certain Dependents** above).

√ **Do not** use this worksheet if you, or your spouse if filing jointly, received (before offset) an advance payment of your 2001 taxes.

√ Be sure you read the **Special Rules** below.

1. Figure the tax on the amount on Form 1040, line 39 (or the applicable line of the worksheet, schedule, or form listed below). Use the Tax Table or Tax Rate Schedules, whichever applies . . . . . **1.** _____

2. Is the amount on line 1 more than the amount shown below for your filing status?

- Single or married filing separately—$900
- Married filing jointly or qualifying widow(er)—$1,800
- Head of household—$1,500

☐ **Yes.** Enter: $300 if single or married filing separately; $500 if head of household; $600 if married filing jointly or qualifying widow(er). } . . . . . **2.** _____

☐ **No.** Divide the amount on line 1 by 3.0.

3. Subtract line 2 from line 1. Enter the result here and on Form 1040, line 40 (or the applicable line of the worksheet, schedule, or form listed below) . . . . . **3.** _____

Special Rules. If you use:

- The **Capital Gain Tax Worksheet** on page 34, use the worksheet above to figure the tax on lines 4 and 14 of the Capital Gain Tax Worksheet.
- **Schedule D, Part IV,** use the worksheet above to figure the tax on lines 25 and 39 of Part IV. If you use the **Schedule D Tax Worksheet** on page D-9, use the worksheet above to figure the tax on lines 15 and 36 of the Schedule D Tax Worksheet.
- **Schedule J,** use the worksheet above to figure the tax on line 4 of Schedule J.
- **Form 8615,** use the worksheet above to figure the tax on lines 15 and 17 of Form 8615 (and line 9 if the parent used this worksheet).
- **Other forms or worksheets** that require you to figure the tax using the 2001 Tax Table or Tax Rate Schedules, use the worksheet above to figure the tax on any line that would otherwise be figured using the 2001 Tax Table or Tax Rate Schedules.

Need more information or forms? See page 7.

Line 41

Alternative Minimum Tax

Use the worksheet on page 35 to see if you should fill in **Form 6251.**

Exception. Fill in Form 6251 instead of using the worksheet on page 35 if you claimed or received **any** of the following items.

1. Accelerated depreciation.

2. Stock by exercising an incentive stock option and you did not dispose of the stock in the same year.

3. Tax-exempt interest from private activity bonds.

4. Intangible drilling, circulation, research, experimental, or mining costs.

5. Amortization of pollution-control facilities or depletion.

6. Income or (loss) from tax-shelter farm activities or passive activities.

7. Percentage-of-completion income from long-term contracts.

8. Interest paid on a home mortgage **not** used to buy, build, or substantially improve your home.

9. Investment interest expense reported on **Form 4952.**

10. Net operating loss deduction.

11. Alternative minimum tax adjustments from an estate, trust, electing large partnership, or cooperative.

12. Section 1202 exclusion.

CAUTION Form 6251 should be filled in for a child under age 14 if the child's adjusted gross income from Form 1040, line 34, exceeds the child's earned income by more than $5,350.

Line 43

Foreign Tax Credit

If you paid income tax to a foreign country, you may be able to take this credit. Generally, you must complete and attach **Form 1116** to do so.

Exception. You do not have to file Form 1116 to take this credit if **all five** of the following apply.

1. All of your gross foreign-source income is from interest and dividends and all of that income and the foreign tax paid on it is reported to you on **Form 1099-INT** or **Form 1099-DIV** (or substitute statement).

2. If you have dividend income from shares of stock, you held those shares for at least 16 days.

3. You are not filing **Form 4563** or excluding income from sources within Puerto Rico.

4. The total of your foreign taxes is not more than $300 (not more than $600 if married filing jointly).

5. All of your foreign taxes were:

- Legally owed and not eligible for a refund and
- Paid to countries that are recognized by the United States and do not support terrorism.

(Continued on page 35)

Capital Gain Tax Worksheet—Line 40

Keep for Your Records

Before you begin:
√ Be sure you do not have to file Schedule D (see the instructions for Form 1040, line 13, on page 23).
√ Be sure you checked the box on line 13 of Form 1040.

1.	Enter the amount from Form 1040, line 39	**1.**	
2.	Enter the amount from Form 1040, line 13	**2.**	
3.	Subtract line 2 from line 1. If zero or less, enter -0-	**3.**	
4.	Figure the tax on the amount on line 3. Use the Tax Table or Tax Rate Schedules, whichever applies		**4.**
5.	Enter the **smaller** of: ● The amount on line 1 or ● $27,050 if single; $45,200 if married filing jointly or qualifying widow(er); $22,600 if married filing separately; or $36,250 if head of household.	**5.**	
6.	Is the amount on line 3 equal to or more than the amount on line 5? ☐ **Yes.** Leave lines 6 through 8 blank; go to line 9 and check the "No" box. ☐ **No.** Enter the amount from line 3	**6.**	
7.	Subtract line 6 from line 5	**7.**	
8.	Multiply line 7 by 10% (.10)		**8.**
9.	Are the amounts on lines 2 and 7 the same? ☐ **Yes.** Leave lines 9 through 12 blank; go to line 13. ☐ **No.** Enter the **smaller** of line 1 or line 2	**9.**	
10.	Enter the amount, if any, from line 7	**10.**	
11.	Subtract line 10 from line 9. If zero or less, enter -0-	**11.**	
12.	Multiply line 11 by 20% (.20)		**12.**
13.	Add lines 4, 8, and 12		**13.**
14.	Figure the tax on the amount on line 1. Use the Tax Table or Tax Rate Schedules, whichever applies		**14.**
15.	**Tax on all taxable income (including capital gain distributions).** Enter the **smaller** of line 13 or line 14 here and on Form 1040, line 40		**15.**

For more details on these requirements, see the Instructions for Form 1116.

Do you meet all five requirements on page 34?

☐ **Yes.** Enter on line 43 the **smaller** of your total foreign taxes or the amount on Form 1040, line 40.

☐ **No.** See Form 1116 to find out if you can take the credit and, if you can, if you have to file Form 1116.

Line 44

Credit for Child and Dependent Care Expenses

You may be able to take this credit if you paid someone to care for your child **under age 13** or your dependent or spouse who could not care for himself or herself. For details, use TeleTax topic 602 (see page 11) or see **Form 2441.**

Line 45

Credit for the Elderly or the Disabled

You may be able to take this credit if by the end of 2001 **(a)** you were age 65 or older or **(b)** you retired on **permanent and total disability** and you had taxable disability income. But you usually **cannot** take the credit if the amount on Form 1040, line 34, is $17,500 or more ($20,000 if married filing jointly and only one spouse is eligible for

Worksheet To See if You Should Fill in Form 6251—Line 41

Keep for Your Records

Before you begin:

√ Be sure you have read the **Exception** on page 34 to see if you must fill in Form 6251 instead of using this worksheet.

√ If you are claiming the foreign tax credit (see the instructions for Form 1040, line 43, that begin on page 34), enter that credit on line 43.

1. Enter the amount from Form 1040, line 37 . . . . . **1.** _____

2. Are you filing **Schedule A?**

☐ **Yes.** Leave line 2 blank and go to line 3.

☐ **No.** Enter your standard deduction from Form 1040, line 36, and go to line 5. . . . . **2.** _____

3. Enter the **smaller** of the amount on Schedule A, line 4, or 2.5% (.025) of the amount on Form 1040, line 34 . . . . . **3.** _____

4. Add lines 9 and 26 of Schedule A and enter the total . . . . . **4.** _____

5. Add lines 1 through 4 above . . . . . **5.** _____

6. Enter the amount shown below for your filing status.
- Single or head of household—$35,750
- Married filing jointly or qualifying widow(er)—$49,000
- Married filing separately—$24,500

. . . . . **6.** _____

7. Is the amount on line 5 more than the amount on line 6?

☐ **No.** STOP You do not need to fill in Form 6251.

☐ **Yes.** Subtract line 6 from line 5 . . . . . **7.** _____

8. Enter the amount shown below for your filing status.
- Single or head of household—$112,500
- Married filing jointly or qualifying widow(er)—$150,000
- Married filing separately—$75,000

. . . . . **8.** _____

9. Is the amount on line 5 more than the amount on line 8?

☐ **No.** Enter -0- here and on line 10 and go to line 11.

☐ **Yes.** Subtract line 8 from line 5.

. . . . . **9.** _____

10. Multiply line 9 by 25% (.25) and enter the result but do not enter more than line 6 above . . . **10.** _____

11. Add lines 7 and 10 . . . . . **11.** _____

12. Is the amount on line 11 more than the amount shown below for your filing status?
- Single, married filing jointly, head of household, or qualifying widow(er)—$175,000
- Married filing separately—$87,500

☐ **Yes.** STOP Fill in Form 6251 to see if you owe the alternative minimum tax.

☐ **No.** Multiply line 11 by 26% (.26) . . . . . **12.** _____

13. Enter the amount from Form 1040, line 40, minus the total of any tax from Form 4972 and any amount on Form 1040, line 43 . . . . . **13.** _____

Next. Is the amount on line 12 more than the amount on line 13?

☐ **Yes.** Fill in Form 6251 to see if you owe the alternative minimum tax.

☐ **No.** You do not need to fill in Form 6251.

Need more information or forms? See page 7.

the credit; $25,000 if married filing jointly and both spouses are eligible; $12,500 if married filing separately). See **Schedule R** and its instructions for details.

Credit Figured by the IRS. If you can take this credit and you want us to figure it for you, see the Instructions for Schedule R.

Line 46

Education Credits

If you (or your dependent) paid qualified expenses in 2001 for yourself, your spouse, or your dependent to enroll in or attend an eligible educational institution, you may be able to take an education credit. See **Form 8863** for details. However, you **cannot** take an education credit if **any** of the following apply.

- You are claimed as a dependent on someone's (such as your parent's) 2001 tax return.
- Your filing status is married filing separately.
- The amount on Form 1040, line 34, is $50,000 or more ($100,000 or more if married filing jointly).
- You (or your spouse) were a nonresident alien for any part of 2001 unless your filing status is married filing jointly.

Rate Reduction Credit Worksheet—Line 47

Keep for Your Records

Before you begin:

√ If you received (before offset) an advance payment of your 2001 taxes equal to the amount shown below for your 2001 filing status, **stop.** You cannot take the credit because you have received the maximum amount of the credit.

- Single or married filing separately — $300
- Head of household — $500
- Married filing jointly or qualifying widow(er) — $600

√ If you, or your spouse if filing a joint return, can be claimed as a dependent on another person's return, **stop.** You cannot take the credit.

√ If you received (before offset) an advance payment and you filed a joint return for 2000, you and your spouse are each considered to have received one-half of the payment.

TIP If you received Notice 1275, 1277, or 1278 have it available. The notice shows the amount of your advance payment (before offset).

1. Enter the amount from Form 1040, line 39. If line 39 is zero or blank, **stop;** you cannot take the credit . . . **1.** _____

2. Enter the amount shown below for your filing status.
- Single or married filing separately — $6,000
- Head of household — $10,000
- Married filing jointly or qualifying widow(er) — $12,000

. . . . . **2.** _____

3. Is the amount on line 1 less than the amount on line 2?

No. Enter: $300 if single or married filing separately; $500 if head of household; $600 if married filing jointly or qualifying widow(er).

Yes. Multiply the amount on line 1 by 5% (.05). Enter the result.

. . . . . **3.** _____

4. Enter the amount from Form 1040, line 42 . . . . . **4.** _____

5. Add the amounts from Form 1040, lines 43 through 46. Enter the total . . . **5.** _____

6. Subtract line 5 from line 4. If the result is zero or less, **stop;** you cannot take the credit . . . . . **6.** _____

7. Enter the **smaller** of line 3 or line 6 . . . . . **7.** _____

8. Enter the amount, if any, of your advance payment (before offset). If filing a joint return, include your spouse's advance payment with yours . . . . . **8.** _____

9. Rate reduction credit. Subtract line 8 from line 7. Enter the result here and, if more than zero, on Form 1040, line 47. If line 8 is more than line 7, you do not have to pay back the difference . . . . **9.** _____

Need more information or forms? See page 7.

Line 48—Child Tax Credit

What Is the Child Tax Credit?

This credit is for people who have a qualifying child as defined in the instructions for line 6c, column (4), on page 20. It is in addition to the credit for child and dependent care expenses on Form 1040, line 44, and the earned income credit on Form 1040, line 61a.

Three Steps To Take the Child Tax Credit!

Step 1. Make sure you have a qualifying child for the child tax credit. See the instructions for line 6c, column (4), on page 20.

Step 2. Make sure you checked the box in column (4) of line 6c on Form 1040 for each qualifying child.

Step 3. Answer the questions on this page to see if you may use the worksheet on page 38 to figure your credit or if you must use Pub. 972, Child Tax Credit. If you need Pub. 972, see page 7.

Questions **Who Must Use Pub. 972**

1. Are you excluding income from Puerto Rico **or** are you filing any of the following forms?

- Form 2555 or 2555-EZ (relating to foreign earned income)
- Form 4563 (exclusion of income for residents of American Samoa)

☐ **No.** *Continue* ➘ ☐ **Yes.** STOP You must use Pub. 972 to figure your credit.

---

2. Is the amount on Form 1040, line 34, more than the amount shown below for your filing status?

- Married filing jointly – $110,000
- Single, head of household, or qualifying widow(er) – $75,000
- Married filing separately – $55,000

☐ **No.** *Continue* ➘ ☐ **Yes.** STOP You must use Pub. 972 to figure your credit.

---

3. Are you claiming any of the following credits?

- Adoption credit, Form 8839 (see the instructions for Form 1040, line 49, on page 39)
- Mortgage interest credit, Form 8396 (see the instructions for Form 1040, line 50, on page 39)
- District of Columbia first-time homebuyer credit, Form 8859

☐ **No.** Use the worksheet on page 38 to figure your child tax credit.

☐ **Yes.** You must use Pub. 972 to figure your child tax credit. You will also need the form(s) listed above for any credit(s) you are claiming.

Need more information or forms? See page 7.

Child Tax Credit Worksheet—Line 48

Keep for Your Records

CAUTION

Do not use this worksheet if you answered "Yes" to question 1, 2, or 3 on page 37. Instead, use Pub. 972.

1. Number of qualifying children: _____ × $600. Enter the result. | **1** |

2. Enter the amount from Form 1040, line 42. | **2** |

3. Add the amounts from Form 1040:

Line 43 _____

Line 44 + _____

Line 45 + _____

Line 46 + _____

Line 47 + _____ Enter the total. | **3** |

4. Are the amounts on lines 2 and 3 the same?

☐ **Yes.** STOP

You cannot take this credit because there is no tax to reduce. However, see the **TIP** below before completing the rest of your Form 1040.

☐ **No.** Subtract line 3 from line 2. | **4** |

5. Is the amount on line 1 more than the amount on line 4?

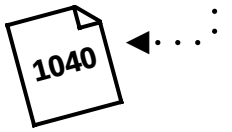
☐ **Yes.** Enter the amount from line 4. Also, see the **TIP** below.

☐ **No.** Enter the amount from line 1.

This is your child tax credit.

| **5** |

Enter this amount on Form 1040, line 48.



TIP

You may be able to take the **additional child tax credit** on Form 1040, line 63, if you answered "Yes" on line 4 **or** line 5 above.

- First, complete your Form 1040 through line 62.
- Then, use Form 8812 to figure any additional child tax credit.

Line 49

Adoption Credit

You may be able to take this credit if you paid expenses in 2001 to adopt a child. See **Form 8839** for details.

Line 50

Other Credits

Include in the total on line 50 any of the following credits and check the appropriate box(es). If box **d** is checked, also enter the form number. To find out if you can take the credit, see the form or publication indicated.

- Mortgage interest credit. If a state or local government gave you a mortgage credit certificate, see **Form 8396.**
- Credit for prior year minimum tax. If you paid alternative minimum tax in a prior year, see **Form 8801.**
- Qualified electric vehicle credit. If you placed a new electric vehicle in service in 2001, see **Form 8834.**
- General business credit. This credit consists of a number of credits that usually apply only to individuals who are partners, shareholders in an S corporation, self-employed, or who have rental property. See **Form 3800** or **Pub. 334.**
- Empowerment zone employment credit. See **Form 8844.**
- District of Columbia first-time homebuyer credit. See **Form 8859.**

Line 51

If you sold fuel produced from a nonconventional source, see Internal Revenue Code section 29 to find out if you can take the **nonconventional source fuel credit.** If you can, attach a schedule showing how you figured the credit. Include the credit in the total on line 51. Enter the amount and "FNS" on the dotted line next to line 51.

Other Taxes

Line 54

Social Security and Medicare Tax on Tip Income Not Reported to Employer

If you received tips of $20 or more in any month and you did not report the full amount to your employer, you must pay the social security and Medicare or railroad retirement (RRTA) tax on the unreported tips. You must also pay this tax if your W-2 form(s) shows allocated tips that you are including in your income on Form 1040, line 7.

To figure the tax, use **Form 4137.** To pay the RRTA tax, contact your employer. Your employer will figure and collect the tax.

You may be charged a penalty equal to 50% of the social security and Medicare tax due on tips you received but did not report to your employer.

Line 55

Tax on Qualified Plans Including IRAs, and Other Tax-Favored Accounts

If **any** of the following apply, see **Form 5329** and its instructions to find out if you owe this tax and if you must file Form 5329.

1. You received any early distributions from **(a)** an IRA or other qualified retirement plan, **(b)** an annuity, or **(c)** a modified endowment contract entered into after June 20, 1988.

2. Excess contributions were made to your IRAs, Coverdell ESAs, or Archer MSAs.

3. You received distributions from Coverdell ESAs in excess of your qualified higher education expenses.

4. You were born before July 1, 1930, and did not take the minimum required distribution from your IRA or other qualified retirement plan.

Exception. If **only** item **1** applies to you **and** distribution code 1 is correctly shown in box 7 of your **Form 1099-R,** you do not have to file Form 5329. Instead, multiply the taxable amount of the distribution by 10% (.10) and enter the result on line 55. The taxable amount of the distribution is the part of the distribution you reported on line 15b or line 16b of Form 1040 or on Form 4972. Also, put "No" under the heading "Other Taxes" to the left of line 55 to indicate that you do not have to file Form 5329. **But** if distribution code 1 is incorrectly shown in box 7 of Form 1099-R, you must file Form 5329.

Line 56

Advance Earned Income Credit Payments

Enter the total amount of advance earned income credit (EIC) payments you received. These payments are shown in box 9 of your W-2 form(s).

Line 57

Household Employment Taxes

If **any** of the following apply, see **Schedule H** and its instructions to find out if you owe these taxes.

1. You paid **any one** household employee (defined below) cash wages of $1,300 or more in 2001. Cash wages include wages paid by checks, money orders, etc.

2. You withheld Federal income tax during 2001 at the request of any household employee.

3. You paid **total** cash wages of $1,000 or more in **any** calendar **quarter** of 2000 or 2001 to household employees.

For item **1,** do not count amounts paid to an employee who was under age 18 at any time in 2001 and was a student.

Household Employee. Any person who does household work is a household employee if you can control what will be done and how it will be done. Household work includes work done in or around your home by babysitters, nannies, health aides, maids, yard workers, and similar domestic workers.

Line 58

Total Tax

Include in the total on line 58 any of the following taxes. To find out if you owe the tax, see the form or publication indicated. On the dotted line next to line 58, enter the amount of the tax and identify it as indicated.

(Continued on page 40)

Need more information or forms? See page 7.

Recapture of the Following Credits.

- Investment credit (see **Form 4255**). Identify as "ICR."
- Low-income housing credit (see **Form 8611**). Identify as "LIHCR."
- Qualified electric vehicle credit (see **Pub. 535**). Identify as "QEVCR."
- Indian employment credit. Identify as "IECR."

Recapture of Federal Mortgage Subsidy. If you sold your home in 2001 and it was financed (in whole or in part) from the proceeds of any tax-exempt qualified mortgage bond or you claimed the mortgage interest credit, see **Form 8828.** Identify as "FMSR."

Section 72(m)(5) Excess Benefits Tax (see **Pub. 560**). Identify as "Sec. 72(m)(5)."

Uncollected Social Security and Medicare or RRTA Tax on Tips or Group-Term Life Insurance. This tax should be shown in box 12 of your Form W-2 with codes **A** and **B** or **M** and **N.** Identify as "UT."

Golden Parachute Payments. If you received an excess parachute payment (EPP), you must pay a 20% tax on it. This tax should be shown in box 12 of your W-2 form with code **K.** If you received a **Form 1099-MISC,** the tax is 20% of the EPP shown in box 13. Identify as "EPP."

Tax on Accumulation Distribution of Trusts. Enter the amount from **Form 4970** and identify as "ADT."

Payments

Line 59

Federal Income Tax Withheld

Add the amounts shown as Federal income tax withheld on your **Forms W-2, W-2G,** and **1099-R.** Enter the total on line 59. The amount withheld should be shown in box 2 of Form W-2 or W-2G, and in box 4 of Form 1099-R. If line 59 includes amounts withheld as shown on Form 1099-R, attach the Form 1099-R to the front of your return.

If you received a 2001 Form 1099 showing Federal income tax withheld on dividends, interest income, unemployment compensation, social security benefits, or other income you received, include the amount withheld in the total on line 59. This should be shown in box 4 of the 1099 form or box 6 of **Form SSA-1099.**

Line 60

2001 Estimated Tax Payments

Enter any payments you made on your estimated Federal income tax **(Form 1040-ES)** for 2001. Include any overpayment from your 2000 return that you applied to your 2001 estimated tax.

If you and your spouse paid joint estimated tax but are now filing separate income tax returns, you can divide the amount paid in any way you choose as long as you both agree. If you cannot agree, you must divide the payments in proportion to each spouse's individual tax as shown on your separate returns for 2001. For an example of how to do this, see **Pub. 505.** Be sure to show both social security numbers (SSNs) in the space provided on the separate returns. If you or your spouse paid separate estimated tax but you are now filing a joint return, add the amounts you each paid. Follow these instructions even if your spouse died in 2001 or in 2002 before filing a 2001 return.

Divorced Taxpayers

If you got divorced in 2001 and you made joint estimated tax payments with your former spouse, put your former spouse's SSN in the space provided on the front of Form 1040. If you were divorced and remarried in 2001, put your present spouse's SSN in the space provided on the front of Form 1040. Also, under the heading "Payments" to the left of line 60, put your former spouse's SSN, followed by "DIV."

Name Change

If you changed your name because of marriage, divorce, etc., and you made estimated tax payments using your former name, attach a statement to the front of Form 1040. On the statement, explain all the payments you and your spouse made in 2001 and the name(s) and SSN(s) under which you made them.

Lines 61a and 61b— Earned Income Credit (EIC)

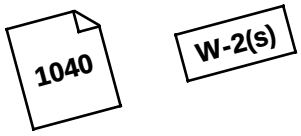
What Is the EIC?

The EIC is a credit for certain people who work. The credit may give you a refund even if you do not owe any tax.

To Take the EIC:

- Follow the steps below.
- Complete the worksheet that applies to you **or** let the IRS figure the credit for you.
- If you have a qualifying child, complete and attach Schedule EIC.

You Will Need:



CAUTION If you take the EIC even though you are not eligible and it is determined that your error is due to reckless or intentional disregard of the EIC rules, you will not be allowed to take the credit for 2 years even if you are otherwise eligible to do so. If you fraudulently take the EIC, you will not be allowed to take the credit for 10 years. You may also have to pay penalties.

Step 1 All Filers

1. Is the amount on Form 1040, line 34, less than $32,121 (or $10,710 if a child did not live with you in 2001)?

☐ **Yes.** *Continue* ☐ **No.** STOP You cannot take the credit.

2. Do you, and your spouse if filing a joint return, have a social security number that allows you to work or is valid for EIC purposes (see page 44)?

☐ **Yes.** *Continue* ☐ **No.** STOP You cannot take the credit. *Put "No" directly to the right of line 61a.*

3. Is your filing status married filing separately?

☐ **Yes.** STOP You cannot take the credit. ☐ **No.** *Continue*

4. Are you filing Form 2555 or 2555-EZ (relating to foreign earned income)?

☐ **Yes.** STOP You cannot take the credit. ☐ **No.** *Continue*

5. Were you a nonresident alien for any part of 2001?

☐ **Yes.** *See Nonresident Aliens on page 44.* ☐ **No.** *Go to Step 2.*

Step 2 Investment Income

1. Add the amounts from Form 1040:

Line 8a _____
Line 8b + _____
Line 9 + _____
Line 13 + _____
Investment Income = _____

2. Is your investment income more than $2,450?

☐ **Yes.** *Continue* ☐ **No.** *Skip the next question; go to Step 3.*

3. Are you filing Form 4797 (relating to sales of business property)?

☐ **Yes.** *See Form 4797 Filers on page 44.* ☐ **No.** STOP You cannot take the credit.

Step 3 Who Must Use Pub. 596

Some people must use Pub. 596, Earned Income Credit, to see if they can take the credit and how to figure it. To see if you must use Pub. 596, answer the following questions.

1. Are you filing Schedule E?

☐ **No.** *Continue* ☐ **Yes.** →

2. Are you claiming a loss on Form 1040, line 12, 13, or 18?

☐ **No.** *Continue* ☐ **Yes.** →

3. Are you reporting income or a loss from the rental of personal property not used in a trade or business?

☐ **No.** *Continue* ☐ **Yes.** →

4. Did you, or your spouse if filing a joint return, receive a distribution from a pension, annuity, IRA, or Coverdell ESA that is not fully taxable?

☐ **No.** *Continue* ☐ **Yes.** →

5. Are you reporting income on Form 1040, line 21, from Form 8814 (relating to election to report child's interest and dividends)?

☐ **No.** *Continue* ☐ **Yes.** →

6. Did you enter an amount other than zero on Form 1040, line 41?

☐ **No.** *Continue* ☐ **Yes.** →

STOP You must use Pub. 596 to see if you can take the credit and how to figure it.

To get Pub. 596, see page 7.

7. Did a child live with you in 2001?

☐ **Yes.** *Go to Step 4 on page 42.* ☐ **No.** *Go to Step 5 on page 42.*

Need more information or forms? See page 7.

Continued from page 41

Step 4 Qualifying Child

A qualifying child is a child who is your...

Son	Grandchild
Daughter	Stepchild
Adopted child	Foster child (see page 44)

If the child was married, see page 44.

AND

was at the end of 2001...

Under age 19

or

Under age 24 and a student (see page 44)

or

Any age and permanently and totally disabled (see page 44)

AND

who...

Lived with you in the United States for more than half of 2001 or, if a foster child, for all of 2001. If the child did not live with you for the required time, see Exception to "Time Lived With You" Condition on page 44.

1. Look at the qualifying child conditions above. Could you, or your spouse if filing a joint return, be a qualifying child of another person in 2001?

☐ **Yes.** STOP You cannot take the credit. *Put "No" directly to the right of line 61a.*

☐ **No.** *Continue*

2. Do you have at least one child who meets the above conditions to be your qualifying child?

☐ **Yes.** *Continue*

☐ **No.** *Skip the next question; go to Step 5, question 2.*

3. Does the child meet the conditions to be a qualifying child of any other person (other than your spouse if filing a joint return) for 2001?

☐ **Yes.** *See Qualifying Child of More Than One Person on page 44.*

☐ **No.** This child is your qualifying child. The child must have a social security number as defined on page 44 unless the child was born and died in 2001. *Skip Step 5; go to Step 6.*

Step 5 Filers Without a Qualifying Child

1. Look at the qualifying child conditions in Step 4. Could you, or your spouse if filing a joint return, be a qualifying child of another person in 2001?

☐ **Yes.** STOP You cannot take the credit. *Put "No" directly to the right of line 61a.*

☐ **No.** *Continue*

2. Can you, or your spouse if filing a joint return, be claimed as a dependent on someone else's 2001 tax return?

☐ **Yes.** STOP You cannot take the credit.

☐ **No.** *Continue*

3. Were you, or your spouse if filing a joint return, at least age 25 but under age 65 at the end of 2001?

☐ **Yes.** *Continue*

☐ **No.** STOP You cannot take the credit. *Put "No" directly to the right of line 61a.*

4. Was your home, and your spouse's if filing a joint return, in the United States for more than half of 2001? Members of the military stationed outside the United States, see page 44 before you answer.

☐ **Yes.** *Go to Step 6.*

☐ **No.** STOP You cannot take the credit. *Put "No" directly to the right of line 61a.*

Step 6 Modified Adjusted Gross Income

1. Add the amounts from Form 1040:

Line 8b _____

Line 34 + _____

Modified Adjusted Gross Income = Box A _____

2. If you have:

- 2 or more qualifying children, is Box A less than $32,121?
- 1 qualifying child, is Box A less than $28,281?
- No qualifying children, is Box A less than $10,710?

☐ **Yes.** *Go to Step 7 on page 43.*

☐ **No.** STOP You cannot take the credit.

(Continued on page 43)

Continued from page 42

Step 7 Nontaxable and Taxable Earned Income

1. Add all your nontaxable earned income, including your spouse's if filing a joint return. This includes anything of value (money, goods, or services) that is not taxable that you received from your employer for your work. Types of nontaxable earned income are listed below.

- Salary deferrals, such as a 401(k) plan or the Federal Thrift Savings Plan, shown in box 12 of your W-2 form. See page 44.
- Salary reductions, such as under a cafeteria plan, unless they are included in box 1 of your W-2 form. See page 44.
- Mandatory contributions to a state or local retirement plan.
- Military employee basic housing, subsistence, and combat zone compensation. These amounts are shown in box 12 of your W-2 form with code Q.
- Meals and lodging provided for the convenience of your employer.
- Housing allowances or rental value of a parsonage for clergy members. If filing Schedule SE, see Clergy on this page.
- Excludable dependent care benefits from Form 2441, line 18, employer-provided adoption benefits from Form 8839, line 26, and educational assistance benefits (these benefits may be shown in box 14 of your W-2 form).
- Certain amounts received by Native Americans. See Pub. 596.

Note. Nontaxable earned income does not include welfare benefits or workfare payments (see page 44), or qualified foster care payments.

Nontaxable Earned Income = Box B _____

Enter this amount on Form 1040, line 61b.

2. Are you filing Schedule SE because you had church employee income of $108.28 or more?

☐ **Yes.** *See Church Employees on this page.* ☐ **No.** *Continue*

3. Figure taxable earned income:

Form 1040, line 7 _____

Subtract, if included on line 7, any:

- Taxable scholarship or fellowship grant not reported on a W-2 form
- Amount paid to an inmate in a penal institution for work (put "PRI" and the amount subtracted on the dotted line next to line 7 of Form 1040)
- Amount received as a pension or annuity from a nonqualified deferred compensation plan or a section 457 plan (put "DFC" and the amount subtracted on the dotted line next to line 7 of Form 1040). This amount may be shown in box 11 of your W-2 form. If you received such an amount but box 11 is blank, contact your employer for the amount received as a pension or annuity.

– _____

Taxable Earned Income = Box C _____

Go to question 4.

4. Were you self-employed, or are you filing Schedule SE because you had church employee income, or are you filing Schedule C or C-EZ as a statutory employee?

☐ **Yes.** *Skip Steps 8 and 9; go to Worksheet B on page 46.* ☐ **No.** *Go to Step 8.*

Step 8 Total Earned Income

1. Nontaxable Earned Income (Step 7, Box B) _____

Taxable Earned Income (Step 7, Box C) + _____

Total Earned Income = Box D _____

2. If you have:

- 2 or more qualifying children, is Box D less than $32,121?
- 1 qualifying child, is Box D less than $28,281?
- No qualifying children, is Box D less than $10,710?

☐ **Yes.** *Go to Step 9.* ☐ **No.** STOP You cannot take the credit. *Put "No" directly to the right of line 61a.*

Step 9 How To Figure the Credit

1. Do you want the IRS to figure the credit for you?

☐ **Yes.** *See Credit Figured by the IRS below.* ☐ **No.** *Go to Worksheet A on page 45.*

Definitions and Special Rules *(listed in alphabetical order)*

Adopted Child. Any child placed with you by an authorized placement agency for legal adoption. An authorized placement agency includes any person authorized by state law to place children for legal adoption. The adoption does not have to be final.

Church Employees. Determine how much of the amount on Form 1040, line 7, was also reported on Schedule SE, line 5a. Subtract that amount from the amount on Form 1040, line 7, and enter the result in the first space of Step 7, line 3. Be sure to answer "Yes" on line 4 of Step 7.

Clergy. If you are filing Schedule SE and the amount on line 2 of that schedule includes an amount that was also reported on Form 1040, line 7:

1. Put "Clergy" directly to the right of line 61a of Form 1040.
2. Do not include any housing allowance or rental value of the parsonage as nontaxable earned income in Box B if it is required to be included on Schedule SE, line 2.
3. Determine how much of the amount on Form 1040, line 7, was also reported on Schedule SE, line 2.
4. Subtract that amount from the amount on Form 1040, line 7. Enter the result in the first space of Step 7, line 3.
5. Be sure to answer "Yes" on line 4 of Step 7.

Credit Figured by the IRS. To have the IRS figure the credit for you:

1. Put "EIC" directly to the right of line 61a of Form 1040.
2. Be sure you entered the amount of any nontaxable earned income (Step 7, Box B, on this page) on Form 1040, line 61b.

(Continued on page 44)

Continued from page 43

3. If you have a qualifying child, complete and attach Schedule EIC. If your EIC for a year after 1996 was reduced or disallowed, see Form 8862, Who Must File, below.

Exception to "Time Lived With You" Condition. A child is considered to have lived with you for all of 2001 if the child was born or died in 2001 and your home was this child's home for the entire time he or she was alive in 2001. Temporary absences, such as for school, vacation, medical care, or detention in a juvenile facility, count as time lived at home. If your child is presumed to have been kidnapped by someone who is not a family member, see Pub. 596 to find out if that child is a qualifying child for the EIC. To get Pub. 596, see page 7. If you were in the military stationed outside the United States, see Members of the Military below.

Form 4797 Filers. If the amount on Form 1040, line 13, includes an amount from Form 4797, you must use Pub. 596 to see if you can take the EIC and how to figure it. To get Pub. 596, see page 7. Otherwise, stop; you cannot take the EIC.

Form 8862, Who Must File. You must file Form 8862 if your EIC for a year after 1996 was reduced or disallowed for any reason other than a math or clerical error. But do not file Form 8862 if, after your EIC was reduced or disallowed in an earlier year:

- You filed Form 8862 (or other documents) and your EIC was then allowed and
- Your EIC has not been reduced or disallowed again for any reason other than a math or clerical error.

Also, do not file Form 8862 or take the credit if it was determined that your error was due to reckless or intentional disregard of the EIC rules or fraud.

Foster Child. Any child you cared for as your own child **and** who is **(a)** your brother, sister, stepbrother, or stepsister; **(b)** a descendant (such as a child, including an adopted child) of your brother, sister, stepbrother, or stepsister; or **(c)** a child placed with you by an authorized placement agency. For example, if you acted as the parent of your niece or nephew, this child is considered your foster child.

Grandchild. Any descendant of your son, daughter, or adopted child. For example, a grandchild includes your great-grandchild, great-great-grandchild, etc.

Married Child. A child who was married at the end of 2001 is a qualifying child only if **(a)** you can claim him or her as your dependent on Form 1040, line 6c, or **(b)** this child's other parent claims him or her as a dependent under the rules in Pub. 501 for children of divorced or separated parents.

Members of the Military. If you were on extended active duty outside the United States, your home is considered to be in the United States during that duty period. Extended active duty is military duty ordered for an indefinite period or for a period of more than 90 days. Once you begin serving extended active duty, you are considered to be on extended active duty even if you serve fewer than 90 days.

Nonresident Aliens. If your filing status is married filing jointly, go to Step 2 on page 41. Otherwise, stop; you cannot take the EIC.

Permanently and Totally Disabled Child. A child who cannot engage in any substantial gainful activity because of a physical or mental condition and a doctor has determined that this condition:

- Has lasted or can be expected to last continuously for at least a year or
- Can lead to death.

Qualifying Child of More Than One Person. If the child meets the conditions to be a qualifying child of more than one person, only the person who had the **highest** modified adjusted gross income (AGI) for 2001 may treat that child as a qualifying child. The other person(s) cannot take the EIC for people who do not have a qualifying child. If the other person is your spouse and you are filing a joint return, this rule does not apply. If you have the highest modified AGI, this child is your qualifying child. The child must have a social security number as defined below unless the child was born and died in 2001. Skip Step 5; go to Step 6 on page 42. If you do not have the highest modified AGI, stop; you cannot take the EIC. Put "No" directly to the right of line 61a.

Modified AGI is the total of the amounts on Form 1040, lines 8b and 34, increased by:

- Any loss claimed on Form 1040, line 13,
- Any loss from the rental of personal property not used in a trade or business,
- 75% of any losses on Form 1040, lines 12 and 18,
- Certain nontaxable distributions from a pension, annuity, or IRA (see Pub. 596), and
- Certain amounts reported on Schedule E (see Pub. 596).

Example. You and your 5-year-old daughter moved in with your mother in April 2001. You are not a qualifying child of your mother. Your daughter meets the conditions to be a qualifying child for both you and your mother. Your modified AGI for 2001 was $8,000 and your mother's was $14,000. Because your mother's modified AGI was higher, your daughter is your mother's qualifying child. You **cannot** take any EIC even if your mother does not claim the credit. You would put "No" directly to the right of line 61a.

Salary Deferrals. Contributions from your pay to certain retirement plans, such as a 401(k) plan or the Federal Thrift Savings Plan, shown in box 12 of your W-2 form. The "Retirement plan" box in box 13 of your W-2 form should be checked.

Salary Reductions. Amounts you could have been paid but chose instead to have your employer contribute to certain benefit plans, such as a cafeteria plan. A cafeteria plan is a plan that allows you to choose to receive either cash or certain benefits that are not taxed (such as accident and health insurance).

Social Security Number (SSN). For purposes of taking the EIC, a valid SSN is a number issued by the Social Security Administration unless "Not Valid for Employment" is printed on the social security card and the number was issued solely to apply for or receive a Federally funded benefit.

To find out how to get an SSN, see page 19. If you will not have an SSN by April 15, 2002, see What if You Cannot File on Time? on page 15.

Student. A child who during any 5 months of 2001:

- Was enrolled as a full-time student at a school or
- Took a full-time, on-farm training course given by a school or a state, county, or local government agency.

A **school** includes technical, trade, and mechanical schools. It does not include on-the-job training courses, correspondence schools, or night schools.

Welfare Benefits, Effect of Credit on. Any refund you receive as a result of taking the EIC will not be used to determine if you are eligible for the following programs, or how much you can receive from them.

- Temporary Assistance for Needy Families (TANF).
- Medicaid and supplemental security income (SSI).
- Food stamps and low-income housing.

Workfare Payments. Cash payments certain people receive from a state or local agency that administers public assistance programs funded under the Federal Temporary Assistance for Needy Families (TANF) program in return for certain work activities such as:

- Work experience activities (including work associated with remodeling or repairing publicly assisted housing) if sufficient private sector employment is not available or
- Community service program activities.

Worksheet A—Earned Income Credit (EIC)—Lines 61a and 61b

Keep for Your Records

Before you begin: √ Be sure you are using the correct worksheet. **Do not** use this worksheet if you were self-employed, or you are filing Schedule SE because you had church employee income, or you are filing Schedule C or C-EZ as a statutory employee. Instead, use Worksheet B on page 46.

Part 1

All Filers Using Worksheet A

1. Enter your total earned income from Step 8, Box D, on page 43. | **1** |

2. Look up the amount on line 1 above in the EIC Table on pages 48–50 to find the credit. Enter the credit here. | **2** |

If line 2 is zero, STOP You cannot take the credit. *Put "No" directly to the right of line 61a.*

3. Enter your modified adjusted gross income from Step 6, Box A, on page 42. | **3** |

4. Are the amounts on lines 3 and 1 the same?

☐ **Yes.** *Skip line 5; enter the amount from line 2 on line 6.*

☐ **No.** *Go to line 5.*

Part 2

Filers Who Answered "No" on Line 4

5. Is the amount on line 3 less than:

- $5,950 if you do not have a qualifying child **or**
- $13,100 if you have one or more qualifying children?

☐ **Yes.** *Leave line 5 blank; enter the amount from line 2 on line 6.*

☐ **No.** Look up the amount on line 3 in the EIC Table on pages 48–50 to find the credit. Enter the credit here. | **5** |

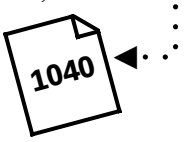
*Look at the amounts on lines 5 and 2. Then, enter the **smaller** amount on line 6.*

Part 3

Your Earned Income Credit

6. This is your earned income credit. | **6** |

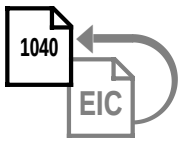
Enter this amount on Form 1040, line 61a.



Reminder—

√ Be sure you entered the amount of any nontaxable earned income (Step 7, Box B, on page 43) on Form 1040, line 61b.

√ If you have a qualifying child, complete and attach Schedule EIC.



CAUTION If your EIC for a year after 1996 was reduced or disallowed, see page 44 to find out if you must file Form 8862 to take the credit for 2001.

Need more information or forms? See page 7.

Worksheet B—Earned Income Credit (EIC)—Lines 61a and 61b

Keep for Your Records

Use this worksheet if you were self-employed, or you are filing Schedule SE because you had church employee income, or you are filing Schedule C or C-EZ as a statutory employee.

✓ Complete the parts below (Parts 1 through 3) that apply to you. Then, continue to Part 4.

✓ If you are married filing a joint return, include your spouse's amounts, if any, with yours to figure the amounts to enter in Parts 1 through 3.

Part 1

Self-Employed and People With Church Employee Income Filing Schedule SE

1a.	Enter the amount from Schedule SE, Section A, line 3, or Section B, line 3, whichever applies.		**1a**	
b.	Enter any amount from Schedule SE, Section B, line 4b, and line 5a.	+	**1b**	
c.	Add lines 1a and 1b.	=	**1c**	
d.	Enter the amount from Schedule SE, Section A, line 6, or Section B, line 13, whichever applies.	–	**1d**	
e.	Subtract line 1d from 1c.	=	**1e**	

Part 2

Self-Employed NOT Required To File Schedule SE

For example, your net earnings from self-employment were less than $400.

2. Do not include on these lines any statutory employee income or any amount exempt from self-employment tax as the result of the filing and approval of Form 4029 or Form 4361.

a.	Enter any net farm profit or (loss) from Schedule F, line 36, and from farm partnerships, Schedule K-1 (Form 1065), line 15a*.		**2a**	
b.	Enter any net profit or (loss) from Schedule C, line 31; Schedule C-EZ, line 3; Schedule K-1 (Form 1065), line 15a (other than farming); and Schedule K-1 (Form 1065-B), box 9*.	+	**2b**	
c.	Add lines 2a and 2b.	=	**2c**	

*If you have any Schedule K-1 amounts, complete the appropriate line(s) of Schedule SE, Section A. Put your name and social security number on Schedule SE and attach it to your return.

Part 3

Statutory Employees Filing Schedule C or C-EZ

3. Enter the amount from Schedule C, line 1, or Schedule C-EZ, line 1, that you are filing as a statutory employee. **3**

Part 4

All Filers Using Worksheet B

Note. If line 4d includes income on which you should have paid self-employment tax but did not, we may reduce your credit by the amount of self-employment tax not paid.

4a.	Add lines 1e, 2c, and 3.		**4a**	
b.	Enter your nontaxable earned income from Step 7, Box B, on page 43.	+	**4b**	
c.	Enter your taxable earned income from Step 7, Box C, on page 43.	+	**4c**	
d.	Add lines 4a, 4b, and 4c. **This is your total earned income.**	=	**4d**	

5. If you have:

- 2 or more qualifying children, is line 4d less than $32,121?
- 1 qualifying child, is line 4d less than $28,281?
- No qualifying children, is line 4d less than $10,710?

☐ **Yes.** If you want the IRS to figure your credit, see page 43. *If you want to figure the credit yourself, enter the amount from line 4d on line 6 (page 47).*

☐ **No.** STOP You cannot take the credit. *Put "No" directly to the right of line 61a.*

(Continued on page 47)

Worksheet B—*Continued from page 46*

Keep for Your Records

Part 5

All Filers Using Worksheet B

6. Enter your total earned income from Part 4, line 4d, on page 46. | **6** |

7. Look up the amount on line 6 above in the EIC Table on pages 48–50 to find the credit. Enter the credit here. | **7** |

If line 7 is zero, STOP You cannot take the credit.
Put "No" directly to the right of line 61a.

8. Enter your modified adjusted gross income from Step 6, Box A, on page 42. | **8** |

9. Are the amounts on lines 8 and 6 the same?

☐ **Yes.** *Skip line 10; enter the amount from line 7 on line 11.*

☐ **No.** *Go to line 10.*

10. Is the amount on line 8 less than:

- $5,950 if you do not have a qualifying child **or**
- $13,100 if you have one or more qualifying children?

☐ **Yes.** *Leave line 10 blank; enter the amount from line 7 on line 11.*

☐ **No.** Look up the amount on line 8 in the EIC Table on pages 48–50 to find the credit. Enter the credit here. | **10** |

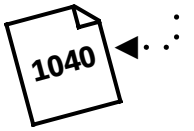
*Look at the amounts on lines 10 and 7. Then, enter the **smaller** amount on line 11.*

Part 6

Your Earned Income Credit

11. **This is your earned income credit.** | **11** |

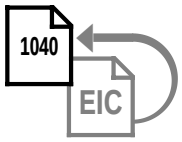
Enter this amount on Form 1040, line 61a.



Reminder—

√ Be sure you entered the amount of any nontaxable earned income (Step 7, Box B, on page 43) on Form 1040, line 61b.

√ If you have a qualifying child, complete and attach Schedule EIC.



CAUTION If your EIC for a year after 1996 was reduced or disallowed, see page 44 to find out if you must file Form 8862 to take the credit for 2001.

Need more information or forms? See page 7.

2001 Earned Income Credit (EIC) Table

CAUTION

This is **not** a tax table.

1. To find your credit, read down the "At least – But less than" columns and find the line that includes the amount you were told to look up from your EIC Worksheet.

2. Then, read across to the column that includes the number of qualifying children you have. Enter the credit from that column on your EIC Worksheet.

Example. If you have one qualifying child and the amount you are looking up from your EIC Worksheet is $4,875, you would enter $1,658.

If the amount you are looking up from the worksheet is—		And you have—		
		No children	One child	Two children
At least	But less than	Your credit is—		
4,800	4,850	364	1,641	1,930
4,850	4,900	364	1,658	1,950
4,900	4,950	364	1,675	1,970
4,950	5,000	364	1,692	1,990

If the amount you are looking up from the worksheet is—		And you have—		
		No children	One child	Two children
At least	But less than	Your credit is—		
$1	$50	$2	$9	$10
50	100	6	26	30
100	150	10	43	50
150	200	13	60	70
200	250	17	77	90
250	300	21	94	110
300	350	25	111	130
350	400	29	128	150
400	450	33	145	170
450	500	36	162	190
500	550	40	179	210
550	600	44	196	230
600	650	48	213	250
650	700	52	230	270
700	750	55	247	290
750	800	59	264	310
800	850	63	281	330
850	900	67	298	350
900	950	71	315	370
950	1,000	75	332	390
1,000	1,050	78	349	410
1,050	1,100	82	366	430
1,100	1,150	86	383	450
1,150	1,200	90	400	470
1,200	1,250	94	417	490
1,250	1,300	98	434	510
1,300	1,350	101	451	530
1,350	1,400	105	468	550
1,400	1,450	109	485	570
1,450	1,500	113	502	590
1,500	1,550	117	519	610
1,550	1,600	120	536	630
1,600	1,650	124	553	650
1,650	1,700	128	570	670
1,700	1,750	132	587	690
1,750	1,800	136	604	710
1,800	1,850	140	621	730
1,850	1,900	143	638	750
1,900	1,950	147	655	770
1,950	2,000	151	672	790
2,000	2,050	155	689	810
2,050	2,100	159	706	830
2,100	2,150	163	723	850
2,150	2,200	166	740	870
2,200	2,250	170	757	890
2,250	2,300	174	774	910
2,300	2,350	178	791	930
2,350	2,400	182	808	950
2,400	2,450	186	825	970
2,450	2,500	189	842	990
2,500	2,550	193	859	1,010
2,550	2,600	197	876	1,030
2,600	2,650	201	893	1,050
2,650	2,700	205	910	1,070
2,700	2,750	208	927	1,090
2,750	2,800	212	944	1,110
2,800	2,850	216	961	1,130
2,850	2,900	220	978	1,150
2,900	2,950	224	995	1,170
2,950	3,000	228	1,012	1,190
3,000	3,050	231	1,029	1,210
3,050	3,100	235	1,046	1,230
3,100	3,150	239	1,063	1,250
3,150	3,200	243	1,080	1,270
3,200	3,250	247	1,097	1,290
3,250	3,300	251	1,114	1,310
3,300	3,350	254	1,131	1,330
3,350	3,400	258	1,148	1,350
3,400	3,450	262	1,165	1,370
3,450	3,500	266	1,182	1,390
3,500	3,550	270	1,199	1,410
3,550	3,600	273	1,216	1,430
3,600	3,650	277	1,233	1,450
3,650	3,700	281	1,250	1,470
3,700	3,750	285	1,267	1,490
3,750	3,800	289	1,284	1,510
3,800	3,850	293	1,301	1,530
3,850	3,900	296	1,318	1,550
3,900	3,950	300	1,335	1,570
3,950	4,000	304	1,352	1,590
4,000	4,050	308	1,369	1,610
4,050	4,100	312	1,386	1,630
4,100	4,150	316	1,403	1,650
4,150	4,200	319	1,420	1,670
4,200	4,250	323	1,437	1,690
4,250	4,300	327	1,454	1,710
4,300	4,350	331	1,471	1,730
4,350	4,400	335	1,488	1,750
4,400	4,450	339	1,505	1,770
4,450	4,500	342	1,522	1,790
4,500	4,550	346	1,539	1,810
4,550	4,600	350	1,556	1,830
4,600	4,650	354	1,573	1,850
4,650	4,700	358	1,590	1,870
4,700	4,750	361	1,607	1,890
4,750	4,800	364	1,624	1,910
4,800	4,850	364	1,641	1,930
4,850	4,900	364	1,658	1,950
4,900	4,950	364	1,675	1,970
4,950	5,000	364	1,692	1,990
5,000	5,050	364	1,709	2,010
5,050	5,100	364	1,726	2,030
5,100	5,150	364	1,743	2,050
5,150	5,200	364	1,760	2,070
5,200	5,250	364	1,777	2,090
5,250	5,300	364	1,794	2,110
5,300	5,350	364	1,811	2,130
5,350	5,400	364	1,828	2,150
5,400	5,450	364	1,845	2,170
5,450	5,500	364	1,862	2,190
5,500	5,550	364	1,879	2,210
5,550	5,600	364	1,896	2,230
5,600	5,650	364	1,913	2,250
5,650	5,700	364	1,930	2,270
5,700	5,750	364	1,947	2,290
5,750	5,800	364	1,964	2,310
5,800	5,850	364	1,981	2,330
5,850	5,900	364	1,998	2,350
5,900	5,950	364	2,015	2,370
5,950	6,000	362	2,032	2,390
6,000	6,050	358	2,049	2,410
6,050	6,100	355	2,066	2,430
6,100	6,150	351	2,083	2,450
6,150	6,200	347	2,100	2,470
6,200	6,250	343	2,117	2,490
6,250	6,300	339	2,134	2,510
6,300	6,350	335	2,151	2,530
6,350	6,400	332	2,168	2,550
6,400	6,450	328	2,185	2,570
6,450	6,500	324	2,202	2,590
6,500	6,550	320	2,219	2,610
6,550	6,600	316	2,236	2,630
6,600	6,650	313	2,253	2,650
6,650	6,700	309	2,270	2,670
6,700	6,750	305	2,287	2,690
6,750	6,800	301	2,304	2,710
6,800	6,850	297	2,321	2,730
6,850	6,900	293	2,338	2,750
6,900	6,950	290	2,355	2,770
6,950	7,000	286	2,372	2,790
7,000	7,050	282	2,389	2,810
7,050	7,100	278	2,406	2,830
7,100	7,150	274	2,428	2,850
7,150	7,200	270	2,428	2,870
7,200	7,250	267	2,428	2,890
7,250	7,300	263	2,428	2,910
7,300	7,350	259	2,428	2,930
7,350	7,400	255	2,428	2,950
7,400	7,450	251	2,428	2,970
7,450	7,500	247	2,428	2,990
7,500	7,550	244	2,428	3,010
7,550	7,600	240	2,428	3,030
7,600	7,650	236	2,428	3,050
7,650	7,700	232	2,428	3,070
7,700	7,750	228	2,428	3,090
7,750	7,800	225	2,428	3,110
7,800	7,850	221	2,428	3,130
7,850	7,900	217	2,428	3,150
7,900	7,950	213	2,428	3,170
7,950	8,000	209	2,428	3,190
8,000	8,050	205	2,428	3,210
8,050	8,100	202	2,428	3,230
8,100	8,150	198	2,428	3,250
8,150	8,200	194	2,428	3,270
8,200	8,250	190	2,428	3,290
8,250	8,300	186	2,428	3,310
8,300	8,350	182	2,428	3,330
8,350	8,400	179	2,428	3,350
8,400	8,450	175	2,428	3,370
8,450	8,500	171	2,428	3,390
8,500	8,550	167	2,428	3,410
8,550	8,600	163	2,428	3,430
8,600	8,650	160	2,428	3,450
8,650	8,700	156	2,428	3,470
8,700	8,750	152	2,428	3,490
8,750	8,800	148	2,428	3,510

(Continued on page 49)

2001 Earned Income Credit (EIC) Table *Continued* (**Caution.** This is **not** a tax table.)

If the amount you are looking up from the worksheet is—		And you have—			If the amount you are looking up from the worksheet is—		And you have—			If the amount you are looking up from the worksheet is—		And you have—			If the amount you are looking up from the worksheet is—		And you have—		
		No children	One child	Two children			No children	One child	Two children			No children	One child	Two children			No children	One child	Two children
At least	But less than	Your credit is—			At least	But less than	Your credit is—			At least	But less than	Your credit is—			At least	But less than	Your credit is—		
8,800	**8,850**	144	2,428	3,530	**13,900**	**13,950**	0	2,294	3,832	**16,700**	**16,750**	0	1,847	3,242	**19,500**	**19,550**	0	1,399	2,653
8,850	**8,900**	140	2,428	3,550	**13,950**	**14,000**	0	2,286	3,822	**16,750**	**16,800**	0	1,839	3,232	**19,550**	**19,600**	0	1,391	2,642
8,900	**8,950**	137	2,428	3,570	**14,000**	**14,050**	0	2,278	3,811	**16,800**	**16,850**	0	1,831	3,221	**19,600**	**19,650**	0	1,383	2,632
8,950	**9,000**	133	2,428	3,590	**14,050**	**14,100**	0	2,270	3,801	**16,850**	**16,900**	0	1,823	3,211	**19,650**	**19,700**	0	1,375	2,621
9,000	**9,050**	129	2,428	3,610	**14,100**	**14,150**	0	2,262	3,790	**16,900**	**16,950**	0	1,815	3,200	**19,700**	**19,750**	0	1,367	2,611
9,050	**9,100**	125	2,428	3,630	**14,150**	**14,200**	0	2,254	3,779	**16,950**	**17,000**	0	1,807	3,190	**19,750**	**19,800**	0	1,359	2,600
9,100	**9,150**	121	2,428	3,650	**14,200**	**14,250**	0	2,246	3,769	**17,000**	**17,050**	0	1,799	3,179	**19,800**	**19,850**	0	1,351	2,590
9,150	**9,200**	117	2,428	3,670	**14,250**	**14,300**	0	2,238	3,758	**17,050**	**17,100**	0	1,791	3,169	**19,850**	**19,900**	0	1,343	2,579
9,200	**9,250**	114	2,428	3,690	**14,300**	**14,350**	0	2,230	3,748	**17,100**	**17,150**	0	1,783	3,158	**19,900**	**19,950**	0	1,335	2,569
9,250	**9,300**	110	2,428	3,710	**14,350**	**14,400**	0	2,222	3,737	**17,150**	**17,200**	0	1,775	3,148	**19,950**	**20,000**	0	1,327	2,558
9,300	**9,350**	106	2,428	3,730	**14,400**	**14,450**	0	2,214	3,727	**17,200**	**17,250**	0	1,767	3,137	**20,000**	**20,050**	0	1,319	2,547
9,350	**9,400**	102	2,428	3,750	**14,450**	**14,500**	0	2,206	3,716	**17,250**	**17,300**	0	1,759	3,127	**20,050**	**20,100**	0	1,311	2,537
9,400	**9,450**	98	2,428	3,770	**14,500**	**14,550**	0	2,198	3,706	**17,300**	**17,350**	0	1,751	3,116	**20,100**	**20,150**	0	1,303	2,526
9,450	**9,500**	94	2,428	3,790	**14,550**	**14,600**	0	2,190	3,695	**17,350**	**17,400**	0	1,743	3,106	**20,150**	**20,200**	0	1,295	2,516
9,500	**9,550**	91	2,428	3,810	**14,600**	**14,650**	0	2,182	3,685	**17,400**	**17,450**	0	1,735	3,095	**20,200**	**20,250**	0	1,287	2,505
9,550	**9,600**	87	2,428	3,830	**14,650**	**14,700**	0	2,174	3,674	**17,450**	**17,500**	0	1,727	3,085	**20,250**	**20,300**	0	1,279	2,495
9,600	**9,650**	83	2,428	3,850	**14,700**	**14,750**	0	2,166	3,664	**17,500**	**17,550**	0	1,719	3,074	**20,300**	**20,350**	0	1,271	2,484
9,650	**9,700**	79	2,428	3,870	**14,750**	**14,800**	0	2,158	3,653	**17,550**	**17,600**	0	1,711	3,063	**20,350**	**20,400**	0	1,263	2,474
9,700	**9,750**	75	2,428	3,890	**14,800**	**14,850**	0	2,150	3,643	**17,600**	**17,650**	0	1,703	3,053	**20,400**	**20,450**	0	1,255	2,463
9,750	**9,800**	72	2,428	3,910	**14,850**	**14,900**	0	2,142	3,632	**17,650**	**17,700**	0	1,695	3,042	**20,450**	**20,500**	0	1,247	2,453
9,800	**9,850**	68	2,428	3,930	**14,900**	**14,950**	0	2,134	3,622	**17,700**	**17,750**	0	1,687	3,032	**20,500**	**20,550**	0	1,239	2,442
9,850	**9,900**	64	2,428	3,950	**14,950**	**15,000**	0	2,126	3,611	**17,750**	**17,800**	0	1,679	3,021	**20,550**	**20,600**	0	1,231	2,432
9,900	**9,950**	60	2,428	3,970	**15,000**	**15,050**	0	2,118	3,600	**17,800**	**17,850**	0	1,671	3,011	**20,600**	**20,650**	0	1,224	2,421
9,950	**10,000**	56	2,428	3,990	**15,050**	**15,100**	0	2,110	3,590	**17,850**	**17,900**	0	1,663	3,000	**20,650**	**20,700**	0	1,216	2,411
10,000	**10,050**	52	2,428	4,008	**15,100**	**15,150**	0	2,102	3,579	**17,900**	**17,950**	0	1,655	2,990	**20,700**	**20,750**	0	1,208	2,400
10,050	**10,100**	49	2,428	4,008	**15,150**	**15,200**	0	2,094	3,569	**17,950**	**18,000**	0	1,647	2,979	**20,750**	**20,800**	0	1,200	2,390
10,100	**10,150**	45	2,428	4,008	**15,200**	**15,250**	0	2,086	3,558	**18,000**	**18,050**	0	1,639	2,969	**20,800**	**20,850**	0	1,192	2,379
10,150	**10,200**	41	2,428	4,008	**15,250**	**15,300**	0	2,078	3,548	**18,050**	**18,100**	0	1,631	2,958	**20,850**	**20,900**	0	1,184	2,368
10,200	**10,250**	37	2,428	4,008	**15,300**	**15,350**	0	2,070	3,537	**18,100**	**18,150**	0	1,623	2,948	**20,900**	**20,950**	0	1,176	2,358
10,250	**10,300**	33	2,428	4,008	**15,350**	**15,400**	0	2,062	3,527	**18,150**	**18,200**	0	1,615	2,937	**20,950**	**21,000**	0	1,168	2,347
10,300	**10,350**	29	2,428	4,008	**15,400**	**15,450**	0	2,054	3,516	**18,200**	**18,250**	0	1,607	2,927	**21,000**	**21,050**	0	1,160	2,337
10,350	**10,400**	26	2,428	4,008	**15,450**	**15,500**	0	2,046	3,506	**18,250**	**18,300**	0	1,599	2,916	**21,050**	**21,100**	0	1,152	2,326
10,400	**10,450**	22	2,428	4,008	**15,500**	**15,550**	0	2,038	3,495	**18,300**	**18,350**	0	1,591	2,906	**21,100**	**21,150**	0	1,144	2,316
10,450	**10,500**	18	2,428	4,008	**15,550**	**15,600**	0	2,030	3,485	**18,350**	**18,400**	0	1,583	2,895	**21,150**	**21,200**	0	1,136	2,305
10,500	**10,550**	14	2,428	4,008	**15,600**	**15,650**	0	2,023	3,474	**18,400**	**18,450**	0	1,575	2,884	**21,200**	**21,250**	0	1,128	2,295
10,550	**10,600**	10	2,428	4,008	**15,650**	**15,700**	0	2,015	3,464	**18,450**	**18,500**	0	1,567	2,874	**21,250**	**21,300**	0	1,120	2,284
10,600	**10,650**	7	2,428	4,008	**15,700**	**15,750**	0	2,007	3,453	**18,500**	**18,550**	0	1,559	2,863	**21,300**	**21,350**	0	1,112	2,274
10,650	**10,700**	3	2,428	4,008	**15,750**	**15,800**	0	1,999	3,443	**18,550**	**18,600**	0	1,551	2,853	**21,350**	**21,400**	0	1,104	2,263
10,700	**10,750**	*	2,428	4,008	**15,800**	**15,850**	0	1,991	3,432	**18,600**	**18,650**	0	1,543	2,842	**21,400**	**21,450**	0	1,096	2,253
10,750	**13,100**	0	2,428	4,008	**15,850**	**15,900**	0	1,983	3,421	**18,650**	**18,700**	0	1,535	2,832	**21,450**	**21,500**	0	1,088	2,242
13,100	**13,150**	0	2,422	4,001	**15,900**	**15,950**	0	1,975	3,411	**18,700**	**18,750**	0	1,527	2,821	**21,500**	**21,550**	0	1,080	2,232
13,150	**13,200**	0	2,414	3,990	**15,950**	**16,000**	0	1,967	3,400	**18,750**	**18,800**	0	1,519	2,811	**21,550**	**21,600**	0	1,072	2,221
13,200	**13,250**	0	2,406	3,980	**16,000**	**16,050**	0	1,959	3,390	**18,800**	**18,850**	0	1,511	2,800	**21,600**	**21,650**	0	1,064	2,211
13,250	**13,300**	0	2,398	3,969	**16,050**	**16,100**	0	1,951	3,379	**18,850**	**18,900**	0	1,503	2,790	**21,650**	**21,700**	0	1,056	2,200
13,300	**13,350**	0	2,390	3,959	**16,100**	**16,150**	0	1,943	3,369	**18,900**	**18,950**	0	1,495	2,779	**21,700**	**21,750**	0	1,048	2,189
13,350	**13,400**	0	2,382	3,948	**16,150**	**16,200**	0	1,935	3,358	**18,950**	**19,000**	0	1,487	2,769	**21,750**	**21,800**	0	1,040	2,179
13,400	**13,450**	0	2,374	3,937	**16,200**	**16,250**	0	1,927	3,348	**19,000**	**19,050**	0	1,479	2,758	**21,800**	**21,850**	0	1,032	2,168
13,450	**13,500**	0	2,366	3,927	**16,250**	**16,300**	0	1,919	3,337	**19,050**	**19,100**	0	1,471	2,748	**21,850**	**21,900**	0	1,024	2,158
13,500	**13,550**	0	2,358	3,916	**16,300**	**16,350**	0	1,911	3,327	**19,100**	**19,150**	0	1,463	2,737	**21,900**	**21,950**	0	1,016	2,147
13,550	**13,600**	0	2,350	3,906	**16,350**	**16,400**	0	1,903	3,316	**19,150**	**19,200**	0	1,455	2,726	**21,950**	**22,000**	0	1,008	2,137
13,600	**13,650**	0	2,342	3,895	**16,400**	**16,450**	0	1,895	3,306	**19,200**	**19,250**	0	1,447	2,716	**22,000**	**22,050**	0	1,000	2,126
13,650	**13,700**	0	2,334	3,885	**16,450**	**16,500**	0	1,887	3,295	**19,250**	**19,300**	0	1,439	2,705	**22,050**	**22,100**	0	992	2,116
13,700	**13,750**	0	2,326	3,874	**16,500**	**16,550**	0	1,879	3,285	**19,300**	**19,350**	0	1,431	2,695	**22,100**	**22,150**	0	984	2,105
13,750	**13,800**	0	2,318	3,864	**16,550**	**16,600**	0	1,871	3,274	**19,350**	**19,400**	0	1,423	2,684	**22,150**	**22,200**	0	976	2,095
13,800	**13,850**	0	2,310	3,853	**16,600**	**16,650**	0	1,863	3,264	**19,400**	**19,450**	0	1,415	2,674	**22,200**	**22,250**	0	968	2,084
13,850	**13,900**	0	2,302	3,843	**16,650**	**16,700**	0	1,855	3,253	**19,450**	**19,500**	0	1,407	2,663	**22,250**	**22,300**	0	960	2,074

*If the amount you are looking up from the worksheet is at least $10,700 but less than $10,710, your credit is $1. Otherwise, you cannot take the credit.

(Continued on page 50)

Need more information or forms? See page 7.

2001 Earned Income Credit (EIC) Table *Continued* (**Caution.** This is **not** a tax table.)

If the amount you are looking up from the worksheet is—		And you have—			If the amount you are looking up from the worksheet is—		And you have—			If the amount you are looking up from the worksheet is—		And you have—			If the amount you are looking up from the worksheet is—		And you have—		
		No children	One child	Two children			No children	One child	Two children			No children	One child	Two children			No children	One child	Two children
At least	But less than	Your credit is—			At least	But less than	Your credit is—			At least	But less than	Your credit is—			At least	But less than	Your credit is—		
22,300	**22,350**	0	952	2,063	**24,900**	**24,950**	0	536	1,516	**27,500**	**27,550**	0	121	968	**30,100**	**30,150**	0	0	420
22,350	**22,400**	0	944	2,053	**24,950**	**25,000**	0	528	1,505	**27,550**	**27,600**	0	113	957	**30,150**	**30,200**	0	0	410
22,400	**22,450**	0	936	2,042	**25,000**	**25,050**	0	520	1,494	**27,600**	**27,650**	0	105	947	**30,200**	**30,250**	0	0	399
22,450	**22,500**	0	928	2,032	**25,050**	**25,100**	0	512	1,484	**27,650**	**27,700**	0	97	936	**30,250**	**30,300**	0	0	389
22,500	**22,550**	0	920	2,021	**25,100**	**25,150**	0	504	1,473	**27,700**	**27,750**	0	89	926	**30,300**	**30,350**	0	0	378
22,550	**22,600**	0	912	2,010	**25,150**	**25,200**	0	496	1,463	**27,750**	**27,800**	0	81	915	**30,350**	**30,400**	0	0	368
22,600	**22,650**	0	904	2,000	**25,200**	**25,250**	0	488	1,452	**27,800**	**27,850**	0	73	905	**30,400**	**30,450**	0	0	357
22,650	**22,700**	0	896	1,989	**25,250**	**25,300**	0	480	1,442	**27,850**	**27,900**	0	65	894	**30,450**	**30,500**	0	0	347
22,700	**22,750**	0	888	1,979	**25,300**	**25,350**	0	472	1,431	**27,900**	**27,950**	0	57	884	**30,500**	**30,550**	0	0	336
22,750	**22,800**	0	880	1,968	**25,350**	**25,400**	0	464	1,421	**27,950**	**28,000**	0	49	873	**30,550**	**30,600**	0	0	326
22,800	**22,850**	0	872	1,958	**25,400**	**25,450**	0	456	1,410	**28,000**	**28,050**	0	41	863	**30,600**	**30,650**	0	0	315
22,850	**22,900**	0	864	1,947	**25,450**	**25,500**	0	448	1,400	**28,050**	**28,100**	0	33	852	**30,650**	**30,700**	0	0	305
22,900	**22,950**	0	856	1,937	**25,500**	**25,550**	0	440	1,389	**28,100**	**28,150**	0	25	842	**30,700**	**30,750**	0	0	294
22,950	**23,000**	0	848	1,926	**25,550**	**25,600**	0	432	1,379	**28,150**	**28,200**	0	17	831	**30,750**	**30,800**	0	0	284
23,000	**23,050**	0	840	1,916	**25,600**	**25,650**	0	425	1,368	**28,200**	**28,250**	0	9	821	**30,800**	**30,850**	0	0	273
23,050	**23,100**	0	832	1,905	**25,650**	**25,700**	0	417	1,358	**28,250**	**28,300**	0	**	810	**30,850**	**30,900**	0	0	262
23,100	**23,150**	0	824	1,895	**25,700**	**25,750**	0	409	1,347	**28,300**	**28,350**	0	0	800	**30,900**	**30,950**	0	0	252
23,150	**23,200**	0	816	1,884	**25,750**	**25,800**	0	401	1,337	**28,350**	**28,400**	0	0	789	**30,950**	**31,000**	0	0	241
23,200	**23,250**	0	808	1,874	**25,800**	**25,850**	0	393	1,326	**28,400**	**28,450**	0	0	778	**31,000**	**31,050**	0	0	231
23,250	**23,300**	0	800	1,863	**25,850**	**25,900**	0	385	1,315	**28,450**	**28,500**	0	0	768	**31,050**	**31,100**	0	0	220
23,300	**23,350**	0	792	1,853	**25,900**	**25,950**	0	377	1,305	**28,500**	**28,550**	0	0	757	**31,100**	**31,150**	0	0	210
23,350	**23,400**	0	784	1,842	**25,950**	**26,000**	0	369	1,294	**28,550**	**28,600**	0	0	747	**31,150**	**31,200**	0	0	199
23,400	**23,450**	0	776	1,831	**26,000**	**26,050**	0	361	1,284	**28,600**	**28,650**	0	0	736	**31,200**	**31,250**	0	0	189
23,450	**23,500**	0	768	1,821	**26,050**	**26,100**	0	353	1,273	**28,650**	**28,700**	0	0	726	**31,250**	**31,300**	0	0	178
23,500	**23,550**	0	760	1,810	**26,100**	**26,150**	0	345	1,263	**28,700**	**28,750**	0	0	715	**31,300**	**31,350**	0	0	168
23,550	**23,600**	0	752	1,800	**26,150**	**26,200**	0	337	1,252	**28,750**	**28,800**	0	0	705	**31,350**	**31,400**	0	0	157
23,600	**23,650**	0	744	1,789	**26,200**	**26,250**	0	329	1,242	**28,800**	**28,850**	0	0	694	**31,400**	**31,450**	0	0	147
23,650	**23,700**	0	736	1,779	**26,250**	**26,300**	0	321	1,231	**28,850**	**28,900**	0	0	684	**31,450**	**31,500**	0	0	136
23,700	**23,750**	0	728	1,768	**26,300**	**26,350**	0	313	1,221	**28,900**	**28,950**	0	0	673	**31,500**	**31,550**	0	0	126
23,750	**23,800**	0	720	1,758	**26,350**	**26,400**	0	305	1,210	**28,950**	**29,000**	0	0	663	**31,550**	**31,600**	0	0	115
23,800	**23,850**	0	712	1,747	**26,400**	**26,450**	0	297	1,200	**29,000**	**29,050**	0	0	652	**31,600**	**31,650**	0	0	105
23,850	**23,900**	0	704	1,737	**26,450**	**26,500**	0	289	1,189	**29,050**	**29,100**	0	0	642	**31,650**	**31,700**	0	0	94
23,900	**23,950**	0	696	1,726	**26,500**	**26,550**	0	281	1,179	**29,100**	**29,150**	0	0	631	**31,700**	**31,750**	0	0	83
23,950	**24,000**	0	688	1,716	**26,550**	**26,600**	0	273	1,168	**29,150**	**29,200**	0	0	620	**31,750**	**31,800**	0	0	73
24,000	**24,050**	0	680	1,705	**26,600**	**26,650**	0	265	1,158	**29,200**	**29,250**	0	0	610	**31,800**	**31,850**	0	0	62
24,050	**24,100**	0	672	1,695	**26,650**	**26,700**	0	257	1,147	**29,250**	**29,300**	0	0	599	**31,850**	**31,900**	0	0	52
24,100	**24,150**	0	664	1,684	**26,700**	**26,750**	0	249	1,136	**29,300**	**29,350**	0	0	589	**31,900**	**31,950**	0	0	41
24,150	**24,200**	0	656	1,673	**26,750**	**26,800**	0	241	1,126	**29,350**	**29,400**	0	0	578	**31,950**	**32,000**	0	0	31
24,200	**24,250**	0	648	1,663	**26,800**	**26,850**	0	233	1,115	**29,400**	**29,450**	0	0	568	**32,000**	**32,050**	0	0	20
24,250	**24,300**	0	640	1,652	**26,850**	**26,900**	0	225	1,105	**29,450**	**29,500**	0	0	557	**32,050**	**32,100**	0	0	10
24,300	**24,350**	0	632	1,642	**26,900**	**26,950**	0	217	1,094	**29,500**	**29,550**	0	0	547	**32,100**	**32,121**	0	0	2
24,350	**24,400**	0	624	1,631	**26,950**	**27,000**	0	209	1,084	**29,550**	**29,600**	0	0	536	**32,121 or more**		0	0	0
24,400	**24,450**	0	616	1,621	**27,000**	**27,050**	0	201	1,073	**29,600**	**29,650**	0	0	526					
24,450	**24,500**	0	608	1,610	**27,050**	**27,100**	0	193	1,063	**29,650**	**29,700**	0	0	515					
24,500	**24,550**	0	600	1,600	**27,100**	**27,150**	0	185	1,052	**29,700**	**29,750**	0	0	505					
24,550	**24,600**	0	592	1,589	**27,150**	**27,200**	0	177	1,042	**29,750**	**29,800**	0	0	494					
24,600	**24,650**	0	584	1,579	**27,200**	**27,250**	0	169	1,031	**29,800**	**29,850**	0	0	484					
24,650	**24,700**	0	576	1,568	**27,250**	**27,300**	0	161	1,021	**29,850**	**29,900**	0	0	473					
24,700	**24,750**	0	568	1,558	**27,300**	**27,350**	0	153	1,010	**29,900**	**29,950**	0	0	463					
24,750	**24,800**	0	560	1,547	**27,350**	**27,400**	0	145	1,000	**29,950**	**30,000**	0	0	452					
24,800	**24,850**	0	552	1,537	**27,400**	**27,450**	0	137	989	**30,000**	**30,050**	0	0	441					
24,850	**24,900**	0	544	1,526	**27,450**	**27,500**	0	129	979	**30,050**	**30,100**	0	0	431					

**If the amount you are looking up from the worksheet is at least $28,250 but less than $28,281, your credit is $3. Otherwise, you cannot take the credit.

Line 62

Excess Social Security and RRTA Tax Withheld

If you, or your spouse if filing a joint return, had more than one employer for 2001 and total wages of more than $80,400, too much social security tax may have been withheld. You can take a credit on this line for the amount withheld in excess of $4,984.80. But if any one employer withheld more than $4,984.80, you must ask that employer to refund the excess to you. You cannot claim it on your return. Figure this amount separately for you and your spouse.

If you had more than one railroad employer for 2001 and your total compensation was over $59,700, too much railroad retirement (RRTA) tax may have been withheld.

For more details, see **Pub. 505.**

Line 63

Additional Child Tax Credit

What Is the Additional Child Tax Credit?

This credit is for certain people who have at least one qualifying child as defined in the instructions for line 6c, column (4), on page 20. The additional child tax credit may give you a refund even if you do not owe any tax.

Two Steps To Take the Additional Child Tax Credit!

Step 1. Be sure you figured the amount, if any, of your child tax credit. See the instructions for line 48 that begin on page 37.

Step 2. Read the **TIP** at the end of your Child Tax Credit Worksheet. Use Form 8812 to see if you can take the additional child tax credit only if you meet the condition given in that TIP.

Line 64

Amount Paid With Request for Extension To File

If you filed **Form 4868** to get an automatic extension of time to file Form 1040, enter any amount you paid with that form or by electronic funds withdrawal or credit card. If you paid by credit card, do not include on line 64 the convenience fee you were charged. Also, include any amounts paid with **Form 2688** or **2350.**

Line 65

Other Payments

Check the box(es) on line 65 to report any credit from **Form 2439** or **4136.**

Refund

Line 67

Amount Overpaid

If line 67 is under $1, we will send a refund only on written request.

If you want to check the status of your refund, please wait at least 4 weeks from the date you filed your return to do so. See page 11 for details.

If the amount you overpaid is large, you may want to decrease the amount of income tax withheld from your pay by filing a new **Form W-4.** See **Income Tax Withholding and Estimated Tax Payments for 2002** on page 54.

Refund Offset

If you owe past-due Federal tax, state income tax, child support, spousal support, or certain Federal nontax debts, such as student loans, all or part of the overpayment on line 67 may be used (offset) to pay the past-due amount. Offsets for Federal taxes are made by the IRS. All other offsets are made by the Treasury Department's Financial Management Service (FMS). You will receive a notice from FMS showing the amount of the offset and the agency receiving it. To find out if you may have an offset or if you have any questions about it, contact the agency(ies) you owe the debt to.

Injured Spouse Claim

If you file a joint return and your spouse has not paid past-due Federal tax, state income tax, child support, spousal support, or a Federal nontax debt, such as a student loan, part or all of the overpayment on line 67 may be used (offset) to pay the past-due amount. But **your** part of the overpayment may be refunded to you after the offset occurs if certain conditions apply and you complete **Form 8379.** For details, use TeleTax topic 203 (see page 11) or see Form 8379.

Lines 68b Through 68d

Direct Deposit of Refund

Complete lines 68b through 68d if you want us to directly deposit the amount shown on line 68a into your account at a bank or other financial institution (such as a mutual fund, brokerage firm, or credit union) instead of sending you a check.

Why Use Direct Deposit?

- You get your refund fast—even faster if you *e-file!*
- Payment is more secure—there is no check to get lost.
- More convenient. No trip to the bank to deposit your check.
- Saves tax dollars. A refund by direct deposit costs less than a check.

You can check with your financial institution to make sure your deposit will be accepted and to get the correct routing and account numbers. The IRS is not responsible for a lost refund if you enter the wrong account information.

If you file a joint return and fill in lines 68b through 68d, you are appointing your spouse as an agent to receive the refund. This appointment cannot be changed later.

Line 68b

The routing number **must** be **nine** digits. The first two digits must be 01 through 12 or 21 through 32. Otherwise, the direct deposit will be rejected and a check sent instead. On the sample check on page 52, the routing number is 250250025.

Your check may state that it is payable through a financial institution different from the one at which you have your checking account. If so, **do not** use the routing number on that check. Instead, contact your financial institution for the correct routing number to enter on line 68b.

Line 68d

The account number can be up to 17 characters (both numbers and letters). Include hyphens but omit spaces and special symbols. Enter the number from left to right and leave any unused boxes blank. On the sample check on page 52, the account number is 20202086. Be sure **not** to include the check number.

(Continued on page 52)

Need more information or forms? See page 7.

CAUTION Some financial institutions will not allow a joint refund to be deposited into an individual account. If the direct deposit is rejected, a check will be sent instead. The IRS is not responsible if a financial institution rejects a direct deposit.

Line 69

Applied to Your 2002 Estimated Tax

Enter on line 69 the amount, if any, of the overpayment on line 67 you want applied to your 2002 estimated tax. We will apply this amount to your account unless you attach a statement requesting us to apply it to your spouse's account. Include your spouse's social security number in the attached statement.

CAUTION This election to apply part or all of the amount overpaid to your 2002 estimated tax cannot be changed later.

Amount You Owe

Line 70

Amount You Owe

TIP You do not have to pay if line 70 is under $1.

Include any estimated tax penalty from line 71 in the amount you enter on line 70.

You can pay by check, money order, or credit card. **Do not** include any estimated tax payment in your check, money order, or amount you charge. Instead, make the estimated tax payment separately.

To Pay by Check or Money Order. Make your check or money order payable to the **"United States Treasury"** for the full amount due. **Do not** send cash. **Do not** attach the payment to your return. Write "2001 Form 1040" and your name, address, daytime phone number, and social security number (SSN) on your payment. If you are filing a joint return, enter the SSN shown first on your tax return.

To help us process your payment, enter the amount on the right side of the check like this: $ XXX.XX. Do not use dashes or lines (for example, do not enter "$ XXX–" or "$ XXX $\frac{XX}{100}$").

Then, please complete **Form 1040-V** following the instructions on that form and enclose it in the envelope with your tax return and payment. Although you do not have to use Form 1040-V, doing so allows us to process your payment more accurately and efficiently.

To Pay by Credit Card. You may use your American Express® Card, Discover® Card, or MasterCard® card. To pay by credit card, call toll free or access by Internet one of the service providers listed on this page and follow the instructions. A convenience fee will be charged by the service provider based on the amount you are paying. Fees may vary between the providers. You will be told what the fee is during the transaction and you will have the option to either continue or cancel the transaction. You can also find out what the fee will be by calling the provider's toll-free automated customer service number or visiting the provider's Web Site shown below. **If you paid by credit card,** enter on page 1 of Form 1040 in the upper left corner the confirmation number you were given at the end of the transaction and the amount you charged (not including the convenience fee).

PhoneCharge, Inc.
1-888-ALLTAXX (1-888-255-8299)
1-877-851-9964 (Customer Service)
www.1888ALLTAXX.com

Official Payments Corporation
1-800-2PAY-TAX (1-800-272-9829)
1-877-754-4413 (Customer Service)
www.officialpayments.com

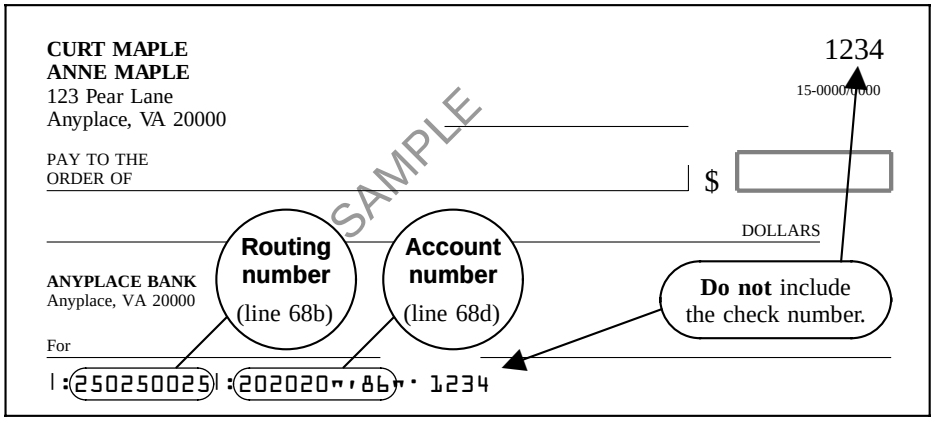
TIP You may need to **(a)** increase the amount of income tax withheld from your pay by filing a new **Form W-4** or **(b)** make estimated tax payments for 2002. See **Income Tax Withholding and Estimated Tax Payments for 2002** on page 54.

What if You Cannot Pay?

If you cannot pay the full amount shown on line 70 when you file, you may ask to make monthly **installment payments.** You may have up to 60 months to pay. However, you will be charged interest and may be charged a late payment penalty on the tax not paid by April 15, 2002, even if your request to pay in installments is granted. You must also pay a fee. To limit the interest and penalty charges, pay as much of the tax as possible when you file. But before requesting an installment agreement, you should consider other less costly alternatives, such as a bank loan.

To ask for an installment agreement, use **Form 9465.** You should receive a response to your request for installments within 30 days. But if you file your return after March 31, it may take us longer to reply.

Sample Check—Lines 68b Through 68d



Note. The routing and account numbers may be in different places on your check.

Line 71

Estimated Tax Penalty

CAUTION You must include household employment taxes reported on line 57 to see if you owe the penalty if line 59 is more than zero **or** you would owe the penalty even if you did not include those taxes. But if you entered an amount on Schedule H, line 7, include the total of that amount plus the amount on Form 1040, line 57.

(Continued on page 53)

You may owe this penalty if:

- Line 70 is at least $1,000 and it is more than 10% of the tax shown on your return or
- You did not pay enough estimated tax by any of the due dates. This is true even if you are due a refund.

For most people, the "tax shown on your return" is the amount on line 58 minus the total of any amounts shown on lines 61a and 63 and Forms 8828, 4137, 4136, and 5329 (Parts III, IV, V, VI, and VII only).

Exception. You will not owe the penalty if your 2000 tax return was for a tax year of 12 full months **and either** of the following applies.

1. You had no tax liability for 2000 and you were a U.S. citizen or resident for all of 2000 **or**

2. The total of lines 59, 60, and 62 on your 2001 return is at least as much as the tax liability shown on your 2000 return. Your estimated tax payments for 2001 must have been made on time and for the required amount.

If your 2000 adjusted gross income was over $150,000 (over $75,000 if your 2001 filing status is married filing separately), item **2** above applies only if the total of lines 59, 60, and 62 on your 2001 return is at least 110% of the tax liability shown on your 2000 return. This rule does not apply to farmers and fishermen.

Figuring the Penalty

If the **Exception** above does not apply and you choose to figure the penalty yourself, see **Form 2210** (or **2210-F** for farmers and fishermen) to find out if you owe the penalty. If you do, you can use the form to figure the amount. In certain situations, you may be able to lower your penalty. For details, see the Instructions for Form 2210 (or 2210-F).

Enter the penalty on line 71. Add the penalty to any tax due and enter the total on line 70. If you are due a refund, subtract the penalty from the overpayment you show on line 67. **Do not** file Form 2210 with your return unless Form 2210 indicates that you must do so. Instead, keep it for your records.

Because Form 2210 is complicated, if you want to, you can leave line 71 blank and the IRS will figure the penalty and send you a bill. We will not charge you interest on the penalty if you pay by the date specified on the bill.

Third Party Designee

If you want to allow a friend, family member, or any other person you choose to discuss your 2001 tax return with the IRS, check the "Yes" box in the "Third Party Designee" area of your return. Also, enter the designee's name, phone number, and any five numbers the designee chooses as his or her personal identification number (PIN). **But** if you want to allow the paid preparer who signed your return to discuss it with the IRS, just enter "Preparer" in the space for the designee's name. You do not have to provide the other information requested.

If you check the "Yes" box, you, and your spouse if filing a joint return, are authorizing the IRS to call the designee to answer any questions that may arise during the processing of your return. You are also authorizing the designee to:

- Give the IRS any information that is missing from your return,
- Call the IRS for information about the processing of your return or the status of your refund or payment(s), and
- Respond to certain IRS notices that you have shared with the designee about math errors, offsets, and return preparation. The notices will not be sent to the designee.

You are not authorizing the designee to receive any refund check, bind you to anything (including any additional tax liability), or otherwise represent you before the IRS. If you want to expand the designee's authorization, see **Pub. 947.**

The authorization cannot be revoked. However, the authorization will automatically end no later than the due date (without regard to extensions) for filing your 2002 tax return. This is April 15, 2003, for most people.

Sign Your Return

Form 1040 is not considered a valid return unless you sign it. If you are filing a joint return, your spouse must also sign. If your spouse cannot sign the return, see **Pub. 501.** If you have someone prepare your return, you are still responsible for the correctness of the return. If you are filing a joint return as a surviving spouse, see **Death of a Taxpayer** on page 55.

Child's Return

If your child cannot sign the return, either parent may sign the child's name in the space provided. Then, add "By (your signature), parent for minor child."

Daytime Phone Number

Providing your daytime phone number may help speed the processing of your return. We may have questions about items on your return, such as the earned income credit, credit for child and dependent care expenses, etc. By answering our questions over the phone, we may be able to continue processing your return without mailing you a letter. If you are filing a joint return, you may enter either your or your spouse's daytime phone number.

Paid Preparer Must Sign Your Return

Generally, anyone you pay to prepare your return must sign it by hand in the space provided. Signature stamps or labels cannot be used. The preparer must give you a copy of the return for your records. Someone who prepares your return but does not charge you should not sign your return.

Assemble Your Return

Assemble any schedules and forms behind Form 1040 in order of the "Attachment Sequence No." shown in the upper right corner of the schedule or form. If you have supporting statements, arrange them in the same order as the schedules or forms they support and attach them last. **Do not** attach correspondence or other items unless required to do so. Attach a copy of Forms W-2, W-2G, and 2439 to the front of Form 1040. Also attach Form(s) 1099-R to the front of Form 1040 if tax was withheld.

Need more information or forms? See page 7.

General Information

How To Avoid Common Mistakes

Mistakes may delay your refund or result in notices being sent to you.

1. Make sure you entered the correct name and social security number (SSN) for each dependent you claim on line 6c. Also, make sure you check the box in column (4) of line 6c for each dependent under age 17 who is also a qualifying child for the child tax credit.

2. Check your math, especially for the child tax credit, earned income credit, taxable social security benefits, total income, itemized deductions or standard deduction, deduction for exemptions, taxable income, total tax, Federal income tax withheld, and refund or amount you owe.

3. Be sure you use the correct method to figure your tax. See the instructions for line 40 that begin on page 33.

4. Be sure to enter your SSN in the space provided on page 1 of Form 1040. If you are married filing a joint or separate return, also enter your spouse's SSN. Be sure to enter your SSN in the space next to your name.

5. Make sure your name and address are correct on the peel-off label. If not, enter the correct information. If you did not get a peel-off label, enter your (and your spouse's) name in the same order as shown on your last return.

6. If you are taking the standard deduction and you checked any box on line 35a or you (or your spouse if filing jointly) can be claimed as a dependent on someone else's 2001 return, see page 31 to be sure you entered the correct amount on line 36.

7. If you received capital gain distributions but were not required to file Schedule D, make sure you check the box on line 13.

8. Remember to **sign** and date Form 1040 and enter your occupation.

9. Attach your W-2 form(s) and other required forms and schedules. Put all forms and schedules in the proper order. See **Assemble Your Return** on page 53.

10. If you owe tax and are paying by check or money order, be sure to include all the required information on your payment. See the instructions for line 70 on page 52 for details.

What Are Your Rights as a Taxpayer?

You have the right to be treated fairly, professionally, promptly, and courteously by IRS employees. Our goal at the IRS is to protect your rights so that you will have the highest confidence in the integrity, efficiency, and fairness of our tax system. To ensure that you always receive such treatment, you should know about the many rights you have at each step of the tax process. For details, see **Pub. 1.**

Innocent Spouse Relief

You may qualify for relief from liability for tax on a joint return if **(a)** there is an understatement of tax because your spouse omitted income or claimed false deductions or credits, **(b)** you are divorced, separated, or no longer living with your spouse, **or (c)** given all the facts and circumstances, it would not be fair to hold you liable. See **Form 8857** or **Pub. 971** for more details.

Income Tax Withholding and Estimated Tax Payments for 2002

If the amount you owe or the amount you overpaid is large, you may want to file a new **Form W-4** with your employer to change the amount of income tax withheld from your 2002 pay. For details on how to complete Form W-4, see **Pub. 919** or visit the IRS Web Site at www.irs.gov/prod/ind_info/webw4/index.html.

In general, you do not have to make estimated tax payments if you expect that your 2002 Form 1040 will show a tax refund **or** a tax balance due the IRS of less than $1,000. If your total estimated tax (including any household employment taxes or alternative minimum tax) for 2002 is $1,000 or more, see **Form 1040-ES.** It has a worksheet you can use to see if you have to make estimated tax payments. For more details, see **Pub. 505.**

Do Both the Name and SSN on Your Tax Forms Agree With Your Social Security Card?

If not, certain deductions and credits may be reduced or disallowed, your refund may be delayed, and you may not receive credit for your social security earnings. If your Form W-2, Form 1099, or other tax document shows an incorrect SSN or name, notify your employer or the form-issuing agent as soon as possible to make sure your earnings are credited to your social security record. If the name or SSN on your social security card is incorrect, call the Social Security Administration at 1-800-772-1213.

How Do You Make a Gift To Reduce the Public Debt?

If you wish to do so, make a check payable to "Bureau of the Public Debt." You can send it to: Bureau of the Public Debt, Department G, P.O. Box 2188, Parkersburg, WV 26106-2188. Or you can enclose the check with your income tax return when you file. Do not add your gift to any tax you may owe. See page 52 for details on how to pay any tax you owe.

If you itemize your deductions for 2002, you may be able to deduct this gift.

Address Change

If you move after you file, always notify the IRS in writing of your new address. To do this, you can use **Form 8822.**

How Long Should Records Be Kept?

Keep a copy of your tax return, worksheets you used, and records of all items appearing on it (such as W-2 and 1099 forms) until the statute of limitations runs out for that return. Usually, this is 3 years from the date the return was due or filed, or 2 years from the date the tax was paid, whichever is later. You should keep some records longer. For example, keep property records (including those on your home) as long as they are needed to figure the basis of the original or replacement property. For more details, see **Pub. 552.**

Amended Return

File **Form 1040X** to change a return you already filed. Generally, Form 1040X must be filed within 3 years after the date the original return was filed, or within 2 years after the date the tax was paid, whichever is later. But you may have more time to file Form 1040X if you are physically or mentally unable to manage your financial affairs. See **Pub. 556** for details.

Need a Copy of Your Tax Return?

If you need a copy of your tax return, use **Form 4506.** If you have questions about your account, call or write your local IRS office. If you want a printed copy of your account, it will be mailed to you free of charge.

Death of a Taxpayer

If a taxpayer died before filing a return for 2001, the taxpayer's spouse or personal representative may have to file and sign a return for that taxpayer. A personal representative can be an executor, administrator, or anyone who is in charge of the deceased taxpayer's property. If the deceased taxpayer did not have to file a return but had tax withheld, a return must be filed to get a refund. The person who files the return should enter **"DECEASED,"** the deceased taxpayer's name, and the date of death across the top of the return.

If your spouse died in 2001 and you did not remarry in 2001, you can file a joint return. You can also file a joint return if your spouse died in 2002 before filing a return for 2001. A joint return should show your spouse's 2001 income before death and your income for all of 2001. Enter "Filing as surviving spouse" in the area where you sign the return. If someone else is the personal representative, he or she must also sign.

The surviving spouse or personal representative should promptly notify all payers of income, including financial institutions, of the taxpayer's death. This will ensure the proper reporting of income earned by the taxpayer's estate or heirs. A deceased taxpayer's social security number should not be used for tax years after the year of death, except for estate tax return purposes.

Claiming a Refund for a Deceased Taxpayer

If you are filing a joint return as a surviving spouse, you only need to file the tax return to claim the refund. If you are a court-appointed representative, file the return and attach a copy of the certificate that shows your appointment. All other filers requesting the deceased taxpayer's refund must file the return and attach **Form 1310.**

For more details, use TeleTax topic 356 (see page 11) or see **Pub. 559.**

IRS e-file

Delete the Paperwork. Hit SEND

So easy, no wonder 40 million people use it! You can file electronically, sign electronically, and get your refund or even pay electronically. IRS *e-file* offers accurate, safe, and fast alternatives to filing on paper. IRS computers quickly and automatically check for errors or other missing information. This year, almost all forms and schedules can be *e-filed.* Even returns with a foreign address can be *e-filed!* The chance of an audit of an *e-filed* tax return is no greater than with a paper filed return. Forty million taxpayers just like you filed their tax returns electronically using an IRS *e-file* option because of the many benefits:

- Accuracy!
- Security!
- Electronic Signatures!
- Proof of Acceptance!
- Fast Refunds!
- FREE/Low-Cost Filing!
- Electronic Payment Options!
- Federal/State *e-file*!

AUTHORIZED IRS e-file PROVIDER

Use an Authorized IRS *e-file* Provider. Many tax professionals can electronically file paperless returns for their clients. As a taxpayer, you have two options: **1.** You can prepare your return, take it to a tax professional, ask to sign it electronically using a five-digit self-selected Personal Identification Number (PIN) and then have the tax professional transmit it electronically to the IRS, or **2.** You can have a tax professional prepare your return, you can sign it electronically using a five-digit self-selected PIN, and have your preparer transmit it for you electronically.

Depending on the tax professional and the specific services requested, a fee may be charged. Look for the "Authorized IRS *e-file* Provider" sign or check the IRS Web Site at www.irs.gov for an "Authorized IRS *e-file* Provider" near you.

Use Your Personal Computer. A computer with a modem and/or Internet access is all you need to file your tax return using IRS *e-file.* You can buy tax preparation software at various electronics stores or computer and office supply stores. You can download software from the Internet or prepare and file your return completely on-line by using a tax preparation software package on the Internet (nothing to buy or install). Best of all, you can *e-file* your tax return from the comfort of your home any time of the day or night. Sign your return electronically using a five-digit self-selected PIN to complete the process. There is no signature form to submit or Forms W-2 to send in. IRS *e-file* is totally paperless! Within 48 hours of filing, you will receive confirmation that the IRS has received your return. To find free and low-cost *e-file* opportunities for taxpayers who qualify or a list of all software companies that participate in the IRS *e-file* program, visit our Web Site at www.irs.gov. Once your return is prepared, you will need a modem and/or Internet access to file it electronically.

Your TeleFile Your Easiest Way To File

Use a Telephone. For millions of eligible taxpayers, TeleFile is the easiest way to file. TeleFile allows you to file your simple Federal income tax return using a touch-tone telephone. Only taxpayers who met the qualifications for Form 1040EZ in the prior year are eligible to receive the TeleFile Tax Package for the current year. A TeleFile Tax Package is automatically mailed to you if you are eligible. **Parents: If your children receive a TeleFile Tax Package, please encourage them to use TeleFile.**

Through Employers and Financial Institutions. Some businesses offer free *e-file* to their employees, members, or customers. Others offer it for a fee. Ask your employer or financial institution if they offer IRS *e-file* as an employee, member, or customer benefit.

Visit a VITA or TCE Site. Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) sites are open to low-income individuals, others who need help with their tax returns, and the elderly. Both programs are free and can be found at many libraries, colleges, universities, shopping malls, and retirement and senior centers. Find the closest VITA or TCE site by calling 1-800-829-1040. Remember to take your spouse's, your dependent's, and your own social security cards and other identifying documents. Ask for IRS *e-file* at these sites.

DIRECT DEPOSIT
Simple. Safe. Secure.

Fast Refunds!

Choose Direct Deposit—a fast, simple, safe, secure way to have your Federal income tax refund deposited automatically into your checking or savings account. To choose Direct Deposit, taxpayers are prompted by the tax preparation software to indicate on the refund portion of the electronic return the financial institution's routing number, account number, and type of account—either checking or savings. Taxpayers who file electronically receive their refunds in less than half the time paper filers do and with Direct Deposit—in as few as 10 days!

Electronic Signatures! Paperless filing is easier than you think and it's available to most taxpayers who file electronically—including those first-time filers who were 16 or older on December 31, 2001. It's available to individuals preparing their own returns using tax preparation software or those who use a tax professional. Regardless of the *e-filing* method you choose, you may be able to participate in the Self-Select PIN program. If you are married filing a joint return, you and your spouse will each need to create a PIN and enter it as your electronic signature.

If using tax preparation software, the process includes completing your income tax return on your personal computer and when prompted, signing electronically. You will enter a five-digit PIN that will serve as your electronic signature.

For more details on qualifications and required taxpayer information for the Self-Select PIN or on IRS *e-file*, please visit the IRS Web Site at www.irs.gov.

Forms 8453 and 8453-OL. Your return is not complete without your signature. If you are not eligible or choose not to participate in the Self-Select PIN program for signing your return electronically, you must complete and sign **Form 8453** or **Form 8453-OL,** whichever applies.

Electronic Payment Options! If you owe tax, you can make your payment electronically.

Electronic Funds Withdrawal. You can *e-file* and pay in a single step by authorizing an electronic funds withdrawal from your checking or savings account. This option is available using tax software packages, tax professionals, and TeleFile.

Credit Card. You can also *e-file* and pay in a single step by authorizing a credit card payment. This option is available through some tax preparation software packages and tax professionals. Two other ways to pay by credit card are by telephone or Internet (see **Amount You Owe** on page 52 for details). Service providers charge a convenience fee for credit card payments.

Federal/State *e-file*! File Federal and state tax returns together using *e-file* and double the benefits of *e-file*! The tax preparation software automatically transfers relevant data from the Federal income tax return to the state income tax return as the information is entered. Currently, 37 states and the District of Columbia participate in the Federal/State *e-file* program. To see a complete list of states, check the IRS Web Site at www.irs.gov.

Delete the Paperwork. Hit SEND

All tax returns prepared electronically should be filed electronically. It's just a matter of clicking Send instead of Print! **Remember!** You get automatic confirmation within 48 hours that the IRS received your *e-filed* income tax return for processing.

IRS e-file for Business **Is Also Available!** IRS *e-file* for Business is an electronic method to file business returns. For details, visit the IRS Web Site at www.irs.gov.

EFTPS™ Electronic Federal Tax Payment System ***Electronic Federal Tax Payment System*** offers another way to pay your Federal taxes. It's available to business and individual taxpayers. For details, visit www.EFTPS.gov or call EFTPS Customer Service at **1-800-555-4477** or **1-800-945-8400.**

Other Ways To Get Help

Send Your Written Tax Questions to the IRS. You should get an answer in about 30 days. If you do not have the address, call us. See page 13 for the number. Do not send questions with your return.

Assistance With Your Return. IRS offices can help you prepare your return. An assister will explain a Form 1040EZ, 1040A, or 1040 with Schedules A and B to you and other taxpayers in a group setting. You may also be able to file your return electronically by computer free of charge at some IRS offices. To find the IRS office nearest you, look in the phone book under "United States Government, Internal Revenue Service" or call us. See page 13 for the number.

VITA and TCE. These programs help older, disabled, low-income, and non-English-speaking people fill in their returns. For details, call us. See page 13 for the number. If you received a Federal income tax package in the mail, take it with you when you go for help. Also take a copy of your 2000 tax return if you have it. **Or** to find the nearest AARP Tax-Aide site, visit AARP's Web Site at www.aarp.org/taxaide or call **1-877-227-7844.**

On-Line Services. If you subscribe to an on-line service, ask about on-line filing or tax information.

Large-Print Forms and Instructions. Pub. 1614 has large-print copies of Form 1040, Schedules A, B, D, E, EIC, and R, and Forms 1040-V and 8812, and their instructions. You can use the large-print forms and schedules as worksheets to figure your tax, but you cannot file them. You can get Pub. 1614 by phone or mail. See pages 7 and 57.

Help for People With Disabilities. Telephone help is available using TTY/TDD equipment. See page 13 for the number. Braille materials are available at libraries that have special services for people with disabilities.

Interest and Penalties

Note. You do not have to figure the amount of any interest or penalties you may owe. Because figuring these amounts can be complicated, we will do it for you if you want. We will send you a bill for any amount due.

If you include interest or penalties (other than the estimated tax penalty) with your payment, identify and enter the amount in the bottom margin of Form 1040, page 2. **Do not** include interest or penalties (other than the estimated tax penalty) in the **amount you owe** on line 70.

Interest

We will charge you interest on taxes not paid by their due date, even if an extension of time to file is granted. We will also charge you interest on penalties imposed for failure to file, negligence, fraud, substantial valuation misstatements, and substantial understatements of tax. Interest is charged on the penalty from the due date of the return (including extensions).

Penalties

Late Filing. If you do not file your return by the due date (including extensions), the penalty is usually 5% of the amount due for each month or part of a month your return is late, unless you have a reasonable explanation. If you do, attach it to your return. The penalty can be as much as 25% (more in some cases) of the tax due. If your return is more than 60 days late, the minimum penalty will be $100 or the amount of any tax you owe, whichever is smaller.

Late Payment of Tax. If you pay your taxes late, the penalty is usually ½ of 1% of the unpaid amount for each month or part of a month the tax is not paid. The penalty can be as much as 25% of the unpaid amount. It applies to any unpaid tax on the return. This penalty is in addition to interest charges on late payments.

Frivolous Return. In addition to any other penalties, the law imposes a penalty of $500 for filing a frivolous return. A frivolous return is one that does not contain information needed to figure the correct tax or shows a substantially incorrect tax because you take a frivolous position or desire to delay or interfere with the tax laws. This includes altering or striking out the preprinted language above the space where you sign.

Other. Other penalties can be imposed for negligence, substantial understatement of tax, and fraud. Criminal penalties may be imposed for willful failure to file, tax evasion, or making a false statement. See **Pub. 17** for details on some of these penalties.

Order Blank for Forms and Publications

The most frequently ordered forms and publications are listed on the order blank below. See pages 8 through 10 for the titles of the forms and publications. We will mail you two copies of each form and one copy of each publication you order. To help reduce waste, please order only the items you need to prepare your return.

TIP For faster ways of getting the items you need, such as by computer or fax, see page 7.

How To Use the Order Blank

Circle the items you need on the order blank below. Use the blank spaces to order items not listed. If you need more space, attach a separate sheet of paper.

Print or type your name and address accurately in the space provided below. An accurate address will ensure delivery of your order. Cut the order blank on the dotted line. Enclose the order blank in your own envelope and send it to the IRS address shown below that applies to you. You should receive your order within 10 days after we receive your request.

Do not send your tax return to any of the addresses listed on this page. Instead, see the back cover.

Where To Mail Your Order Blank for Free Forms and Publications

IF you live in the . . .	THEN mail to . . .	AT this address . . .
Western United States	Western Area Distribution Center	Rancho Cordova, CA 95743-0001
Central United States	Central Area Distribution Center	P.O. Box 8903 Bloomington, IL 61702-8903
Eastern United States or a foreign country	Eastern Area Distribution Center	P.O. Box 85074 Richmond, VA 23261-5074

▲ *Cut here* ▲

Order Blank

Fill in your name and address.

Name

Postal mailing address Apt./Suite/Room

City State ZIP code

Foreign country International postal code

Daytime phone number
( )

The items in bold may be picked up at many IRS offices, post offices, and libraries. You may also download all these items from the Internet at www.irs.gov or place an electronic order for them.

Circle the forms and publications you need. The instructions for any form you order will be included.

1040	Schedule F (1040)	Schedule 3 (1040A)	2441	8812	Pub. 463	Pub. 527	Pub. 910
Schedules A&B (1040)	Schedule H (1040)	**1040EZ**	3903	8822	Pub. 501	Pub. 529	Pub. 926
Schedule C (1040)	Schedule J (1040)	1040-ES (2002)	4562	8829	Pub. 502	Pub. 535	Pub. 929
Schedule C-EZ (1040)	Schedule R (1040)	1040-V	4868	8863	Pub. 505	Pub. 550	Pub. 936
Schedule D (1040)	Schedule SE (1040)	1040X	5329	9465	Pub. 508	Pub. 554	Pub. 970
Schedule D-1 (1040)	**1040A**	2106	8283	Pub. 1	Pub. 521	Pub. 575	Pub. 972
Schedule E (1040)	**Schedule 1 (1040A)**	2106-EZ	8582	Pub. 17	Pub. 523	Pub. 590	
Schedule EIC (1040A or 1040)	**Schedule 2 (1040A)**	2210	8606	Pub. 334	Pub. 525	Pub. 596	

N

2001 Tax Table

Caution. Dependents, see the worksheet on page 33.

Use if your taxable income is less than $100,000. If $100,000 or more, use the Tax Rate Schedules.

Example. Mr. and Mrs. Brown are filing a joint return. Their taxable income on line 39 of Form 1040 is $25,300. First, they find the $25,300–25,350 income line. Next, they find the column for married filing jointly and read down the column. The amount shown where the income line and filing status column meet is $3,799. This is the tax amount they should enter on line 40 of their Form 1040.

Sample Table

At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—			
25,200	25,250	3,784	3,784	4,112	3,784
25,250	25,300	3,791	3,791	4,126	3,791
25,300	25,350	3,799	3,799	4,139	3,799
25,350	25,400	3,806	3,806	4,153	3,806

If line 39 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—			
0	5	0	0	0	0
5	15	2	2	2	2
15	25	3	3	3	3
25	50	6	6	6	6
50	75	9	9	9	9
75	100	13	13	13	13
100	125	17	17	17	17
125	150	21	21	21	21
150	175	24	24	24	24
175	200	28	28	28	28
200	225	32	32	32	32
225	250	36	36	36	36
250	275	39	39	39	39
275	300	43	43	43	43
300	325	47	47	47	47
325	350	51	51	51	51
350	375	54	54	54	54
375	400	58	58	58	58
400	425	62	62	62	62
425	450	66	66	66	66
450	475	69	69	69	69
475	500	73	73	73	73
500	525	77	77	77	77
525	550	81	81	81	81
550	575	84	84	84	84
575	600	88	88	88	88
600	625	92	92	92	92
625	650	96	96	96	96
650	675	99	99	99	99
675	700	103	103	103	103
700	725	107	107	107	107
725	750	111	111	111	111
750	775	114	114	114	114
775	800	118	118	118	118
800	825	122	122	122	122
825	850	126	126	126	126
850	875	129	129	129	129
875	900	133	133	133	133
900	925	137	137	137	137
925	950	141	141	141	141
950	975	144	144	144	144
975	1,000	148	148	148	148
1,000					
1,000	1,025	152	152	152	152
1,025	1,050	156	156	156	156
1,050	1,075	159	159	159	159
1,075	1,100	163	163	163	163
1,100	1,125	167	167	167	167
1,125	1,150	171	171	171	171
1,150	1,175	174	174	174	174
1,175	1,200	178	178	178	178
1,200	1,225	182	182	182	182
1,225	1,250	186	186	186	186
1,250	1,275	189	189	189	189
1,275	1,300	193	193	193	193
1,300	1,325	197	197	197	197
1,325	1,350	201	201	201	201
1,350	1,375	204	204	204	204
1,375	1,400	208	208	208	208
1,400	1,425	212	212	212	212
1,425	1,450	216	216	216	216
1,450	1,475	219	219	219	219
1,475	1,500	223	223	223	223
1,500	1,525	227	227	227	227
1,525	1,550	231	231	231	231
1,550	1,575	234	234	234	234
1,575	1,600	238	238	238	238
1,600	1,625	242	242	242	242
1,625	1,650	246	246	246	246
1,650	1,675	249	249	249	249
1,675	1,700	253	253	253	253
1,700	1,725	257	257	257	257
1,725	1,750	261	261	261	261
1,750	1,775	264	264	264	264
1,775	1,800	268	268	268	268
1,800	1,825	272	272	272	272
1,825	1,850	276	276	276	276
1,850	1,875	279	279	279	279
1,875	1,900	283	283	283	283
1,900	1,925	287	287	287	287
1,925	1,950	291	291	291	291
1,950	1,975	294	294	294	294
1,975	2,000	298	298	298	298
2,000					
2,000	2,025	302	302	302	302
2,025	2,050	306	306	306	306
2,050	2,075	309	309	309	309
2,075	2,100	313	313	313	313
2,100	2,125	317	317	317	317
2,125	2,150	321	321	321	321
2,150	2,175	324	324	324	324
2,175	2,200	328	328	328	328
2,200	2,225	332	332	332	332
2,225	2,250	336	336	336	336
2,250	2,275	339	339	339	339
2,275	2,300	343	343	343	343
2,300	2,325	347	347	347	347
2,325	2,350	351	351	351	351
2,350	2,375	354	354	354	354
2,375	2,400	358	358	358	358
2,400	2,425	362	362	362	362
2,425	2,450	366	366	366	366
2,450	2,475	369	369	369	369
2,475	2,500	373	373	373	373
2,500	2,525	377	377	377	377
2,525	2,550	381	381	381	381
2,550	2,575	384	384	384	384
2,575	2,600	388	388	388	388
2,600	2,625	392	392	392	392
2,625	2,650	396	396	396	396
2,650	2,675	399	399	399	399
2,675	2,700	403	403	403	403
2,700	2,725	407	407	407	407
2,725	2,750	411	411	411	411
2,750	2,775	414	414	414	414
2,775	2,800	418	418	418	418
2,800	2,825	422	422	422	422
2,825	2,850	426	426	426	426
2,850	2,875	429	429	429	429
2,875	2,900	433	433	433	433
2,900	2,925	437	437	437	437
2,925	2,950	441	441	441	441
2,950	2,975	444	444	444	444
2,975	3,000	448	448	448	448
3,000					
3,000	3,050	454	454	454	454
3,050	3,100	461	461	461	461
3,100	3,150	469	469	469	469
3,150	3,200	476	476	476	476
3,200	3,250	484	484	484	484
3,250	3,300	491	491	491	491
3,300	3,350	499	499	499	499
3,350	3,400	506	506	506	506
3,400	3,450	514	514	514	514
3,450	3,500	521	521	521	521
3,500	3,550	529	529	529	529
3,550	3,600	536	536	536	536
3,600	3,650	544	544	544	544
3,650	3,700	551	551	551	551
3,700	3,750	559	559	559	559
3,750	3,800	566	566	566	566
3,800	3,850	574	574	574	574
3,850	3,900	581	581	581	581
3,900	3,950	589	589	589	589
3,950	4,000	596	596	596	596
4,000					
4,000	4,050	604	604	604	604
4,050	4,100	611	611	611	611
4,100	4,150	619	619	619	619
4,150	4,200	626	626	626	626
4,200	4,250	634	634	634	634
4,250	4,300	641	641	641	641
4,300	4,350	649	649	649	649
4,350	4,400	656	656	656	656
4,400	4,450	664	664	664	664
4,450	4,500	671	671	671	671
4,500	4,550	679	679	679	679
4,550	4,600	686	686	686	686
4,600	4,650	694	694	694	694
4,650	4,700	701	701	701	701
4,700	4,750	709	709	709	709
4,750	4,800	716	716	716	716
4,800	4,850	724	724	724	724
4,850	4,900	731	731	731	731
4,900	4,950	739	739	739	739
4,950	5,000	746	746	746	746

(Continued on page 60)

* This column must also be used by a qualifying widow(er).

If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
5,000						**8,000**						**11,000**					
5,000	**5,050**	754	754	754	754	**8,000**	**8,050**	1,204	1,204	1,204	1,204	**11,000**	**11,050**	1,654	1,654	1,654	1,654
5,050	**5,100**	761	761	761	761	**8,050**	**8,100**	1,211	1,211	1,211	1,211	**11,050**	**11,100**	1,661	1,661	1,661	1,661
5,100	**5,150**	769	769	769	769	**8,100**	**8,150**	1,219	1,219	1,219	1,219	**11,100**	**11,150**	1,669	1,669	1,669	1,669
5,150	**5,200**	776	776	776	776	**8,150**	**8,200**	1,226	1,226	1,226	1,226	**11,150**	**11,200**	1,676	1,676	1,676	1,676
5,200	**5,250**	784	784	784	784	**8,200**	**8,250**	1,234	1,234	1,234	1,234	**11,200**	**11,250**	1,684	1,684	1,684	1,684
5,250	**5,300**	791	791	791	791	**8,250**	**8,300**	1,241	1,241	1,241	1,241	**11,250**	**11,300**	1,691	1,691	1,691	1,691
5,300	**5,350**	799	799	799	799	**8,300**	**8,350**	1,249	1,249	1,249	1,249	**11,300**	**11,350**	1,699	1,699	1,699	1,699
5,350	**5,400**	806	806	806	806	**8,350**	**8,400**	1,256	1,256	1,256	1,256	**11,350**	**11,400**	1,706	1,706	1,706	1,706
5,400	**5,450**	814	814	814	814	**8,400**	**8,450**	1,264	1,264	1,264	1,264	**11,400**	**11,450**	1,714	1,714	1,714	1,714
5,450	**5,500**	821	821	821	821	**8,450**	**8,500**	1,271	1,271	1,271	1,271	**11,450**	**11,500**	1,721	1,721	1,721	1,721
5,500	**5,550**	829	829	829	829	**8,500**	**8,550**	1,279	1,279	1,279	1,279	**11,500**	**11,550**	1,729	1,729	1,729	1,729
5,550	**5,600**	836	836	836	836	**8,550**	**8,600**	1,286	1,286	1,286	1,286	**11,550**	**11,600**	1,736	1,736	1,736	1,736
5,600	**5,650**	844	844	844	844	**8,600**	**8,650**	1,294	1,294	1,294	1,294	**11,600**	**11,650**	1,744	1,744	1,744	1,744
5,650	**5,700**	851	851	851	851	**8,650**	**8,700**	1,301	1,301	1,301	1,301	**11,650**	**11,700**	1,751	1,751	1,751	1,751
5,700	**5,750**	859	859	859	859	**8,700**	**8,750**	1,309	1,309	1,309	1,309	**11,700**	**11,750**	1,759	1,759	1,759	1,759
5,750	**5,800**	866	866	866	866	**8,750**	**8,800**	1,316	1,316	1,316	1,316	**11,750**	**11,800**	1,766	1,766	1,766	1,766
5,800	**5,850**	874	874	874	874	**8,800**	**8,850**	1,324	1,324	1,324	1,324	**11,800**	**11,850**	1,774	1,774	1,774	1,774
5,850	**5,900**	881	881	881	881	**8,850**	**8,900**	1,331	1,331	1,331	1,331	**11,850**	**11,900**	1,781	1,781	1,781	1,781
5,900	**5,950**	889	889	889	889	**8,900**	**8,950**	1,339	1,339	1,339	1,339	**11,900**	**11,950**	1,789	1,789	1,789	1,789
5,950	**6,000**	896	896	896	896	**8,950**	**9,000**	1,346	1,346	1,346	1,346	**11,950**	**12,000**	1,796	1,796	1,796	1,796
6,000						**9,000**						**12,000**					
6,000	**6,050**	904	904	904	904	**9,000**	**9,050**	1,354	1,354	1,354	1,354	**12,000**	**12,050**	1,804	1,804	1,804	1,804
6,050	**6,100**	911	911	911	911	**9,050**	**9,100**	1,361	1,361	1,361	1,361	**12,050**	**12,100**	1,811	1,811	1,811	1,811
6,100	**6,150**	919	919	919	919	**9,100**	**9,150**	1,369	1,369	1,369	1,369	**12,100**	**12,150**	1,819	1,819	1,819	1,819
6,150	**6,200**	926	926	926	926	**9,150**	**9,200**	1,376	1,376	1,376	1,376	**12,150**	**12,200**	1,826	1,826	1,826	1,826
6,200	**6,250**	934	934	934	934	**9,200**	**9,250**	1,384	1,384	1,384	1,384	**12,200**	**12,250**	1,834	1,834	1,834	1,834
6,250	**6,300**	941	941	941	941	**9,250**	**9,300**	1,391	1,391	1,391	1,391	**12,250**	**12,300**	1,841	1,841	1,841	1,841
6,300	**6,350**	949	949	949	949	**9,300**	**9,350**	1,399	1,399	1,399	1,399	**12,300**	**12,350**	1,849	1,849	1,849	1,849
6,350	**6,400**	956	956	956	956	**9,350**	**9,400**	1,406	1,406	1,406	1,406	**12,350**	**12,400**	1,856	1,856	1,856	1,856
6,400	**6,450**	964	964	964	964	**9,400**	**9,450**	1,414	1,414	1,414	1,414	**12,400**	**12,450**	1,864	1,864	1,864	1,864
6,450	**6,500**	971	971	971	971	**9,450**	**9,500**	1,421	1,421	1,421	1,421	**12,450**	**12,500**	1,871	1,871	1,871	1,871
6,500	**6,550**	979	979	979	979	**9,500**	**9,550**	1,429	1,429	1,429	1,429	**12,500**	**12,550**	1,879	1,879	1,879	1,879
6,550	**6,600**	986	986	986	986	**9,550**	**9,600**	1,436	1,436	1,436	1,436	**12,550**	**12,600**	1,886	1,886	1,886	1,886
6,600	**6,650**	994	994	994	994	**9,600**	**9,650**	1,444	1,444	1,444	1,444	**12,600**	**12,650**	1,894	1,894	1,894	1,894
6,650	**6,700**	1,001	1,001	1,001	1,001	**9,650**	**9,700**	1,451	1,451	1,451	1,451	**12,650**	**12,700**	1,901	1,901	1,901	1,901
6,700	**6,750**	1,009	1,009	1,009	1,009	**9,700**	**9,750**	1,459	1,459	1,459	1,459	**12,700**	**12,750**	1,909	1,909	1,909	1,909
6,750	**6,800**	1,016	1,016	1,016	1,016	**9,750**	**9,800**	1,466	1,466	1,466	1,466	**12,750**	**12,800**	1,916	1,916	1,916	1,916
6,800	**6,850**	1,024	1,024	1,024	1,024	**9,800**	**9,850**	1,474	1,474	1,474	1,474	**12,800**	**12,850**	1,924	1,924	1,924	1,924
6,850	**6,900**	1,031	1,031	1,031	1,031	**9,850**	**9,900**	1,481	1,481	1,481	1,481	**12,850**	**12,900**	1,931	1,931	1,931	1,931
6,900	**6,950**	1,039	1,039	1,039	1,039	**9,900**	**9,950**	1,489	1,489	1,489	1,489	**12,900**	**12,950**	1,939	1,939	1,939	1,939
6,950	**7,000**	1,046	1,046	1,046	1,046	**9,950**	**10,000**	1,496	1,496	1,496	1,496	**12,950**	**13,000**	1,946	1,946	1,946	1,946
7,000						**10,000**						**13,000**					
7,000	**7,050**	1,054	1,054	1,054	1,054	**10,000**	**10,050**	1,504	1,504	1,504	1,504	**13,000**	**13,050**	1,954	1,954	1,954	1,954
7,050	**7,100**	1,061	1,061	1,061	1,061	**10,050**	**10,100**	1,511	1,511	1,511	1,511	**13,050**	**13,100**	1,961	1,961	1,961	1,961
7,100	**7,150**	1,069	1,069	1,069	1,069	**10,100**	**10,150**	1,519	1,519	1,519	1,519	**13,100**	**13,150**	1,969	1,969	1,969	1,969
7,150	**7,200**	1,076	1,076	1,076	1,076	**10,150**	**10,200**	1,526	1,526	1,526	1,526	**13,150**	**13,200**	1,976	1,976	1,976	1,976
7,200	**7,250**	1,084	1,084	1,084	1,084	**10,200**	**10,250**	1,534	1,534	1,534	1,534	**13,200**	**13,250**	1,984	1,984	1,984	1,984
7,250	**7,300**	1,091	1,091	1,091	1,091	**10,250**	**10,300**	1,541	1,541	1,541	1,541	**13,250**	**13,300**	1,991	1,991	1,991	1,991
7,300	**7,350**	1,099	1,099	1,099	1,099	**10,300**	**10,350**	1,549	1,549	1,549	1,549	**13,300**	**13,350**	1,999	1,999	1,999	1,999
7,350	**7,400**	1,106	1,106	1,106	1,106	**10,350**	**10,400**	1,556	1,556	1,556	1,556	**13,350**	**13,400**	2,006	2,006	2,006	2,006
7,400	**7,450**	1,114	1,114	1,114	1,114	**10,400**	**10,450**	1,564	1,564	1,564	1,564	**13,400**	**13,450**	2,014	2,014	2,014	2,014
7,450	**7,500**	1,121	1,121	1,121	1,121	**10,450**	**10,500**	1,571	1,571	1,571	1,571	**13,450**	**13,500**	2,021	2,021	2,021	2,021
7,500	**7,550**	1,129	1,129	1,129	1,129	**10,500**	**10,550**	1,579	1,579	1,579	1,579	**13,500**	**13,550**	2,029	2,029	2,029	2,029
7,550	**7,600**	1,136	1,136	1,136	1,136	**10,550**	**10,600**	1,586	1,586	1,586	1,586	**13,550**	**13,600**	2,036	2,036	2,036	2,036
7,600	**7,650**	1,144	1,144	1,144	1,144	**10,600**	**10,650**	1,594	1,594	1,594	1,594	**13,600**	**13,650**	2,044	2,044	2,044	2,044
7,650	**7,700**	1,151	1,151	1,151	1,151	**10,650**	**10,700**	1,601	1,601	1,601	1,601	**13,650**	**13,700**	2,051	2,051	2,051	2,051
7,700	**7,750**	1,159	1,159	1,159	1,159	**10,700**	**10,750**	1,609	1,609	1,609	1,609	**13,700**	**13,750**	2,059	2,059	2,059	2,059
7,750	**7,800**	1,166	1,166	1,166	1,166	**10,750**	**10,800**	1,616	1,616	1,616	1,616	**13,750**	**13,800**	2,066	2,066	2,066	2,066
7,800	**7,850**	1,174	1,174	1,174	1,174	**10,800**	**10,850**	1,624	1,624	1,624	1,624	**13,800**	**13,850**	2,074	2,074	2,074	2,074
7,850	**7,900**	1,181	1,181	1,181	1,181	**10,850**	**10,900**	1,631	1,631	1,631	1,631	**13,850**	**13,900**	2,081	2,081	2,081	2,081
7,900	**7,950**	1,189	1,189	1,189	1,189	**10,900**	**10,950**	1,639	1,639	1,639	1,639	**13,900**	**13,950**	2,089	2,089	2,089	2,089
7,950	**8,000**	1,196	1,196	1,196	1,196	**10,950**	**11,000**	1,646	1,646	1,646	1,646	**13,950**	**14,000**	2,096	2,096	2,096	2,096

* This column must also be used by a qualifying widow(er).

(Continued on page 61)

If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
14,000						**17,000**						**20,000**					
14,000	**14,050**	2,104	2,104	2,104	2,104	**17,000**	**17,050**	2,554	2,554	2,554	2,554	**20,000**	**20,050**	3,004	3,004	3,004	3,004
14,050	**14,100**	2,111	2,111	2,111	2,111	**17,050**	**17,100**	2,561	2,561	2,561	2,561	**20,050**	**20,100**	3,011	3,011	3,011	3,011
14,100	**14,150**	2,119	2,119	2,119	2,119	**17,100**	**17,150**	2,569	2,569	2,569	2,569	**20,100**	**20,150**	3,019	3,019	3,019	3,019
14,150	**14,200**	2,126	2,126	2,126	2,126	**17,150**	**17,200**	2,576	2,576	2,576	2,576	**20,150**	**20,200**	3,026	3,026	3,026	3,026
14,200	**14,250**	2,134	2,134	2,134	2,134	**17,200**	**17,250**	2,584	2,584	2,584	2,584	**20,200**	**20,250**	3,034	3,034	3,034	3,034
14,250	**14,300**	2,141	2,141	2,141	2,141	**17,250**	**17,300**	2,591	2,591	2,591	2,591	**20,250**	**20,300**	3,041	3,041	3,041	3,041
14,300	**14,350**	2,149	2,149	2,149	2,149	**17,300**	**17,350**	2,599	2,599	2,599	2,599	**20,300**	**20,350**	3,049	3,049	3,049	3,049
14,350	**14,400**	2,156	2,156	2,156	2,156	**17,350**	**17,400**	2,606	2,606	2,606	2,606	**20,350**	**20,400**	3,056	3,056	3,056	3,056
14,400	**14,450**	2,164	2,164	2,164	2,164	**17,400**	**17,450**	2,614	2,614	2,614	2,614	**20,400**	**20,450**	3,064	3,064	3,064	3,064
14,450	**14,500**	2,171	2,171	2,171	2,171	**17,450**	**17,500**	2,621	2,621	2,621	2,621	**20,450**	**20,500**	3,071	3,071	3,071	3,071
14,500	**14,550**	2,179	2,179	2,179	2,179	**17,500**	**17,550**	2,629	2,629	2,629	2,629	**20,500**	**20,550**	3,079	3,079	3,079	3,079
14,550	**14,600**	2,186	2,186	2,186	2,186	**17,550**	**17,600**	2,636	2,636	2,636	2,636	**20,550**	**20,600**	3,086	3,086	3,086	3,086
14,600	**14,650**	2,194	2,194	2,194	2,194	**17,600**	**17,650**	2,644	2,644	2,644	2,644	**20,600**	**20,650**	3,094	3,094	3,094	3,094
14,650	**14,700**	2,201	2,201	2,201	2,201	**17,650**	**17,700**	2,651	2,651	2,651	2,651	**20,650**	**20,700**	3,101	3,101	3,101	3,101
14,700	**14,750**	2,209	2,209	2,209	2,209	**17,700**	**17,750**	2,659	2,659	2,659	2,659	**20,700**	**20,750**	3,109	3,109	3,109	3,109
14,750	**14,800**	2,216	2,216	2,216	2,216	**17,750**	**17,800**	2,666	2,666	2,666	2,666	**20,750**	**20,800**	3,116	3,116	3,116	3,116
14,800	**14,850**	2,224	2,224	2,224	2,224	**17,800**	**17,850**	2,674	2,674	2,674	2,674	**20,800**	**20,850**	3,124	3,124	3,124	3,124
14,850	**14,900**	2,231	2,231	2,231	2,231	**17,850**	**17,900**	2,681	2,681	2,681	2,681	**20,850**	**20,900**	3,131	3,131	3,131	3,131
14,900	**14,950**	2,239	2,239	2,239	2,239	**17,900**	**17,950**	2,689	2,689	2,689	2,689	**20,900**	**20,950**	3,139	3,139	3,139	3,139
14,950	**15,000**	2,246	2,246	2,246	2,246	**17,950**	**18,000**	2,696	2,696	2,696	2,696	**20,950**	**21,000**	3,146	3,146	3,146	3,146
15,000						**18,000**						**21,000**					
15,000	**15,050**	2,254	2,254	2,254	2,254	**18,000**	**18,050**	2,704	2,704	2,704	2,704	**21,000**	**21,050**	3,154	3,154	3,154	3,154
15,050	**15,100**	2,261	2,261	2,261	2,261	**18,050**	**18,100**	2,711	2,711	2,711	2,711	**21,050**	**21,100**	3,161	3,161	3,161	3,161
15,100	**15,150**	2,269	2,269	2,269	2,269	**18,100**	**18,150**	2,719	2,719	2,719	2,719	**21,100**	**21,150**	3,169	3,169	3,169	3,169
15,150	**15,200**	2,276	2,276	2,276	2,276	**18,150**	**18,200**	2,726	2,726	2,726	2,726	**21,150**	**21,200**	3,176	3,176	3,176	3,176
15,200	**15,250**	2,284	2,284	2,284	2,284	**18,200**	**18,250**	2,734	2,734	2,734	2,734	**21,200**	**21,250**	3,184	3,184	3,184	3,184
15,250	**15,300**	2,291	2,291	2,291	2,291	**18,250**	**18,300**	2,741	2,741	2,741	2,741	**21,250**	**21,300**	3,191	3,191	3,191	3,191
15,300	**15,350**	2,299	2,299	2,299	2,299	**18,300**	**18,350**	2,749	2,749	2,749	2,749	**21,300**	**21,350**	3,199	3,199	3,199	3,199
15,350	**15,400**	2,306	2,306	2,306	2,306	**18,350**	**18,400**	2,756	2,756	2,756	2,756	**21,350**	**21,400**	3,206	3,206	3,206	3,206
15,400	**15,450**	2,314	2,314	2,314	2,314	**18,400**	**18,450**	2,764	2,764	2,764	2,764	**21,400**	**21,450**	3,214	3,214	3,214	3,214
15,450	**15,500**	2,321	2,321	2,321	2,321	**18,450**	**18,500**	2,771	2,771	2,771	2,771	**21,450**	**21,500**	3,221	3,221	3,221	3,221
15,500	**15,550**	2,329	2,329	2,329	2,329	**18,500**	**18,550**	2,779	2,779	2,779	2,779	**21,500**	**21,550**	3,229	3,229	3,229	3,229
15,550	**15,600**	2,336	2,336	2,336	2,336	**18,550**	**18,600**	2,786	2,786	2,786	2,786	**21,550**	**21,600**	3,236	3,236	3,236	3,236
15,600	**15,650**	2,344	2,344	2,344	2,344	**18,600**	**18,650**	2,794	2,794	2,794	2,794	**21,600**	**21,650**	3,244	3,244	3,244	3,244
15,650	**15,700**	2,351	2,351	2,351	2,351	**18,650**	**18,700**	2,801	2,801	2,801	2,801	**21,650**	**21,700**	3,251	3,251	3,251	3,251
15,700	**15,750**	2,359	2,359	2,359	2,359	**18,700**	**18,750**	2,809	2,809	2,809	2,809	**21,700**	**21,750**	3,259	3,259	3,259	3,259
15,750	**15,800**	2,366	2,366	2,366	2,366	**18,750**	**18,800**	2,816	2,816	2,816	2,816	**21,750**	**21,800**	3,266	3,266	3,266	3,266
15,800	**15,850**	2,374	2,374	2,374	2,374	**18,800**	**18,850**	2,824	2,824	2,824	2,824	**21,800**	**21,850**	3,274	3,274	3,274	3,274
15,850	**15,900**	2,381	2,381	2,381	2,381	**18,850**	**18,900**	2,831	2,831	2,831	2,831	**21,850**	**21,900**	3,281	3,281	3,281	3,281
15,900	**15,950**	2,389	2,389	2,389	2,389	**18,900**	**18,950**	2,839	2,839	2,839	2,839	**21,900**	**21,950**	3,289	3,289	3,289	3,289
15,950	**16,000**	2,396	2,396	2,396	2,396	**18,950**	**19,000**	2,846	2,846	2,846	2,846	**21,950**	**22,000**	3,296	3,296	3,296	3,296
16,000						**19,000**						**22,000**					
16,000	**16,050**	2,404	2,404	2,404	2,404	**19,000**	**19,050**	2,854	2,854	2,854	2,854	**22,000**	**22,050**	3,304	3,304	3,304	3,304
16,050	**16,100**	2,411	2,411	2,411	2,411	**19,050**	**19,100**	2,861	2,861	2,861	2,861	**22,050**	**22,100**	3,311	3,311	3,311	3,311
16,100	**16,150**	2,419	2,419	2,419	2,419	**19,100**	**19,150**	2,869	2,869	2,869	2,869	**22,100**	**22,150**	3,319	3,319	3,319	3,319
16,150	**16,200**	2,426	2,426	2,426	2,426	**19,150**	**19,200**	2,876	2,876	2,876	2,876	**22,150**	**22,200**	3,326	3,326	3,326	3,326
16,200	**16,250**	2,434	2,434	2,434	2,434	**19,200**	**19,250**	2,884	2,884	2,884	2,884	**22,200**	**22,250**	3,334	3,334	3,334	3,334
16,250	**16,300**	2,441	2,441	2,441	2,441	**19,250**	**19,300**	2,891	2,891	2,891	2,891	**22,250**	**22,300**	3,341	3,341	3,341	3,341
16,300	**16,350**	2,449	2,449	2,449	2,449	**19,300**	**19,350**	2,899	2,899	2,899	2,899	**22,300**	**22,350**	3,349	3,349	3,349	3,349
16,350	**16,400**	2,456	2,456	2,456	2,456	**19,350**	**19,400**	2,906	2,906	2,906	2,906	**22,350**	**22,400**	3,356	3,356	3,356	3,356
16,400	**16,450**	2,464	2,464	2,464	2,464	**19,400**	**19,450**	2,914	2,914	2,914	2,914	**22,400**	**22,450**	3,364	3,364	3,364	3,364
16,450	**16,500**	2,471	2,471	2,471	2,471	**19,450**	**19,500**	2,921	2,921	2,921	2,921	**22,450**	**22,500**	3,371	3,371	3,371	3,371
16,500	**16,550**	2,479	2,479	2,479	2,479	**19,500**	**19,550**	2,929	2,929	2,929	2,929	**22,500**	**22,550**	3,379	3,379	3,379	3,379
16,550	**16,600**	2,486	2,486	2,486	2,486	**19,550**	**19,600**	2,936	2,936	2,936	2,936	**22,550**	**22,600**	3,386	3,386	3,386	3,386
16,600	**16,650**	2,494	2,494	2,494	2,494	**19,600**	**19,650**	2,944	2,944	2,944	2,944	**22,600**	**22,650**	3,394	3,394	3,397	3,394
16,650	**16,700**	2,501	2,501	2,501	2,501	**19,650**	**19,700**	2,951	2,951	2,951	2,951	**22,650**	**22,700**	3,401	3,401	3,411	3,401
16,700	**16,750**	2,509	2,509	2,509	2,509	**19,700**	**19,750**	2,959	2,959	2,959	2,959	**22,700**	**22,750**	3,409	3,409	3,424	3,409
16,750	**16,800**	2,516	2,516	2,516	2,516	**19,750**	**19,800**	2,966	2,966	2,966	2,966	**22,750**	**22,800**	3,416	3,416	3,438	3,416
16,800	**16,850**	2,524	2,524	2,524	2,524	**19,800**	**19,850**	2,974	2,974	2,974	2,974	**22,800**	**22,850**	3,424	3,424	3,452	3,424
16,850	**16,900**	2,531	2,531	2,531	2,531	**19,850**	**19,900**	2,981	2,981	2,981	2,981	**22,850**	**22,900**	3,431	3,431	3,466	3,431
16,900	**16,950**	2,539	2,539	2,539	2,539	**19,900**	**19,950**	2,989	2,989	2,989	2,989	**22,900**	**22,950**	3,439	3,439	3,479	3,439
16,950	**17,000**	2,546	2,546	2,546	2,546	**19,950**	**20,000**	2,996	2,996	2,996	2,996	**22,950**	**23,000**	3,446	3,446	3,493	3,446

* This column must also be used by a qualifying widow(er).

(Continued on page 62)

If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
23,000						**26,000**						**29,000**					
23,000	**23,050**	3,454	3,454	3,507	3,454	**26,000**	**26,050**	3,904	3,904	4,332	3,904	**29,000**	**29,050**	4,601	4,354	5,157	4,354
23,050	**23,100**	3,461	3,461	3,521	3,461	**26,050**	**26,100**	3,911	3,911	4,346	3,911	**29,050**	**29,100**	4,614	4,361	5,171	4,361
23,100	**23,150**	3,469	3,469	3,534	3,469	**26,100**	**26,150**	3,919	3,919	4,359	3,919	**29,100**	**29,150**	4,628	4,369	5,184	4,369
23,150	**23,200**	3,476	3,476	3,548	3,476	**26,150**	**26,200**	3,926	3,926	4,373	3,926	**29,150**	**29,200**	4,642	4,376	5,198	4,376
23,200	**23,250**	3,484	3,484	3,562	3,484	**26,200**	**26,250**	3,934	3,934	4,387	3,934	**29,200**	**29,250**	4,656	4,384	5,212	4,384
23,250	**23,300**	3,491	3,491	3,576	3,491	**26,250**	**26,300**	3,941	3,941	4,401	3,941	**29,250**	**29,300**	4,669	4,391	5,226	4,391
23,300	**23,350**	3,499	3,499	3,589	3,499	**26,300**	**26,350**	3,949	3,949	4,414	3,949	**29,300**	**29,350**	4,683	4,399	5,239	4,399
23,350	**23,400**	3,506	3,506	3,603	3,506	**26,350**	**26,400**	3,956	3,956	4,428	3,956	**29,350**	**29,400**	4,697	4,406	5,253	4,406
23,400	**23,450**	3,514	3,514	3,617	3,514	**26,400**	**26,450**	3,964	3,964	4,442	3,964	**29,400**	**29,450**	4,711	4,414	5,267	4,414
23,450	**23,500**	3,521	3,521	3,631	3,521	**26,450**	**26,500**	3,971	3,971	4,456	3,971	**29,450**	**29,500**	4,724	4,421	5,281	4,421
23,500	**23,550**	3,529	3,529	3,644	3,529	**26,500**	**26,550**	3,979	3,979	4,469	3,979	**29,500**	**29,550**	4,738	4,429	5,294	4,429
23,550	**23,600**	3,536	3,536	3,658	3,536	**26,550**	**26,600**	3,986	3,986	4,483	3,986	**29,550**	**29,600**	4,752	4,436	5,308	4,436
23,600	**23,650**	3,544	3,544	3,672	3,544	**26,600**	**26,650**	3,994	3,994	4,497	3,994	**29,600**	**29,650**	4,766	4,444	5,322	4,444
23,650	**23,700**	3,551	3,551	3,686	3,551	**26,650**	**26,700**	4,001	4,001	4,511	4,001	**29,650**	**29,700**	4,779	4,451	5,336	4,451
23,700	**23,750**	3,559	3,559	3,699	3,559	**26,700**	**26,750**	4,009	4,009	4,524	4,009	**29,700**	**29,750**	4,793	4,459	5,349	4,459
23,750	**23,800**	3,566	3,566	3,713	3,566	**26,750**	**26,800**	4,016	4,016	4,538	4,016	**29,750**	**29,800**	4,807	4,466	5,363	4,466
23,800	**23,850**	3,574	3,574	3,727	3,574	**26,800**	**26,850**	4,024	4,024	4,552	4,024	**29,800**	**29,850**	4,821	4,474	5,377	4,474
23,850	**23,900**	3,581	3,581	3,741	3,581	**26,850**	**26,900**	4,031	4,031	4,566	4,031	**29,850**	**29,900**	4,834	4,481	5,391	4,481
23,900	**23,950**	3,589	3,589	3,754	3,589	**26,900**	**26,950**	4,039	4,039	4,579	4,039	**29,900**	**29,950**	4,848	4,489	5,404	4,489
23,950	**24,000**	3,596	3,596	3,768	3,596	**26,950**	**27,000**	4,046	4,046	4,593	4,046	**29,950**	**30,000**	4,862	4,496	5,418	4,496
24,000						**27,000**						**30,000**					
24,000	**24,050**	3,604	3,604	3,782	3,604	**27,000**	**27,050**	4,054	4,054	4,607	4,054	**30,000**	**30,050**	4,876	4,504	5,432	4,504
24,050	**24,100**	3,611	3,611	3,796	3,611	**27,050**	**27,100**	4,064	4,061	4,621	4,061	**30,050**	**30,100**	4,889	4,511	5,446	4,511
24,100	**24,150**	3,619	3,619	3,809	3,619	**27,100**	**27,150**	4,078	4,069	4,634	4,069	**30,100**	**30,150**	4,903	4,519	5,459	4,519
24,150	**24,200**	3,626	3,626	3,823	3,626	**27,150**	**27,200**	4,092	4,076	4,648	4,076	**30,150**	**30,200**	4,917	4,526	5,473	4,526
24,200	**24,250**	3,634	3,634	3,837	3,634	**27,200**	**27,250**	4,106	4,084	4,662	4,084	**30,200**	**30,250**	4,931	4,534	5,487	4,534
24,250	**24,300**	3,641	3,641	3,851	3,641	**27,250**	**27,300**	4,119	4,091	4,676	4,091	**30,250**	**30,300**	4,944	4,541	5,501	4,541
24,300	**24,350**	3,649	3,649	3,864	3,649	**27,300**	**27,350**	4,133	4,099	4,689	4,099	**30,300**	**30,350**	4,958	4,549	5,514	4,549
24,350	**24,400**	3,656	3,656	3,878	3,656	**27,350**	**27,400**	4,147	4,106	4,703	4,106	**30,350**	**30,400**	4,972	4,556	5,528	4,556
24,400	**24,450**	3,664	3,664	3,892	3,664	**27,400**	**27,450**	4,161	4,114	4,717	4,114	**30,400**	**30,450**	4,986	4,564	5,542	4,564
24,450	**24,500**	3,671	3,671	3,906	3,671	**27,450**	**27,500**	4,174	4,121	4,731	4,121	**30,450**	**30,500**	4,999	4,571	5,556	4,571
24,500	**24,550**	3,679	3,679	3,919	3,679	**27,500**	**27,550**	4,188	4,129	4,744	4,129	**30,500**	**30,550**	5,013	4,579	5,569	4,579
24,550	**24,600**	3,686	3,686	3,933	3,686	**27,550**	**27,600**	4,202	4,136	4,758	4,136	**30,550**	**30,600**	5,027	4,586	5,583	4,586
24,600	**24,650**	3,694	3,694	3,947	3,694	**27,600**	**27,650**	4,216	4,144	4,772	4,144	**30,600**	**30,650**	5,041	4,594	5,597	4,594
24,650	**24,700**	3,701	3,701	3,961	3,701	**27,650**	**27,700**	4,229	4,151	4,786	4,151	**30,650**	**30,700**	5,054	4,601	5,611	4,601
24,700	**24,750**	3,709	3,709	3,974	3,709	**27,700**	**27,750**	4,243	4,159	4,799	4,159	**30,700**	**30,750**	5,068	4,609	5,624	4,609
24,750	**24,800**	3,716	3,716	3,988	3,716	**27,750**	**27,800**	4,257	4,166	4,813	4,166	**30,750**	**30,800**	5,082	4,616	5,638	4,616
24,800	**24,850**	3,724	3,724	4,002	3,724	**27,800**	**27,850**	4,271	4,174	4,827	4,174	**30,800**	**30,850**	5,096	4,624	5,652	4,624
24,850	**24,900**	3,731	3,731	4,016	3,731	**27,850**	**27,900**	4,284	4,181	4,841	4,181	**30,850**	**30,900**	5,109	4,631	5,666	4,631
24,900	**24,950**	3,739	3,739	4,029	3,739	**27,900**	**27,950**	4,298	4,189	4,854	4,189	**30,900**	**30,950**	5,123	4,639	5,679	4,639
24,950	**25,000**	3,746	3,746	4,043	3,746	**27,950**	**28,000**	4,312	4,196	4,868	4,196	**30,950**	**31,000**	5,137	4,646	5,693	4,646
25,000						**28,000**						**31,000**					
25,000	**25,050**	3,754	3,754	4,057	3,754	**28,000**	**28,050**	4,326	4,204	4,882	4,204	**31,000**	**31,050**	5,151	4,654	5,707	4,654
25,050	**25,100**	3,761	3,761	4,071	3,761	**28,050**	**28,100**	4,339	4,211	4,896	4,211	**31,050**	**31,100**	5,164	4,661	5,721	4,661
25,100	**25,150**	3,769	3,769	4,084	3,769	**28,100**	**28,150**	4,353	4,219	4,909	4,219	**31,100**	**31,150**	5,178	4,669	5,734	4,669
25,150	**25,200**	3,776	3,776	4,098	3,776	**28,150**	**28,200**	4,367	4,226	4,923	4,226	**31,150**	**31,200**	5,192	4,676	5,748	4,676
25,200	**25,250**	3,784	3,784	4,112	3,784	**28,200**	**28,250**	4,381	4,234	4,937	4,234	**31,200**	**31,250**	5,206	4,684	5,762	4,684
25,250	**25,300**	3,791	3,791	4,126	3,791	**28,250**	**28,300**	4,394	4,241	4,951	4,241	**31,250**	**31,300**	5,219	4,691	5,776	4,691
25,300	**25,350**	3,799	3,799	4,139	3,799	**28,300**	**28,350**	4,408	4,249	4,964	4,249	**31,300**	**31,350**	5,233	4,699	5,789	4,699
25,350	**25,400**	3,806	3,806	4,153	3,806	**28,350**	**28,400**	4,422	4,256	4,978	4,256	**31,350**	**31,400**	5,247	4,706	5,803	4,706
25,400	**25,450**	3,814	3,814	4,167	3,814	**28,400**	**28,450**	4,436	4,264	4,992	4,264	**31,400**	**31,450**	5,261	4,714	5,817	4,714
25,450	**25,500**	3,821	3,821	4,181	3,821	**28,450**	**28,500**	4,449	4,271	5,006	4,271	**31,450**	**31,500**	5,274	4,721	5,831	4,721
25,500	**25,550**	3,829	3,829	4,194	3,829	**28,500**	**28,550**	4,463	4,279	5,019	4,279	**31,500**	**31,550**	5,288	4,729	5,844	4,729
25,550	**25,600**	3,836	3,836	4,208	3,836	**28,550**	**28,600**	4,477	4,286	5,033	4,286	**31,550**	**31,600**	5,302	4,736	5,858	4,736
25,600	**25,650**	3,844	3,844	4,222	3,844	**28,600**	**28,650**	4,491	4,294	5,047	4,294	**31,600**	**31,650**	5,316	4,744	5,872	4,744
25,650	**25,700**	3,851	3,851	4,236	3,851	**28,650**	**28,700**	4,504	4,301	5,061	4,301	**31,650**	**31,700**	5,329	4,751	5,886	4,751
25,700	**25,750**	3,859	3,859	4,249	3,859	**28,700**	**28,750**	4,518	4,309	5,074	4,309	**31,700**	**31,750**	5,343	4,759	5,899	4,759
25,750	**25,800**	3,866	3,866	4,263	3,866	**28,750**	**28,800**	4,532	4,316	5,088	4,316	**31,750**	**31,800**	5,357	4,766	5,913	4,766
25,800	**25,850**	3,874	3,874	4,277	3,874	**28,800**	**28,850**	4,546	4,324	5,102	4,324	**31,800**	**31,850**	5,371	4,774	5,927	4,774
25,850	**25,900**	3,881	3,881	4,291	3,881	**28,850**	**28,900**	4,559	4,331	5,116	4,331	**31,850**	**31,900**	5,384	4,781	5,941	4,781
25,900	**25,950**	3,889	3,889	4,304	3,889	**28,900**	**28,950**	4,573	4,339	5,129	4,339	**31,900**	**31,950**	5,398	4,789	5,954	4,789
25,950	**26,000**	3,896	3,896	4,318	3,896	**28,950**	**29,000**	4,587	4,346	5,143	4,346	**31,950**	**32,000**	5,412	4,796	5,968	4,796

* This column must also be used by a qualifying widow(er).

(Continued on page 63)

If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
32,000						**35,000**						**38,000**					
32,000	**32,050**	5,426	4,804	5,982	4,804	**35,000**	**35,050**	6,251	5,254	6,807	5,254	**38,000**	**38,050**	7,076	5,704	7,632	5,926
32,050	**32,100**	5,439	4,811	5,996	4,811	**35,050**	**35,100**	6,264	5,261	6,821	5,261	**38,050**	**38,100**	7,089	5,711	7,646	5,939
32,100	**32,150**	5,453	4,819	6,009	4,819	**35,100**	**35,150**	6,278	5,269	6,834	5,269	**38,100**	**38,150**	7,103	5,719	7,659	5,953
32,150	**32,200**	5,467	4,826	6,023	4,826	**35,150**	**35,200**	6,292	5,276	6,848	5,276	**38,150**	**38,200**	7,117	5,726	7,673	5,967
32,200	**32,250**	5,481	4,834	6,037	4,834	**35,200**	**35,250**	6,306	5,284	6,862	5,284	**38,200**	**38,250**	7,131	5,734	7,687	5,981
32,250	**32,300**	5,494	4,841	6,051	4,841	**35,250**	**35,300**	6,319	5,291	6,876	5,291	**38,250**	**38,300**	7,144	5,741	7,701	5,994
32,300	**32,350**	5,508	4,849	6,064	4,849	**35,300**	**35,350**	6,333	5,299	6,889	5,299	**38,300**	**38,350**	7,158	5,749	7,714	6,008
32,350	**32,400**	5,522	4,856	6,078	4,856	**35,350**	**35,400**	6,347	5,306	6,903	5,306	**38,350**	**38,400**	7,172	5,756	7,728	6,022
32,400	**32,450**	5,536	4,864	6,092	4,864	**35,400**	**35,450**	6,361	5,314	6,917	5,314	**38,400**	**38,450**	7,186	5,764	7,742	6,036
32,450	**32,500**	5,549	4,871	6,106	4,871	**35,450**	**35,500**	6,374	5,321	6,931	5,321	**38,450**	**38,500**	7,199	5,771	7,756	6,049
32,500	**32,550**	5,563	4,879	6,119	4,879	**35,500**	**35,550**	6,388	5,329	6,944	5,329	**38,500**	**38,550**	7,213	5,779	7,769	6,063
32,550	**32,600**	5,577	4,886	6,133	4,886	**35,550**	**35,600**	6,402	5,336	6,958	5,336	**38,550**	**38,600**	7,227	5,786	7,783	6,077
32,600	**32,650**	5,591	4,894	6,147	4,894	**35,600**	**35,650**	6,416	5,344	6,972	5,344	**38,600**	**38,650**	7,241	5,794	7,797	6,091
32,650	**32,700**	5,604	4,901	6,161	4,901	**35,650**	**35,700**	6,429	5,351	6,986	5,351	**38,650**	**38,700**	7,254	5,801	7,811	6,104
32,700	**32,750**	5,618	4,909	6,174	4,909	**35,700**	**35,750**	6,443	5,359	6,999	5,359	**38,700**	**38,750**	7,268	5,809	7,824	6,118
32,750	**32,800**	5,632	4,916	6,188	4,916	**35,750**	**35,800**	6,457	5,366	7,013	5,366	**38,750**	**38,800**	7,282	5,816	7,838	6,132
32,800	**32,850**	5,646	4,924	6,202	4,924	**35,800**	**35,850**	6,471	5,374	7,027	5,374	**38,800**	**38,850**	7,296	5,824	7,852	6,146
32,850	**32,900**	5,659	4,931	6,216	4,931	**35,850**	**35,900**	6,484	5,381	7,041	5,381	**38,850**	**38,900**	7,309	5,831	7,866	6,159
32,900	**32,950**	5,673	4,939	6,229	4,939	**35,900**	**35,950**	6,498	5,389	7,054	5,389	**38,900**	**38,950**	7,323	5,839	7,879	6,173
32,950	**33,000**	5,687	4,946	6,243	4,946	**35,950**	**36,000**	6,512	5,396	7,068	5,396	**38,950**	**39,000**	7,337	5,846	7,893	6,187
33,000						**36,000**						**39,000**					
33,000	**33,050**	5,701	4,954	6,257	4,954	**36,000**	**36,050**	6,526	5,404	7,082	5,404	**39,000**	**39,050**	7,351	5,854	7,907	6,201
33,050	**33,100**	5,714	4,961	6,271	4,961	**36,050**	**36,100**	6,539	5,411	7,096	5,411	**39,050**	**39,100**	7,364	5,861	7,921	6,214
33,100	**33,150**	5,728	4,969	6,284	4,969	**36,100**	**36,150**	6,553	5,419	7,109	5,419	**39,100**	**39,150**	7,378	5,869	7,934	6,228
33,150	**33,200**	5,742	4,976	6,298	4,976	**36,150**	**36,200**	6,567	5,426	7,123	5,426	**39,150**	**39,200**	7,392	5,876	7,948	6,242
33,200	**33,250**	5,756	4,984	6,312	4,984	**36,200**	**36,250**	6,581	5,434	7,137	5,434	**39,200**	**39,250**	7,406	5,884	7,962	6,256
33,250	**33,300**	5,769	4,991	6,326	4,991	**36,250**	**36,300**	6,594	5,441	7,151	5,444	**39,250**	**39,300**	7,419	5,891	7,976	6,269
33,300	**33,350**	5,783	4,999	6,339	4,999	**36,300**	**36,350**	6,608	5,449	7,164	5,458	**39,300**	**39,350**	7,433	5,899	7,989	6,283
33,350	**33,400**	5,797	5,006	6,353	5,006	**36,350**	**36,400**	6,622	5,456	7,178	5,472	**39,350**	**39,400**	7,447	5,906	8,003	6,297
33,400	**33,450**	5,811	5,014	6,367	5,014	**36,400**	**36,450**	6,636	5,464	7,192	5,486	**39,400**	**39,450**	7,461	5,914	8,017	6,311
33,450	**33,500**	5,824	5,021	6,381	5,021	**36,450**	**36,500**	6,649	5,471	7,206	5,499	**39,450**	**39,500**	7,474	5,921	8,031	6,324
33,500	**33,550**	5,838	5,029	6,394	5,029	**36,500**	**36,550**	6,663	5,479	7,219	5,513	**39,500**	**39,550**	7,488	5,929	8,044	6,338
33,550	**33,600**	5,852	5,036	6,408	5,036	**36,550**	**36,600**	6,677	5,486	7,233	5,527	**39,550**	**39,600**	7,502	5,936	8,058	6,352
33,600	**33,650**	5,866	5,044	6,422	5,044	**36,600**	**36,650**	6,691	5,494	7,247	5,541	**39,600**	**39,650**	7,516	5,944	8,072	6,366
33,650	**33,700**	5,879	5,051	6,436	5,051	**36,650**	**36,700**	6,704	5,501	7,261	5,554	**39,650**	**39,700**	7,529	5,951	8,086	6,379
33,700	**33,750**	5,893	5,059	6,449	5,059	**36,700**	**36,750**	6,718	5,509	7,274	5,568	**39,700**	**39,750**	7,543	5,959	8,099	6,393
33,750	**33,800**	5,907	5,066	6,463	5,066	**36,750**	**36,800**	6,732	5,516	7,288	5,582	**39,750**	**39,800**	7,557	5,966	8,113	6,407
33,800	**33,850**	5,921	5,074	6,477	5,074	**36,800**	**36,850**	6,746	5,524	7,302	5,596	**39,800**	**39,850**	7,571	5,974	8,127	6,421
33,850	**33,900**	5,934	5,081	6,491	5,081	**36,850**	**36,900**	6,759	5,531	7,316	5,609	**39,850**	**39,900**	7,584	5,981	8,141	6,434
33,900	**33,950**	5,948	5,089	6,504	5,089	**36,900**	**36,950**	6,773	5,539	7,329	5,623	**39,900**	**39,950**	7,598	5,989	8,154	6,448
33,950	**34,000**	5,962	5,096	6,518	5,096	**36,950**	**37,000**	6,787	5,546	7,343	5,637	**39,950**	**40,000**	7,612	5,996	8,168	6,462
34,000						**37,000**						**40,000**					
34,000	**34,050**	5,976	5,104	6,532	5,104	**37,000**	**37,050**	6,801	5,554	7,357	5,651	**40,000**	**40,050**	7,626	6,004	8,182	6,476
34,050	**34,100**	5,989	5,111	6,546	5,111	**37,050**	**37,100**	6,814	5,561	7,371	5,664	**40,050**	**40,100**	7,639	6,011	8,196	6,489
34,100	**34,150**	6,003	5,119	6,559	5,119	**37,100**	**37,150**	6,828	5,569	7,384	5,678	**40,100**	**40,150**	7,653	6,019	8,209	6,503
34,150	**34,200**	6,017	5,126	6,573	5,126	**37,150**	**37,200**	6,842	5,576	7,398	5,692	**40,150**	**40,200**	7,667	6,026	8,223	6,517
34,200	**34,250**	6,031	5,134	6,587	5,134	**37,200**	**37,250**	6,856	5,584	7,412	5,706	**40,200**	**40,250**	7,681	6,034	8,237	6,531
34,250	**34,300**	6,044	5,141	6,601	5,141	**37,250**	**37,300**	6,869	5,591	7,426	5,719	**40,250**	**40,300**	7,694	6,041	8,251	6,544
34,300	**34,350**	6,058	5,149	6,614	5,149	**37,300**	**37,350**	6,883	5,599	7,439	5,733	**40,300**	**40,350**	7,708	6,049	8,264	6,558
34,350	**34,400**	6,072	5,156	6,628	5,156	**37,350**	**37,400**	6,897	5,606	7,453	5,747	**40,350**	**40,400**	7,722	6,056	8,278	6,572
34,400	**34,450**	6,086	5,164	6,642	5,164	**37,400**	**37,450**	6,911	5,614	7,467	5,761	**40,400**	**40,450**	7,736	6,064	8,292	6,586
34,450	**34,500**	6,099	5,171	6,656	5,171	**37,450**	**37,500**	6,924	5,621	7,481	5,774	**40,450**	**40,500**	7,749	6,071	8,306	6,599
34,500	**34,550**	6,113	5,179	6,669	5,179	**37,500**	**37,550**	6,938	5,629	7,494	5,788	**40,500**	**40,550**	7,763	6,079	8,319	6,613
34,550	**34,600**	6,127	5,186	6,683	5,186	**37,550**	**37,600**	6,952	5,636	7,508	5,802	**40,550**	**40,600**	7,777	6,086	8,333	6,627
34,600	**34,650**	6,141	5,194	6,697	5,194	**37,600**	**37,650**	6,966	5,644	7,522	5,816	**40,600**	**40,650**	7,791	6,094	8,347	6,641
34,650	**34,700**	6,154	5,201	6,711	5,201	**37,650**	**37,700**	6,979	5,651	7,536	5,829	**40,650**	**40,700**	7,804	6,101	8,361	6,654
34,700	**34,750**	6,168	5,209	6,724	5,209	**37,700**	**37,750**	6,993	5,659	7,549	5,843	**40,700**	**40,750**	7,818	6,109	8,374	6,668
34,750	**34,800**	6,182	5,216	6,738	5,216	**37,750**	**37,800**	7,007	5,666	7,563	5,857	**40,750**	**40,800**	7,832	6,116	8,388	6,682
34,800	**34,850**	6,196	5,224	6,752	5,224	**37,800**	**37,850**	7,021	5,674	7,577	5,871	**40,800**	**40,850**	7,846	6,124	8,402	6,696
34,850	**34,900**	6,209	5,231	6,766	5,231	**37,850**	**37,900**	7,034	5,681	7,591	5,884	**40,850**	**40,900**	7,859	6,131	8,416	6,709
34,900	**34,950**	6,223	5,239	6,779	5,239	**37,900**	**37,950**	7,048	5,689	7,604	5,898	**40,900**	**40,950**	7,873	6,139	8,429	6,723
34,950	**35,000**	6,237	5,246	6,793	5,246	**37,950**	**38,000**	7,062	5,696	7,618	5,912	**40,950**	**41,000**	7,887	6,146	8,443	6,737

* This column must also be used by a qualifying widow(er).

(Continued on page 64)

If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
41,000						**44,000**						**47,000**					
41,000	**41,050**	7,901	6,154	8,457	6,751	**44,000**	**44,050**	8,726	6,604	9,282	7,576	**47,000**	**47,050**	9,551	7,282	10,107	8,401
41,050	**41,100**	7,914	6,161	8,471	6,764	**44,050**	**44,100**	8,739	6,611	9,296	7,589	**47,050**	**47,100**	9,564	7,296	10,121	8,414
41,100	**41,150**	7,928	6,169	8,484	6,778	**44,100**	**44,150**	8,753	6,619	9,309	7,603	**47,100**	**47,150**	9,578	7,309	10,134	8,428
41,150	**41,200**	7,942	6,176	8,498	6,792	**44,150**	**44,200**	8,767	6,626	9,323	7,617	**47,150**	**47,200**	9,592	7,323	10,148	8,442
41,200	**41,250**	7,956	6,184	8,512	6,806	**44,200**	**44,250**	8,781	6,634	9,337	7,631	**47,200**	**47,250**	9,606	7,337	10,162	8,456
41,250	**41,300**	7,969	6,191	8,526	6,819	**44,250**	**44,300**	8,794	6,641	9,351	7,644	**47,250**	**47,300**	9,619	7,351	10,176	8,469
41,300	**41,350**	7,983	6,199	8,539	6,833	**44,300**	**44,350**	8,808	6,649	9,364	7,658	**47,300**	**47,350**	9,633	7,364	10,189	8,483
41,350	**41,400**	7,997	6,206	8,553	6,847	**44,350**	**44,400**	8,822	6,656	9,378	7,672	**47,350**	**47,400**	9,647	7,378	10,203	8,497
41,400	**41,450**	8,011	6,214	8,567	6,861	**44,400**	**44,450**	8,836	6,664	9,392	7,686	**47,400**	**47,450**	9,661	7,392	10,217	8,511
41,450	**41,500**	8,024	6,221	8,581	6,874	**44,450**	**44,500**	8,849	6,671	9,406	7,699	**47,450**	**47,500**	9,674	7,406	10,231	8,524
41,500	**41,550**	8,038	6,229	8,594	6,888	**44,500**	**44,550**	8,863	6,679	9,419	7,713	**47,500**	**47,550**	9,688	7,419	10,244	8,538
41,550	**41,600**	8,052	6,236	8,608	6,902	**44,550**	**44,600**	8,877	6,686	9,433	7,727	**47,550**	**47,600**	9,702	7,433	10,258	8,552
41,600	**41,650**	8,066	6,244	8,622	6,916	**44,600**	**44,650**	8,891	6,694	9,447	7,741	**47,600**	**47,650**	9,716	7,447	10,272	8,566
41,650	**41,700**	8,079	6,251	8,636	6,929	**44,650**	**44,700**	8,904	6,701	9,461	7,754	**47,650**	**47,700**	9,729	7,461	10,286	8,579
41,700	**41,750**	8,093	6,259	8,649	6,943	**44,700**	**44,750**	8,918	6,709	9,474	7,768	**47,700**	**47,750**	9,743	7,474	10,299	8,593
41,750	**41,800**	8,107	6,266	8,663	6,957	**44,750**	**44,800**	8,932	6,716	9,488	7,782	**47,750**	**47,800**	9,757	7,488	10,313	8,607
41,800	**41,850**	8,121	6,274	8,677	6,971	**44,800**	**44,850**	8,946	6,724	9,502	7,796	**47,800**	**47,850**	9,771	7,502	10,327	8,621
41,850	**41,900**	8,134	6,281	8,691	6,984	**44,850**	**44,900**	8,959	6,731	9,516	7,809	**47,850**	**47,900**	9,784	7,516	10,341	8,634
41,900	**41,950**	8,148	6,289	8,704	6,998	**44,900**	**44,950**	8,973	6,739	9,529	7,823	**47,900**	**47,950**	9,798	7,529	10,354	8,648
41,950	**42,000**	8,162	6,296	8,718	7,012	**44,950**	**45,000**	8,987	6,746	9,543	7,837	**47,950**	**48,000**	9,812	7,543	10,368	8,662
42,000						**45,000**						**48,000**					
42,000	**42,050**	8,176	6,304	8,732	7,026	**45,000**	**45,050**	9,001	6,754	9,557	7,851	**48,000**	**48,050**	9,826	7,557	10,382	8,676
42,050	**42,100**	8,189	6,311	8,746	7,039	**45,050**	**45,100**	9,014	6,761	9,571	7,864	**48,050**	**48,100**	9,839	7,571	10,396	8,689
42,100	**42,150**	8,203	6,319	8,759	7,053	**45,100**	**45,150**	9,028	6,769	9,584	7,878	**48,100**	**48,150**	9,853	7,584	10,409	8,703
42,150	**42,200**	8,217	6,326	8,773	7,067	**45,150**	**45,200**	9,042	6,776	9,598	7,892	**48,150**	**48,200**	9,867	7,598	10,423	8,717
42,200	**42,250**	8,231	6,334	8,787	7,081	**45,200**	**45,250**	9,056	6,787	9,612	7,906	**48,200**	**48,250**	9,881	7,612	10,437	8,731
42,250	**42,300**	8,244	6,341	8,801	7,094	**45,250**	**45,300**	9,069	6,801	9,626	7,919	**48,250**	**48,300**	9,894	7,626	10,451	8,744
42,300	**42,350**	8,258	6,349	8,814	7,108	**45,300**	**45,350**	9,083	6,814	9,639	7,933	**48,300**	**48,350**	9,908	7,639	10,464	8,758
42,350	**42,400**	8,272	6,356	8,828	7,122	**45,350**	**45,400**	9,097	6,828	9,653	7,947	**48,350**	**48,400**	9,922	7,653	10,478	8,772
42,400	**42,450**	8,286	6,364	8,842	7,136	**45,400**	**45,450**	9,111	6,842	9,667	7,961	**48,400**	**48,450**	9,936	7,667	10,492	8,786
42,450	**42,500**	8,299	6,371	8,856	7,149	**45,450**	**45,500**	9,124	6,856	9,681	7,974	**48,450**	**48,500**	9,949	7,681	10,506	8,799
42,500	**42,550**	8,313	6,379	8,869	7,163	**45,500**	**45,550**	9,138	6,869	9,694	7,988	**48,500**	**48,550**	9,963	7,694	10,519	8,813
42,550	**42,600**	8,327	6,386	8,883	7,177	**45,550**	**45,600**	9,152	6,883	9,708	8,002	**48,550**	**48,600**	9,977	7,708	10,533	8,827
42,600	**42,650**	8,341	6,394	8,897	7,191	**45,600**	**45,650**	9,166	6,897	9,722	8,016	**48,600**	**48,650**	9,991	7,722	10,547	8,841
42,650	**42,700**	8,354	6,401	8,911	7,204	**45,650**	**45,700**	9,179	6,911	9,736	8,029	**48,650**	**48,700**	10,004	7,736	10,561	8,854
42,700	**42,750**	8,368	6,409	8,924	7,218	**45,700**	**45,750**	9,193	6,924	9,749	8,043	**48,700**	**48,750**	10,018	7,749	10,574	8,868
42,750	**42,800**	8,382	6,416	8,938	7,232	**45,750**	**45,800**	9,207	6,938	9,763	8,057	**48,750**	**48,800**	10,032	7,763	10,588	8,882
42,800	**42,850**	8,396	6,424	8,952	7,246	**45,800**	**45,850**	9,221	6,952	9,777	8,071	**48,800**	**48,850**	10,046	7,777	10,602	8,896
42,850	**42,900**	8,409	6,431	8,966	7,259	**45,850**	**45,900**	9,234	6,966	9,791	8,084	**48,850**	**48,900**	10,059	7,791	10,616	8,909
42,900	**42,950**	8,423	6,439	8,979	7,273	**45,900**	**45,950**	9,248	6,979	9,804	8,098	**48,900**	**48,950**	10,073	7,804	10,629	8,923
42,950	**43,000**	8,437	6,446	8,993	7,287	**45,950**	**46,000**	9,262	6,993	9,818	8,112	**48,950**	**49,000**	10,087	7,818	10,643	8,937
43,000						**46,000**						**49,000**					
43,000	**43,050**	8,451	6,454	9,007	7,301	**46,000**	**46,050**	9,276	7,007	9,832	8,126	**49,000**	**49,050**	10,101	7,832	10,657	8,951
43,050	**43,100**	8,464	6,461	9,021	7,314	**46,050**	**46,100**	9,289	7,021	9,846	8,139	**49,050**	**49,100**	10,114	7,846	10,671	8,964
43,100	**43,150**	8,478	6,469	9,034	7,328	**46,100**	**46,150**	9,303	7,034	9,859	8,153	**49,100**	**49,150**	10,128	7,859	10,684	8,978
43,150	**43,200**	8,492	6,476	9,048	7,342	**46,150**	**46,200**	9,317	7,048	9,873	8,167	**49,150**	**49,200**	10,142	7,873	10,698	8,992
43,200	**43,250**	8,506	6,484	9,062	7,356	**46,200**	**46,250**	9,331	7,062	9,887	8,181	**49,200**	**49,250**	10,156	7,887	10,712	9,006
43,250	**43,300**	8,519	6,491	9,076	7,369	**46,250**	**46,300**	9,344	7,076	9,901	8,194	**49,250**	**49,300**	10,169	7,901	10,726	9,019
43,300	**43,350**	8,533	6,499	9,089	7,383	**46,300**	**46,350**	9,358	7,089	9,914	8,208	**49,300**	**49,350**	10,183	7,914	10,739	9,033
43,350	**43,400**	8,547	6,506	9,103	7,397	**46,350**	**46,400**	9,372	7,103	9,928	8,222	**49,350**	**49,400**	10,197	7,928	10,753	9,047
43,400	**43,450**	8,561	6,514	9,117	7,411	**46,400**	**46,450**	9,386	7,117	9,942	8,236	**49,400**	**49,450**	10,211	7,942	10,767	9,061
43,450	**43,500**	8,574	6,521	9,131	7,424	**46,450**	**46,500**	9,399	7,131	9,956	8,249	**49,450**	**49,500**	10,224	7,956	10,781	9,074
43,500	**43,550**	8,588	6,529	9,144	7,438	**46,500**	**46,550**	9,413	7,144	9,969	8,263	**49,500**	**49,550**	10,238	7,969	10,794	9,088
43,550	**43,600**	8,602	6,536	9,158	7,452	**46,550**	**46,600**	9,427	7,158	9,983	8,277	**49,550**	**49,600**	10,252	7,983	10,808	9,102
43,600	**43,650**	8,616	6,544	9,172	7,466	**46,600**	**46,650**	9,441	7,172	9,997	8,291	**49,600**	**49,650**	10,266	7,997	10,822	9,116
43,650	**43,700**	8,629	6,551	9,186	7,479	**46,650**	**46,700**	9,454	7,186	10,011	8,304	**49,650**	**49,700**	10,279	8,011	10,836	9,129
43,700	**43,750**	8,643	6,559	9,199	7,493	**46,700**	**46,750**	9,468	7,199	10,024	8,318	**49,700**	**49,750**	10,293	8,024	10,849	9,143
43,750	**43,800**	8,657	6,566	9,213	7,507	**46,750**	**46,800**	9,482	7,213	10,038	8,332	**49,750**	**49,800**	10,307	8,038	10,863	9,157
43,800	**43,850**	8,671	6,574	9,227	7,521	**46,800**	**46,850**	9,496	7,227	10,052	8,346	**49,800**	**49,850**	10,321	8,052	10,877	9,171
43,850	**43,900**	8,684	6,581	9,241	7,534	**46,850**	**46,900**	9,509	7,241	10,066	8,359	**49,850**	**49,900**	10,334	8,066	10,891	9,184
43,900	**43,950**	8,698	6,589	9,254	7,548	**46,900**	**46,950**	9,523	7,254	10,079	8,373	**49,900**	**49,950**	10,348	8,079	10,904	9,198
43,950	**44,000**	8,712	6,596	9,268	7,562	**46,950**	**47,000**	9,537	7,268	10,093	8,387	**49,950**	**50,000**	10,362	8,093	10,918	9,212

* This column must also be used by a qualifying widow(er).

(Continued on page 65)

If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
50,000						**53,000**						**56,000**					
50,000	**50,050**	10,376	8,107	10,932	9,226	**53,000**	**53,050**	11,201	8,932	11,757	10,051	**56,000**	**56,050**	12,026	9,757	12,624	10,876
50,050	**50,100**	10,389	8,121	10,946	9,239	**53,050**	**53,100**	11,214	8,946	11,771	10,064	**56,050**	**56,100**	12,039	9,771	12,639	10,889
50,100	**50,150**	10,403	8,134	10,959	9,253	**53,100**	**53,150**	11,228	8,959	11,784	10,078	**56,100**	**56,150**	12,053	9,784	12,654	10,903
50,150	**50,200**	10,417	8,148	10,973	9,267	**53,150**	**53,200**	11,242	8,973	11,798	10,092	**56,150**	**56,200**	12,067	9,798	12,670	10,917
50,200	**50,250**	10,431	8,162	10,987	9,281	**53,200**	**53,250**	11,256	8,987	11,812	10,106	**56,200**	**56,250**	12,081	9,812	12,685	10,931
50,250	**50,300**	10,444	8,176	11,001	9,294	**53,250**	**53,300**	11,269	9,001	11,826	10,119	**56,250**	**56,300**	12,094	9,826	12,700	10,944
50,300	**50,350**	10,458	8,189	11,014	9,308	**53,300**	**53,350**	11,283	9,014	11,839	10,133	**56,300**	**56,350**	12,108	9,839	12,715	10,958
50,350	**50,400**	10,472	8,203	11,028	9,322	**53,350**	**53,400**	11,297	9,028	11,853	10,147	**56,350**	**56,400**	12,122	9,853	12,731	10,972
50,400	**50,450**	10,486	8,217	11,042	9,336	**53,400**	**53,450**	11,311	9,042	11,867	10,161	**56,400**	**56,450**	12,136	9,867	12,746	10,986
50,450	**50,500**	10,499	8,231	11,056	9,349	**53,450**	**53,500**	11,324	9,056	11,881	10,174	**56,450**	**56,500**	12,149	9,881	12,761	10,999
50,500	**50,550**	10,513	8,244	11,069	9,363	**53,500**	**53,550**	11,338	9,069	11,894	10,188	**56,500**	**56,550**	12,163	9,894	12,776	11,013
50,550	**50,600**	10,527	8,258	11,083	9,377	**53,550**	**53,600**	11,352	9,083	11,908	10,202	**56,550**	**56,600**	12,177	9,908	12,792	11,027
50,600	**50,650**	10,541	8,272	11,097	9,391	**53,600**	**53,650**	11,366	9,097	11,922	10,216	**56,600**	**56,650**	12,191	9,922	12,807	11,041
50,650	**50,700**	10,554	8,286	11,111	9,404	**53,650**	**53,700**	11,379	9,111	11,936	10,229	**56,650**	**56,700**	12,204	9,936	12,822	11,054
50,700	**50,750**	10,568	8,299	11,124	9,418	**53,700**	**53,750**	11,393	9,124	11,949	10,243	**56,700**	**56,750**	12,218	9,949	12,837	11,068
50,750	**50,800**	10,582	8,313	11,138	9,432	**53,750**	**53,800**	11,407	9,138	11,963	10,257	**56,750**	**56,800**	12,232	9,963	12,853	11,082
50,800	**50,850**	10,596	8,327	11,152	9,446	**53,800**	**53,850**	11,421	9,152	11,977	10,271	**56,800**	**56,850**	12,246	9,977	12,868	11,096
50,850	**50,900**	10,609	8,341	11,166	9,459	**53,850**	**53,900**	11,434	9,166	11,991	10,284	**56,850**	**56,900**	12,259	9,991	12,883	11,109
50,900	**50,950**	10,623	8,354	11,179	9,473	**53,900**	**53,950**	11,448	9,179	12,004	10,298	**56,900**	**56,950**	12,273	10,004	12,898	11,123
50,950	**51,000**	10,637	8,368	11,193	9,487	**53,950**	**54,000**	11,462	9,193	12,018	10,312	**56,950**	**57,000**	12,287	10,018	12,914	11,137
51,000						**54,000**						**57,000**					
51,000	**51,050**	10,651	8,382	11,207	9,501	**54,000**	**54,050**	11,476	9,207	12,032	10,326	**57,000**	**57,050**	12,301	10,032	12,929	11,151
51,050	**51,100**	10,664	8,396	11,221	9,514	**54,050**	**54,100**	11,489	9,221	12,046	10,339	**57,050**	**57,100**	12,314	10,046	12,944	11,164
51,100	**51,150**	10,678	8,409	11,234	9,528	**54,100**	**54,150**	11,503	9,234	12,059	10,353	**57,100**	**57,150**	12,328	10,059	12,959	11,178
51,150	**51,200**	10,692	8,423	11,248	9,542	**54,150**	**54,200**	11,517	9,248	12,073	10,367	**57,150**	**57,200**	12,342	10,073	12,975	11,192
51,200	**51,250**	10,706	8,437	11,262	9,556	**54,200**	**54,250**	11,531	9,262	12,087	10,381	**57,200**	**57,250**	12,356	10,087	12,990	11,206
51,250	**51,300**	10,719	8,451	11,276	9,569	**54,250**	**54,300**	11,544	9,276	12,101	10,394	**57,250**	**57,300**	12,369	10,101	13,005	11,219
51,300	**51,350**	10,733	8,464	11,289	9,583	**54,300**	**54,350**	11,558	9,289	12,114	10,408	**57,300**	**57,350**	12,383	10,114	13,020	11,233
51,350	**51,400**	10,747	8,478	11,303	9,597	**54,350**	**54,400**	11,572	9,303	12,128	10,422	**57,350**	**57,400**	12,397	10,128	13,036	11,247
51,400	**51,450**	10,761	8,492	11,317	9,611	**54,400**	**54,450**	11,586	9,317	12,142	10,436	**57,400**	**57,450**	12,411	10,142	13,051	11,261
51,450	**51,500**	10,774	8,506	11,331	9,624	**54,450**	**54,500**	11,599	9,331	12,156	10,449	**57,450**	**57,500**	12,424	10,156	13,066	11,274
51,500	**51,550**	10,788	8,519	11,344	9,638	**54,500**	**54,550**	11,613	9,344	12,169	10,463	**57,500**	**57,550**	12,438	10,169	13,081	11,288
51,550	**51,600**	10,802	8,533	11,358	9,652	**54,550**	**54,600**	11,627	9,358	12,183	10,477	**57,550**	**57,600**	12,452	10,183	13,097	11,302
51,600	**51,650**	10,816	8,547	11,372	9,666	**54,600**	**54,650**	11,641	9,372	12,197	10,491	**57,600**	**57,650**	12,466	10,197	13,112	11,316
51,650	**51,700**	10,829	8,561	11,386	9,679	**54,650**	**54,700**	11,654	9,386	12,212	10,504	**57,650**	**57,700**	12,479	10,211	13,127	11,329
51,700	**51,750**	10,843	8,574	11,399	9,693	**54,700**	**54,750**	11,668	9,399	12,227	10,518	**57,700**	**57,750**	12,493	10,224	13,142	11,343
51,750	**51,800**	10,857	8,588	11,413	9,707	**54,750**	**54,800**	11,682	9,413	12,243	10,532	**57,750**	**57,800**	12,507	10,238	13,158	11,357
51,800	**51,850**	10,871	8,602	11,427	9,721	**54,800**	**54,850**	11,696	9,427	12,258	10,546	**57,800**	**57,850**	12,521	10,252	13,173	11,371
51,850	**51,900**	10,884	8,616	11,441	9,734	**54,850**	**54,900**	11,709	9,441	12,273	10,559	**57,850**	**57,900**	12,534	10,266	13,188	11,384
51,900	**51,950**	10,898	8,629	11,454	9,748	**54,900**	**54,950**	11,723	9,454	12,288	10,573	**57,900**	**57,950**	12,548	10,279	13,203	11,398
51,950	**52,000**	10,912	8,643	11,468	9,762	**54,950**	**55,000**	11,737	9,468	12,304	10,587	**57,950**	**58,000**	12,562	10,293	13,219	11,412
52,000						**55,000**						**58,000**					
52,000	**52,050**	10,926	8,657	11,482	9,776	**55,000**	**55,050**	11,751	9,482	12,319	10,601	**58,000**	**58,050**	12,576	10,307	13,234	11,426
52,050	**52,100**	10,939	8,671	11,496	9,789	**55,050**	**55,100**	11,764	9,496	12,334	10,614	**58,050**	**58,100**	12,589	10,321	13,249	11,439
52,100	**52,150**	10,953	8,684	11,509	9,803	**55,100**	**55,150**	11,778	9,509	12,349	10,628	**58,100**	**58,150**	12,603	10,334	13,264	11,453
52,150	**52,200**	10,967	8,698	11,523	9,817	**55,150**	**55,200**	11,792	9,523	12,365	10,642	**58,150**	**58,200**	12,617	10,348	13,280	11,467
52,200	**52,250**	10,981	8,712	11,537	9,831	**55,200**	**55,250**	11,806	9,537	12,380	10,656	**58,200**	**58,250**	12,631	10,362	13,295	11,481
52,250	**52,300**	10,994	8,726	11,551	9,844	**55,250**	**55,300**	11,819	9,551	12,395	10,669	**58,250**	**58,300**	12,644	10,376	13,310	11,494
52,300	**52,350**	11,008	8,739	11,564	9,858	**55,300**	**55,350**	11,833	9,564	12,410	10,683	**58,300**	**58,350**	12,658	10,389	13,325	11,508
52,350	**52,400**	11,022	8,753	11,578	9,872	**55,350**	**55,400**	11,847	9,578	12,426	10,697	**58,350**	**58,400**	12,672	10,403	13,341	11,522
52,400	**52,450**	11,036	8,767	11,592	9,886	**55,400**	**55,450**	11,861	9,592	12,441	10,711	**58,400**	**58,450**	12,686	10,417	13,356	11,536
52,450	**52,500**	11,049	8,781	11,606	9,899	**55,450**	**55,500**	11,874	9,606	12,456	10,724	**58,450**	**58,500**	12,699	10,431	13,371	11,549
52,500	**52,550**	11,063	8,794	11,619	9,913	**55,500**	**55,550**	11,888	9,619	12,471	10,738	**58,500**	**58,550**	12,713	10,444	13,386	11,563
52,550	**52,600**	11,077	8,808	11,633	9,927	**55,550**	**55,600**	11,902	9,633	12,487	10,752	**58,550**	**58,600**	12,727	10,458	13,402	11,577
52,600	**52,650**	11,091	8,822	11,647	9,941	**55,600**	**55,650**	11,916	9,647	12,502	10,766	**58,600**	**58,650**	12,741	10,472	13,417	11,591
52,650	**52,700**	11,104	8,836	11,661	9,954	**55,650**	**55,700**	11,929	9,661	12,517	10,779	**58,650**	**58,700**	12,754	10,486	13,432	11,604
52,700	**52,750**	11,118	8,849	11,674	9,968	**55,700**	**55,750**	11,943	9,674	12,532	10,793	**58,700**	**58,750**	12,768	10,499	13,447	11,618
52,750	**52,800**	11,132	8,863	11,688	9,982	**55,750**	**55,800**	11,957	9,688	12,548	10,807	**58,750**	**58,800**	12,782	10,513	13,463	11,632
52,800	**52,850**	11,146	8,877	11,702	9,996	**55,800**	**55,850**	11,971	9,702	12,563	10,821	**58,800**	**58,850**	12,796	10,527	13,478	11,646
52,850	**52,900**	11,159	8,891	11,716	10,009	**55,850**	**55,900**	11,984	9,716	12,578	10,834	**58,850**	**58,900**	12,809	10,541	13,493	11,659
52,900	**52,950**	11,173	8,904	11,729	10,023	**55,900**	**55,950**	11,998	9,729	12,593	10,848	**58,900**	**58,950**	12,823	10,554	13,508	11,673
52,950	**53,000**	11,187	8,918	11,743	10,037	**55,950**	**56,000**	12,012	9,743	12,609	10,862	**58,950**	**59,000**	12,837	10,568	13,524	11,687

* This column must also be used by a qualifying widow(er).

(Continued on page 66)

If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
59,000						**62,000**						**65,000**					
59,000	**59,050**	12,851	10,582	13,539	11,701	**62,000**	**62,050**	13,676	11,407	14,454	12,526	**65,000**	**65,050**	14,501	12,232	15,369	13,351
59,050	**59,100**	12,864	10,596	13,554	11,714	**62,050**	**62,100**	13,689	11,421	14,469	12,539	**65,050**	**65,100**	14,514	12,246	15,384	13,364
59,100	**59,150**	12,878	10,609	13,569	11,728	**62,100**	**62,150**	13,703	11,434	14,484	12,553	**65,100**	**65,150**	14,528	12,259	15,399	13,378
59,150	**59,200**	12,892	10,623	13,585	11,742	**62,150**	**62,200**	13,717	11,448	14,500	12,567	**65,150**	**65,200**	14,542	12,273	15,415	13,392
59,200	**59,250**	12,906	10,637	13,600	11,756	**62,200**	**62,250**	13,731	11,462	14,515	12,581	**65,200**	**65,250**	14,556	12,287	15,430	13,406
59,250	**59,300**	12,919	10,651	13,615	11,769	**62,250**	**62,300**	13,744	11,476	14,530	12,594	**65,250**	**65,300**	14,569	12,301	15,445	13,419
59,300	**59,350**	12,933	10,664	13,630	11,783	**62,300**	**62,350**	13,758	11,489	14,545	12,608	**65,300**	**65,350**	14,583	12,314	15,460	13,433
59,350	**59,400**	12,947	10,678	13,646	11,797	**62,350**	**62,400**	13,772	11,503	14,561	12,622	**65,350**	**65,400**	14,597	12,328	15,476	13,447
59,400	**59,450**	12,961	10,692	13,661	11,811	**62,400**	**62,450**	13,786	11,517	14,576	12,636	**65,400**	**65,450**	14,611	12,342	15,491	13,461
59,450	**59,500**	12,974	10,706	13,676	11,824	**62,450**	**62,500**	13,799	11,531	14,591	12,649	**65,450**	**65,500**	14,624	12,356	15,506	13,474
59,500	**59,550**	12,988	10,719	13,691	11,838	**62,500**	**62,550**	13,813	11,544	14,606	12,663	**65,500**	**65,550**	14,638	12,369	15,521	13,488
59,550	**59,600**	13,002	10,733	13,707	11,852	**62,550**	**62,600**	13,827	11,558	14,622	12,677	**65,550**	**65,600**	14,653	12,383	15,537	13,502
59,600	**59,650**	13,016	10,747	13,722	11,866	**62,600**	**62,650**	13,841	11,572	14,637	12,691	**65,600**	**65,650**	14,668	12,397	15,552	13,516
59,650	**59,700**	13,029	10,761	13,737	11,879	**62,650**	**62,700**	13,854	11,586	14,652	12,704	**65,650**	**65,700**	14,683	12,411	15,567	13,529
59,700	**59,750**	13,043	10,774	13,752	11,893	**62,700**	**62,750**	13,868	11,599	14,667	12,718	**65,700**	**65,750**	14,698	12,424	15,582	13,543
59,750	**59,800**	13,057	10,788	13,768	11,907	**62,750**	**62,800**	13,882	11,613	14,683	12,732	**65,750**	**65,800**	14,714	12,438	15,598	13,557
59,800	**59,850**	13,071	10,802	13,783	11,921	**62,800**	**62,850**	13,896	11,627	14,698	12,746	**65,800**	**65,850**	14,729	12,452	15,613	13,571
59,850	**59,900**	13,084	10,816	13,798	11,934	**62,850**	**62,900**	13,909	11,641	14,713	12,759	**65,850**	**65,900**	14,744	12,466	15,628	13,584
59,900	**59,950**	13,098	10,829	13,813	11,948	**62,900**	**62,950**	13,923	11,654	14,728	12,773	**65,900**	**65,950**	14,759	12,479	15,643	13,598
59,950	**60,000**	13,112	10,843	13,829	11,962	**62,950**	**63,000**	13,937	11,668	14,744	12,787	**65,950**	**66,000**	14,775	12,493	15,659	13,612
60,000						**63,000**						**66,000**					
60,000	**60,050**	13,126	10,857	13,844	11,976	**63,000**	**63,050**	13,951	11,682	14,759	12,801	**66,000**	**66,050**	14,790	12,507	15,674	13,626
60,050	**60,100**	13,139	10,871	13,859	11,989	**63,050**	**63,100**	13,964	11,696	14,774	12,814	**66,050**	**66,100**	14,805	12,521	15,689	13,639
60,100	**60,150**	13,153	10,884	13,874	12,003	**63,100**	**63,150**	13,978	11,709	14,789	12,828	**66,100**	**66,150**	14,820	12,534	15,704	13,653
60,150	**60,200**	13,167	10,898	13,890	12,017	**63,150**	**63,200**	13,992	11,723	14,805	12,842	**66,150**	**66,200**	14,836	12,548	15,720	13,667
60,200	**60,250**	13,181	10,912	13,905	12,031	**63,200**	**63,250**	14,006	11,737	14,820	12,856	**66,200**	**66,250**	14,851	12,562	15,735	13,681
60,250	**60,300**	13,194	10,926	13,920	12,044	**63,250**	**63,300**	14,019	11,751	14,835	12,869	**66,250**	**66,300**	14,866	12,576	15,750	13,694
60,300	**60,350**	13,208	10,939	13,935	12,058	**63,300**	**63,350**	14,033	11,764	14,850	12,883	**66,300**	**66,350**	14,881	12,589	15,765	13,708
60,350	**60,400**	13,222	10,953	13,951	12,072	**63,350**	**63,400**	14,047	11,778	14,866	12,897	**66,350**	**66,400**	14,897	12,603	15,781	13,722
60,400	**60,450**	13,236	10,967	13,966	12,086	**63,400**	**63,450**	14,061	11,792	14,881	12,911	**66,400**	**66,450**	14,912	12,617	15,796	13,736
60,450	**60,500**	13,249	10,981	13,981	12,099	**63,450**	**63,500**	14,074	11,806	14,896	12,924	**66,450**	**66,500**	14,927	12,631	15,811	13,749
60,500	**60,550**	13,263	10,994	13,996	12,113	**63,500**	**63,550**	14,088	11,819	14,911	12,938	**66,500**	**66,550**	14,942	12,644	15,826	13,763
60,550	**60,600**	13,277	11,008	14,012	12,127	**63,550**	**63,600**	14,102	11,833	14,927	12,952	**66,550**	**66,600**	14,958	12,658	15,842	13,777
60,600	**60,650**	13,291	11,022	14,027	12,141	**63,600**	**63,650**	14,116	11,847	14,942	12,966	**66,600**	**66,650**	14,973	12,672	15,857	13,791
60,650	**60,700**	13,304	11,036	14,042	12,154	**63,650**	**63,700**	14,129	11,861	14,957	12,979	**66,650**	**66,700**	14,988	12,686	15,872	13,804
60,700	**60,750**	13,318	11,049	14,057	12,168	**63,700**	**63,750**	14,143	11,874	14,972	12,993	**66,700**	**66,750**	15,003	12,699	15,887	13,818
60,750	**60,800**	13,332	11,063	14,073	12,182	**63,750**	**63,800**	14,157	11,888	14,988	13,007	**66,750**	**66,800**	15,019	12,713	15,903	13,832
60,800	**60,850**	13,346	11,077	14,088	12,196	**63,800**	**63,850**	14,171	11,902	15,003	13,021	**66,800**	**66,850**	15,034	12,727	15,918	13,846
60,850	**60,900**	13,359	11,091	14,103	12,209	**63,850**	**63,900**	14,184	11,916	15,018	13,034	**66,850**	**66,900**	15,049	12,741	15,933	13,859
60,900	**60,950**	13,373	11,104	14,118	12,223	**63,900**	**63,950**	14,198	11,929	15,033	13,048	**66,900**	**66,950**	15,064	12,754	15,948	13,873
60,950	**61,000**	13,387	11,118	14,134	12,237	**63,950**	**64,000**	14,212	11,943	15,049	13,062	**66,950**	**67,000**	15,080	12,768	15,964	13,887
61,000						**64,000**						**67,000**					
61,000	**61,050**	13,401	11,132	14,149	12,251	**64,000**	**64,050**	14,226	11,957	15,064	13,076	**67,000**	**67,050**	15,095	12,782	15,979	13,901
61,050	**61,100**	13,414	11,146	14,164	12,264	**64,050**	**64,100**	14,239	11,971	15,079	13,089	**67,050**	**67,100**	15,110	12,796	15,994	13,914
61,100	**61,150**	13,428	11,159	14,179	12,278	**64,100**	**64,150**	14,253	11,984	15,094	13,103	**67,100**	**67,150**	15,125	12,809	16,009	13,928
61,150	**61,200**	13,442	11,173	14,195	12,292	**64,150**	**64,200**	14,267	11,998	15,110	13,117	**67,150**	**67,200**	15,141	12,823	16,025	13,942
61,200	**61,250**	13,456	11,187	14,210	12,306	**64,200**	**64,250**	14,281	12,012	15,125	13,131	**67,200**	**67,250**	15,156	12,837	16,040	13,956
61,250	**61,300**	13,469	11,201	14,225	12,319	**64,250**	**64,300**	14,294	12,026	15,140	13,144	**67,250**	**67,300**	15,171	12,851	16,055	13,969
61,300	**61,350**	13,483	11,214	14,240	12,333	**64,300**	**64,350**	14,308	12,039	15,155	13,158	**67,300**	**67,350**	15,186	12,864	16,070	13,983
61,350	**61,400**	13,497	11,228	14,256	12,347	**64,350**	**64,400**	14,322	12,053	15,171	13,172	**67,350**	**67,400**	15,202	12,878	16,086	13,997
61,400	**61,450**	13,511	11,242	14,271	12,361	**64,400**	**64,450**	14,336	12,067	15,186	13,186	**67,400**	**67,450**	15,217	12,892	16,101	14,011
61,450	**61,500**	13,524	11,256	14,286	12,374	**64,450**	**64,500**	14,349	12,081	15,201	13,199	**67,450**	**67,500**	15,232	12,906	16,116	14,024
61,500	**61,550**	13,538	11,269	14,301	12,388	**64,500**	**64,550**	14,363	12,094	15,216	13,213	**67,500**	**67,550**	15,247	12,919	16,131	14,038
61,550	**61,600**	13,552	11,283	14,317	12,402	**64,550**	**64,600**	14,377	12,108	15,232	13,227	**67,550**	**67,600**	15,263	12,933	16,147	14,052
61,600	**61,650**	13,566	11,297	14,332	12,416	**64,600**	**64,650**	14,391	12,122	15,247	13,241	**67,600**	**67,650**	15,278	12,947	16,162	14,066
61,650	**61,700**	13,579	11,311	14,347	12,429	**64,650**	**64,700**	14,404	12,136	15,262	13,254	**67,650**	**67,700**	15,293	12,961	16,177	14,079
61,700	**61,750**	13,593	11,324	14,362	12,443	**64,700**	**64,750**	14,418	12,149	15,277	13,268	**67,700**	**67,750**	15,308	12,974	16,192	14,093
61,750	**61,800**	13,607	11,338	14,378	12,457	**64,750**	**64,800**	14,432	12,163	15,293	13,282	**67,750**	**67,800**	15,324	12,988	16,208	14,107
61,800	**61,850**	13,621	11,352	14,393	12,471	**64,800**	**64,850**	14,446	12,177	15,308	13,296	**67,800**	**67,850**	15,339	13,002	16,223	14,121
61,850	**61,900**	13,634	11,366	14,408	12,484	**64,850**	**64,900**	14,459	12,191	15,323	13,309	**67,850**	**67,900**	15,354	13,016	16,238	14,134
61,900	**61,950**	13,648	11,379	14,423	12,498	**64,900**	**64,950**	14,473	12,204	15,338	13,323	**67,900**	**67,950**	15,369	13,029	16,253	14,148
61,950	**62,000**	13,662	11,393	14,439	12,512	**64,950**	**65,000**	14,487	12,218	15,354	13,337	**67,950**	**68,000**	15,385	13,043	16,269	14,162

* This column must also be used by a qualifying widow(er).

(Continued on page 67)

If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
68,000						**71,000**						**74,000**					
68,000	**68,050**	15,400	13,057	16,284	14,176	**71,000**	**71,050**	16,315	13,882	17,199	15,001	**74,000**	**74,050**	17,230	14,707	18,114	15,826
68,050	**68,100**	15,415	13,071	16,299	14,189	**71,050**	**71,100**	16,330	13,896	17,214	15,014	**74,050**	**74,100**	17,245	14,721	18,129	15,839
68,100	**68,150**	15,430	13,084	16,314	14,203	**71,100**	**71,150**	16,345	13,909	17,229	15,028	**74,100**	**74,150**	17,260	14,734	18,144	15,853
68,150	**68,200**	15,446	13,098	16,330	14,217	**71,150**	**71,200**	16,361	13,923	17,245	15,042	**74,150**	**74,200**	17,276	14,748	18,160	15,867
68,200	**68,250**	15,461	13,112	16,345	14,231	**71,200**	**71,250**	16,376	13,937	17,260	15,056	**74,200**	**74,250**	17,291	14,762	18,175	15,881
68,250	**68,300**	15,476	13,126	16,360	14,244	**71,250**	**71,300**	16,391	13,951	17,275	15,069	**74,250**	**74,300**	17,306	14,776	18,190	15,894
68,300	**68,350**	15,491	13,139	16,375	14,258	**71,300**	**71,350**	16,406	13,964	17,290	15,083	**74,300**	**74,350**	17,321	14,789	18,205	15,908
68,350	**68,400**	15,507	13,153	16,391	14,272	**71,350**	**71,400**	16,422	13,978	17,306	15,097	**74,350**	**74,400**	17,337	14,803	18,221	15,922
68,400	**68,450**	15,522	13,167	16,406	14,286	**71,400**	**71,450**	16,437	13,992	17,321	15,111	**74,400**	**74,450**	17,352	14,817	18,236	15,936
68,450	**68,500**	15,537	13,181	16,421	14,299	**71,450**	**71,500**	16,452	14,006	17,336	15,124	**74,450**	**74,500**	17,367	14,831	18,251	15,949
68,500	**68,550**	15,552	13,194	16,436	14,313	**71,500**	**71,550**	16,467	14,019	17,351	15,138	**74,500**	**74,550**	17,382	14,844	18,266	15,963
68,550	**68,600**	15,568	13,208	16,452	14,327	**71,550**	**71,600**	16,483	14,033	17,367	15,152	**74,550**	**74,600**	17,398	14,858	18,282	15,977
68,600	**68,650**	15,583	13,222	16,467	14,341	**71,600**	**71,650**	16,498	14,047	17,382	15,166	**74,600**	**74,650**	17,413	14,872	18,297	15,991
68,650	**68,700**	15,598	13,236	16,482	14,354	**71,650**	**71,700**	16,513	14,061	17,397	15,179	**74,650**	**74,700**	17,428	14,886	18,312	16,004
68,700	**68,750**	15,613	13,249	16,497	14,368	**71,700**	**71,750**	16,528	14,074	17,412	15,193	**74,700**	**74,750**	17,443	14,899	18,327	16,018
68,750	**68,800**	15,629	13,263	16,513	14,382	**71,750**	**71,800**	16,544	14,088	17,428	15,207	**74,750**	**74,800**	17,459	14,913	18,343	16,032
68,800	**68,850**	15,644	13,277	16,528	14,396	**71,800**	**71,850**	16,559	14,102	17,443	15,221	**74,800**	**74,850**	17,474	14,927	18,358	16,046
68,850	**68,900**	15,659	13,291	16,543	14,409	**71,850**	**71,900**	16,574	14,116	17,458	15,234	**74,850**	**74,900**	17,489	14,941	18,373	16,059
68,900	**68,950**	15,674	13,304	16,558	14,423	**71,900**	**71,950**	16,589	14,129	17,473	15,248	**74,900**	**74,950**	17,504	14,954	18,388	16,073
68,950	**69,000**	15,690	13,318	16,574	14,437	**71,950**	**72,000**	16,605	14,143	17,489	15,262	**74,950**	**75,000**	17,520	14,968	18,404	16,087
69,000						**72,000**						**75,000**					
69,000	**69,050**	15,705	13,332	16,589	14,451	**72,000**	**72,050**	16,620	14,157	17,504	15,276	**75,000**	**75,050**	17,535	14,982	18,419	16,101
69,050	**69,100**	15,720	13,346	16,604	14,464	**72,050**	**72,100**	16,635	14,171	17,519	15,289	**75,050**	**75,100**	17,550	14,996	18,434	16,114
69,100	**69,150**	15,735	13,359	16,619	14,478	**72,100**	**72,150**	16,650	14,184	17,534	15,303	**75,100**	**75,150**	17,565	15,009	18,449	16,128
69,150	**69,200**	15,751	13,373	16,635	14,492	**72,150**	**72,200**	16,666	14,198	17,550	15,317	**75,150**	**75,200**	17,581	15,023	18,465	16,142
69,200	**69,250**	15,766	13,387	16,650	14,506	**72,200**	**72,250**	16,681	14,212	17,565	15,331	**75,200**	**75,250**	17,596	15,037	18,480	16,156
69,250	**69,300**	15,781	13,401	16,665	14,519	**72,250**	**72,300**	16,696	14,226	17,580	15,344	**75,250**	**75,300**	17,611	15,051	18,495	16,169
69,300	**69,350**	15,796	13,414	16,680	14,533	**72,300**	**72,350**	16,711	14,239	17,595	15,358	**75,300**	**75,350**	17,626	15,064	18,510	16,183
69,350	**69,400**	15,812	13,428	16,696	14,547	**72,350**	**72,400**	16,727	14,253	17,611	15,372	**75,350**	**75,400**	17,642	15,078	18,526	16,197
69,400	**69,450**	15,827	13,442	16,711	14,561	**72,400**	**72,450**	16,742	14,267	17,626	15,386	**75,400**	**75,450**	17,657	15,092	18,541	16,211
69,450	**69,500**	15,842	13,456	16,726	14,574	**72,450**	**72,500**	16,757	14,281	17,641	15,399	**75,450**	**75,500**	17,672	15,106	18,556	16,224
69,500	**69,550**	15,857	13,469	16,741	14,588	**72,500**	**72,550**	16,772	14,294	17,656	15,413	**75,500**	**75,550**	17,687	15,119	18,571	16,238
69,550	**69,600**	15,873	13,483	16,757	14,602	**72,550**	**72,600**	16,788	14,308	17,672	15,427	**75,550**	**75,600**	17,703	15,133	18,587	16,252
69,600	**69,650**	15,888	13,497	16,772	14,616	**72,600**	**72,650**	16,803	14,322	17,687	15,441	**75,600**	**75,650**	17,718	15,147	18,602	16,266
69,650	**69,700**	15,903	13,511	16,787	14,629	**72,650**	**72,700**	16,818	14,336	17,702	15,454	**75,650**	**75,700**	17,733	15,161	18,617	16,279
69,700	**69,750**	15,918	13,524	16,802	14,643	**72,700**	**72,750**	16,833	14,349	17,717	15,468	**75,700**	**75,750**	17,748	15,174	18,632	16,293
69,750	**69,800**	15,934	13,538	16,818	14,657	**72,750**	**72,800**	16,849	14,363	17,733	15,482	**75,750**	**75,800**	17,764	15,188	18,648	16,307
69,800	**69,850**	15,949	13,552	16,833	14,671	**72,800**	**72,850**	16,864	14,377	17,748	15,496	**75,800**	**75,850**	17,779	15,202	18,663	16,321
69,850	**69,900**	15,964	13,566	16,848	14,684	**72,850**	**72,900**	16,879	14,391	17,763	15,509	**75,850**	**75,900**	17,794	15,216	18,678	16,334
69,900	**69,950**	15,979	13,579	16,863	14,698	**72,900**	**72,950**	16,894	14,404	17,778	15,523	**75,900**	**75,950**	17,809	15,229	18,693	16,348
69,950	**70,000**	15,995	13,593	16,879	14,712	**72,950**	**73,000**	16,910	14,418	17,794	15,537	**75,950**	**76,000**	17,825	15,243	18,709	16,362
70,000						**73,000**						**76,000**					
70,000	**70,050**	16,010	13,607	16,894	14,726	**73,000**	**73,050**	16,925	14,432	17,809	15,551	**76,000**	**76,050**	17,840	15,257	18,724	16,376
70,050	**70,100**	16,025	13,621	16,909	14,739	**73,050**	**73,100**	16,940	14,446	17,824	15,564	**76,050**	**76,100**	17,855	15,271	18,739	16,389
70,100	**70,150**	16,040	13,634	16,924	14,753	**73,100**	**73,150**	16,955	14,459	17,839	15,578	**76,100**	**76,150**	17,870	15,284	18,754	16,403
70,150	**70,200**	16,056	13,648	16,940	14,767	**73,150**	**73,200**	16,971	14,473	17,855	15,592	**76,150**	**76,200**	17,886	15,298	18,770	16,417
70,200	**70,250**	16,071	13,662	16,955	14,781	**73,200**	**73,250**	16,986	14,487	17,870	15,606	**76,200**	**76,250**	17,901	15,312	18,785	16,431
70,250	**70,300**	16,086	13,676	16,970	14,794	**73,250**	**73,300**	17,001	14,501	17,885	15,619	**76,250**	**76,300**	17,916	15,326	18,800	16,444
70,300	**70,350**	16,101	13,689	16,985	14,808	**73,300**	**73,350**	17,016	14,514	17,900	15,633	**76,300**	**76,350**	17,931	15,339	18,815	16,458
70,350	**70,400**	16,117	13,703	17,001	14,822	**73,350**	**73,400**	17,032	14,528	17,916	15,647	**76,350**	**76,400**	17,947	15,353	18,831	16,472
70,400	**70,450**	16,132	13,717	17,016	14,836	**73,400**	**73,450**	17,047	14,542	17,931	15,661	**76,400**	**76,450**	17,962	15,367	18,846	16,486
70,450	**70,500**	16,147	13,731	17,031	14,849	**73,450**	**73,500**	17,062	14,556	17,946	15,674	**76,450**	**76,500**	17,977	15,381	18,861	16,499
70,500	**70,550**	16,162	13,744	17,046	14,863	**73,500**	**73,550**	17,077	14,569	17,961	15,688	**76,500**	**76,550**	17,992	15,394	18,876	16,513
70,550	**70,600**	16,178	13,758	17,062	14,877	**73,550**	**73,600**	17,093	14,583	17,977	15,702	**76,550**	**76,600**	18,008	15,408	18,892	16,527
70,600	**70,650**	16,193	13,772	17,077	14,891	**73,600**	**73,650**	17,108	14,597	17,992	15,716	**76,600**	**76,650**	18,023	15,422	18,907	16,541
70,650	**70,700**	16,208	13,786	17,092	14,904	**73,650**	**73,700**	17,123	14,611	18,007	15,729	**76,650**	**76,700**	18,038	15,436	18,922	16,554
70,700	**70,750**	16,223	13,799	17,107	14,918	**73,700**	**73,750**	17,138	14,624	18,022	15,743	**76,700**	**76,750**	18,053	15,449	18,937	16,568
70,750	**70,800**	16,239	13,813	17,123	14,932	**73,750**	**73,800**	17,154	14,638	18,038	15,757	**76,750**	**76,800**	18,069	15,463	18,953	16,582
70,800	**70,850**	16,254	13,827	17,138	14,946	**73,800**	**73,850**	17,169	14,652	18,053	15,771	**76,800**	**76,850**	18,084	15,477	18,968	16,596
70,850	**70,900**	16,269	13,841	17,153	14,959	**73,850**	**73,900**	17,184	14,666	18,068	15,784	**76,850**	**76,900**	18,099	15,491	18,983	16,609
70,900	**70,950**	16,284	13,854	17,168	14,973	**73,900**	**73,950**	17,199	14,679	18,083	15,798	**76,900**	**76,950**	18,114	15,504	18,998	16,623
70,950	**71,000**	16,300	13,868	17,184	14,987	**73,950**	**74,000**	17,215	14,693	18,099	15,812	**76,950**	**77,000**	18,130	15,518	19,014	16,637

* This column must also be used by a qualifying widow(er).

(Continued on page 68)

If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
77,000						**80,000**						**83,000**					
77,000	**77,050**	18,145	15,532	19,029	16,651	**80,000**	**80,050**	19,060	16,357	19,944	17,476	**83,000**	**83,050**	19,975	17,182	20,859	18,301
77,050	**77,100**	18,160	15,546	19,044	16,664	**80,050**	**80,100**	19,075	16,371	19,959	17,489	**83,050**	**83,100**	19,990	17,196	20,874	18,314
77,100	**77,150**	18,175	15,559	19,059	16,678	**80,100**	**80,150**	19,090	16,384	19,974	17,503	**83,100**	**83,150**	20,005	17,209	20,889	18,328
77,150	**77,200**	18,191	15,573	19,075	16,692	**80,150**	**80,200**	19,106	16,398	19,990	17,517	**83,150**	**83,200**	20,021	17,223	20,905	18,342
77,200	**77,250**	18,206	15,587	19,090	16,706	**80,200**	**80,250**	19,121	16,412	20,005	17,531	**83,200**	**83,250**	20,036	17,237	20,920	18,356
77,250	**77,300**	18,221	15,601	19,105	16,719	**80,250**	**80,300**	19,136	16,426	20,020	17,544	**83,250**	**83,300**	20,051	17,251	20,936	18,369
77,300	**77,350**	18,236	15,614	19,120	16,733	**80,300**	**80,350**	19,151	16,439	20,035	17,558	**83,300**	**83,350**	20,066	17,264	20,954	18,383
77,350	**77,400**	18,252	15,628	19,136	16,747	**80,350**	**80,400**	19,167	16,453	20,051	17,572	**83,350**	**83,400**	20,082	17,278	20,972	18,397
77,400	**77,450**	18,267	15,642	19,151	16,761	**80,400**	**80,450**	19,182	16,467	20,066	17,586	**83,400**	**83,450**	20,097	17,292	20,990	18,411
77,450	**77,500**	18,282	15,656	19,166	16,774	**80,450**	**80,500**	19,197	16,481	20,081	17,599	**83,450**	**83,500**	20,112	17,306	21,007	18,424
77,500	**77,550**	18,297	15,669	19,181	16,788	**80,500**	**80,550**	19,212	16,494	20,096	17,613	**83,500**	**83,550**	20,127	17,319	21,025	18,438
77,550	**77,600**	18,313	15,683	19,197	16,802	**80,550**	**80,600**	19,228	16,508	20,112	17,627	**83,550**	**83,600**	20,143	17,333	21,043	18,452
77,600	**77,650**	18,328	15,697	19,212	16,816	**80,600**	**80,650**	19,243	16,522	20,127	17,641	**83,600**	**83,650**	20,158	17,347	21,061	18,466
77,650	**77,700**	18,343	15,711	19,227	16,829	**80,650**	**80,700**	19,258	16,536	20,142	17,654	**83,650**	**83,700**	20,173	17,361	21,078	18,479
77,700	**77,750**	18,358	15,724	19,242	16,843	**80,700**	**80,750**	19,273	16,549	20,157	17,668	**83,700**	**83,750**	20,188	17,374	21,096	18,493
77,750	**77,800**	18,374	15,738	19,258	16,857	**80,750**	**80,800**	19,289	16,563	20,173	17,682	**83,750**	**83,800**	20,204	17,388	21,114	18,507
77,800	**77,850**	18,389	15,752	19,273	16,871	**80,800**	**80,850**	19,304	16,577	20,188	17,696	**83,800**	**83,850**	20,219	17,402	21,132	18,521
77,850	**77,900**	18,404	15,766	19,288	16,884	**80,850**	**80,900**	19,319	16,591	20,203	17,709	**83,850**	**83,900**	20,234	17,416	21,149	18,534
77,900	**77,950**	18,419	15,779	19,303	16,898	**80,900**	**80,950**	19,334	16,604	20,218	17,723	**83,900**	**83,950**	20,249	17,429	21,167	18,548
77,950	**78,000**	18,435	15,793	19,319	16,912	**80,950**	**81,000**	19,350	16,618	20,234	17,737	**83,950**	**84,000**	20,265	17,443	21,185	18,562
78,000						**81,000**						**84,000**					
78,000	**78,050**	18,450	15,807	19,334	16,926	**81,000**	**81,050**	19,365	16,632	20,249	17,751	**84,000**	**84,050**	20,280	17,457	21,203	18,576
78,050	**78,100**	18,465	15,821	19,349	16,939	**81,050**	**81,100**	19,380	16,646	20,264	17,764	**84,050**	**84,100**	20,295	17,471	21,220	18,589
78,100	**78,150**	18,480	15,834	19,364	16,953	**81,100**	**81,150**	19,395	16,659	20,279	17,778	**84,100**	**84,150**	20,310	17,484	21,238	18,603
78,150	**78,200**	18,496	15,848	19,380	16,967	**81,150**	**81,200**	19,411	16,673	20,295	17,792	**84,150**	**84,200**	20,326	17,498	21,256	18,617
78,200	**78,250**	18,511	15,862	19,395	16,981	**81,200**	**81,250**	19,426	16,687	20,310	17,806	**84,200**	**84,250**	20,341	17,512	21,274	18,631
78,250	**78,300**	18,526	15,876	19,410	16,994	**81,250**	**81,300**	19,441	16,701	20,325	17,819	**84,250**	**84,300**	20,356	17,526	21,291	18,644
78,300	**78,350**	18,541	15,889	19,425	17,008	**81,300**	**81,350**	19,456	16,714	20,340	17,833	**84,300**	**84,350**	20,371	17,539	21,309	18,658
78,350	**78,400**	18,557	15,903	19,441	17,022	**81,350**	**81,400**	19,472	16,728	20,356	17,847	**84,350**	**84,400**	20,387	17,553	21,327	18,672
78,400	**78,450**	18,572	15,917	19,456	17,036	**81,400**	**81,450**	19,487	16,742	20,371	17,861	**84,400**	**84,450**	20,402	17,567	21,345	18,686
78,450	**78,500**	18,587	15,931	19,471	17,049	**81,450**	**81,500**	19,502	16,756	20,386	17,874	**84,450**	**84,500**	20,417	17,581	21,362	18,699
78,500	**78,550**	18,602	15,944	19,486	17,063	**81,500**	**81,550**	19,517	16,769	20,401	17,888	**84,500**	**84,550**	20,432	17,594	21,380	18,713
78,550	**78,600**	18,618	15,958	19,502	17,077	**81,550**	**81,600**	19,533	16,783	20,417	17,902	**84,550**	**84,600**	20,448	17,608	21,398	18,727
78,600	**78,650**	18,633	15,972	19,517	17,091	**81,600**	**81,650**	19,548	16,797	20,432	17,916	**84,600**	**84,650**	20,463	17,622	21,416	18,741
78,650	**78,700**	18,648	15,986	19,532	17,104	**81,650**	**81,700**	19,563	16,811	20,447	17,929	**84,650**	**84,700**	20,478	17,636	21,433	18,754
78,700	**78,750**	18,663	15,999	19,547	17,118	**81,700**	**81,750**	19,578	16,824	20,462	17,943	**84,700**	**84,750**	20,493	17,649	21,451	18,768
78,750	**78,800**	18,679	16,013	19,563	17,132	**81,750**	**81,800**	19,594	16,838	20,478	17,957	**84,750**	**84,800**	20,509	17,663	21,469	18,782
78,800	**78,850**	18,694	16,027	19,578	17,146	**81,800**	**81,850**	19,609	16,852	20,493	17,971	**84,800**	**84,850**	20,524	17,677	21,487	18,796
78,850	**78,900**	18,709	16,041	19,593	17,159	**81,850**	**81,900**	19,624	16,866	20,508	17,984	**84,850**	**84,900**	20,539	17,691	21,504	18,809
78,900	**78,950**	18,724	16,054	19,608	17,173	**81,900**	**81,950**	19,639	16,879	20,523	17,998	**84,900**	**84,950**	20,554	17,704	21,522	18,823
78,950	**79,000**	18,740	16,068	19,624	17,187	**81,950**	**82,000**	19,655	16,893	20,539	18,012	**84,950**	**85,000**	20,570	17,718	21,540	18,837
79,000						**82,000**						**85,000**					
79,000	**79,050**	18,755	16,082	19,639	17,201	**82,000**	**82,050**	19,670	16,907	20,554	18,026	**85,000**	**85,050**	20,585	17,732	21,558	18,851
79,050	**79,100**	18,770	16,096	19,654	17,214	**82,050**	**82,100**	19,685	16,921	20,569	18,039	**85,050**	**85,100**	20,600	17,746	21,575	18,864
79,100	**79,150**	18,785	16,109	19,669	17,228	**82,100**	**82,150**	19,700	16,934	20,584	18,053	**85,100**	**85,150**	20,615	17,759	21,593	18,878
79,150	**79,200**	18,801	16,123	19,685	17,242	**82,150**	**82,200**	19,716	16,948	20,600	18,067	**85,150**	**85,200**	20,631	17,773	21,611	18,892
79,200	**79,250**	18,816	16,137	19,700	17,256	**82,200**	**82,250**	19,731	16,962	20,615	18,081	**85,200**	**85,250**	20,646	17,787	21,629	18,906
79,250	**79,300**	18,831	16,151	19,715	17,269	**82,250**	**82,300**	19,746	16,976	20,630	18,094	**85,250**	**85,300**	20,661	17,801	21,646	18,919
79,300	**79,350**	18,846	16,164	19,730	17,283	**82,300**	**82,350**	19,761	16,989	20,645	18,108	**85,300**	**85,350**	20,676	17,814	21,664	18,933
79,350	**79,400**	18,862	16,178	19,746	17,297	**82,350**	**82,400**	19,777	17,003	20,661	18,122	**85,350**	**85,400**	20,692	17,828	21,682	18,947
79,400	**79,450**	18,877	16,192	19,761	17,311	**82,400**	**82,450**	19,792	17,017	20,676	18,136	**85,400**	**85,450**	20,707	17,842	21,700	18,961
79,450	**79,500**	18,892	16,206	19,776	17,324	**82,450**	**82,500**	19,807	17,031	20,691	18,149	**85,450**	**85,500**	20,722	17,856	21,717	18,974
79,500	**79,550**	18,907	16,219	19,791	17,338	**82,500**	**82,550**	19,822	17,044	20,706	18,163	**85,500**	**85,550**	20,737	17,869	21,735	18,988
79,550	**79,600**	18,923	16,233	19,807	17,352	**82,550**	**82,600**	19,838	17,058	20,722	18,177	**85,550**	**85,600**	20,753	17,883	21,753	19,002
79,600	**79,650**	18,938	16,247	19,822	17,366	**82,600**	**82,650**	19,853	17,072	20,737	18,191	**85,600**	**85,650**	20,768	17,897	21,771	19,016
79,650	**79,700**	18,953	16,261	19,837	17,379	**82,650**	**82,700**	19,868	17,086	20,752	18,204	**85,650**	**85,700**	20,783	17,911	21,788	19,029
79,700	**79,750**	18,968	16,274	19,852	17,393	**82,700**	**82,750**	19,883	17,099	20,767	18,218	**85,700**	**85,750**	20,798	17,924	21,806	19,043
79,750	**79,800**	18,984	16,288	19,868	17,407	**82,750**	**82,800**	19,899	17,113	20,783	18,232	**85,750**	**85,800**	20,814	17,938	21,824	19,057
79,800	**79,850**	18,999	16,302	19,883	17,421	**82,800**	**82,850**	19,914	17,127	20,798	18,246	**85,800**	**85,850**	20,829	17,952	21,842	19,071
79,850	**79,900**	19,014	16,316	19,898	17,434	**82,850**	**82,900**	19,929	17,141	20,813	18,259	**85,850**	**85,900**	20,844	17,966	21,859	19,084
79,900	**79,950**	19,029	16,329	19,913	17,448	**82,900**	**82,950**	19,944	17,154	20,828	18,273	**85,900**	**85,950**	20,859	17,979	21,877	19,098
79,950	**80,000**	19,045	16,343	19,929	17,462	**82,950**	**83,000**	19,960	17,168	20,844	18,287	**85,950**	**86,000**	20,875	17,993	21,895	19,112

* This column must also be used by a qualifying widow(er).

(Continued on page 69)

If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—						Your tax is—			
86,000						**89,000**						**92,000**					
86,000	**86,050**	20,890	18,007	21,913	19,126	**89,000**	**89,050**	21,805	18,832	22,978	19,951	**92,000**	**92,050**	22,720	19,657	24,043	20,776
86,050	**86,100**	20,905	18,021	21,930	19,139	**89,050**	**89,100**	21,820	18,846	22,995	19,964	**92,050**	**92,100**	22,735	19,671	24,060	20,789
86,100	**86,150**	20,920	18,034	21,948	19,153	**89,100**	**89,150**	21,835	18,859	23,013	19,978	**92,100**	**92,150**	22,750	19,684	24,078	20,803
86,150	**86,200**	20,936	18,048	21,966	19,167	**89,150**	**89,200**	21,851	18,873	23,031	19,992	**92,150**	**92,200**	22,766	19,698	24,096	20,817
86,200	**86,250**	20,951	18,062	21,984	19,181	**89,200**	**89,250**	21,866	18,887	23,049	20,006	**92,200**	**92,250**	22,781	19,712	24,114	20,831
86,250	**86,300**	20,966	18,076	22,001	19,194	**89,250**	**89,300**	21,881	18,901	23,066	20,019	**92,250**	**92,300**	22,796	19,726	24,131	20,844
86,300	**86,350**	20,981	18,089	22,019	19,208	**89,300**	**89,350**	21,896	18,914	23,084	20,033	**92,300**	**92,350**	22,811	19,739	24,149	20,858
86,350	**86,400**	20,997	18,103	22,037	19,222	**89,350**	**89,400**	21,912	18,928	23,102	20,047	**92,350**	**92,400**	22,827	19,753	24,167	20,872
86,400	**86,450**	21,012	18,117	22,055	19,236	**89,400**	**89,450**	21,927	18,942	23,120	20,061	**92,400**	**92,450**	22,842	19,767	24,185	20,886
86,450	**86,500**	21,027	18,131	22,072	19,249	**89,450**	**89,500**	21,942	18,956	23,137	20,074	**92,450**	**92,500**	22,857	19,781	24,202	20,899
86,500	**86,550**	21,042	18,144	22,090	19,263	**89,500**	**89,550**	21,957	18,969	23,155	20,088	**92,500**	**92,550**	22,872	19,794	24,220	20,913
86,550	**86,600**	21,058	18,158	22,108	19,277	**89,550**	**89,600**	21,973	18,983	23,173	20,102	**92,550**	**92,600**	22,888	19,808	24,238	20,927
86,600	**86,650**	21,073	18,172	22,126	19,291	**89,600**	**89,650**	21,988	18,997	23,191	20,116	**92,600**	**92,650**	22,903	19,822	24,256	20,941
86,650	**86,700**	21,088	18,186	22,143	19,304	**89,650**	**89,700**	22,003	19,011	23,208	20,129	**92,650**	**92,700**	22,918	19,836	24,273	20,954
86,700	**86,750**	21,103	18,199	22,161	19,318	**89,700**	**89,750**	22,018	19,024	23,226	20,143	**92,700**	**92,750**	22,933	19,849	24,291	20,968
86,750	**86,800**	21,119	18,213	22,179	19,332	**89,750**	**89,800**	22,034	19,038	23,244	20,157	**92,750**	**92,800**	22,949	19,863	24,309	20,982
86,800	**86,850**	21,134	18,227	22,197	19,346	**89,800**	**89,850**	22,049	19,052	23,262	20,171	**92,800**	**92,850**	22,964	19,877	24,327	20,996
86,850	**86,900**	21,149	18,241	22,214	19,359	**89,850**	**89,900**	22,064	19,066	23,279	20,184	**92,850**	**92,900**	22,979	19,891	24,344	21,009
86,900	**86,950**	21,164	18,254	22,232	19,373	**89,900**	**89,950**	22,079	19,079	23,297	20,198	**92,900**	**92,950**	22,994	19,904	24,362	21,023
86,950	**87,000**	21,180	18,268	22,250	19,387	**89,950**	**90,000**	22,095	19,093	23,315	20,212	**92,950**	**93,000**	23,010	19,918	24,380	21,037
87,000						**90,000**						**93,000**					
87,000	**87,050**	21,195	18,282	22,268	19,401	**90,000**	**90,050**	22,110	19,107	23,333	20,226	**93,000**	**93,050**	23,025	19,932	24,398	21,051
87,050	**87,100**	21,210	18,296	22,285	19,414	**90,050**	**90,100**	22,125	19,121	23,350	20,239	**93,050**	**93,100**	23,040	19,946	24,415	21,064
87,100	**87,150**	21,225	18,309	22,303	19,428	**90,100**	**90,150**	22,140	19,134	23,368	20,253	**93,100**	**93,150**	23,055	19,959	24,433	21,078
87,150	**87,200**	21,241	18,323	22,321	19,442	**90,150**	**90,200**	22,156	19,148	23,386	20,267	**93,150**	**93,200**	23,071	19,973	24,451	21,092
87,200	**87,250**	21,256	18,337	22,339	19,456	**90,200**	**90,250**	22,171	19,162	23,404	20,281	**93,200**	**93,250**	23,086	19,987	24,469	21,106
87,250	**87,300**	21,271	18,351	22,356	19,469	**90,250**	**90,300**	22,186	19,176	23,421	20,294	**93,250**	**93,300**	23,101	20,001	24,486	21,119
87,300	**87,350**	21,286	18,364	22,374	19,483	**90,300**	**90,350**	22,201	19,189	23,439	20,308	**93,300**	**93,350**	23,116	20,014	24,504	21,133
87,350	**87,400**	21,302	18,378	22,392	19,497	**90,350**	**90,400**	22,217	19,203	23,457	20,322	**93,350**	**93,400**	23,132	20,028	24,522	21,147
87,400	**87,450**	21,317	18,392	22,410	19,511	**90,400**	**90,450**	22,232	19,217	23,475	20,336	**93,400**	**93,450**	23,147	20,042	24,540	21,161
87,450	**87,500**	21,332	18,406	22,427	19,524	**90,450**	**90,500**	22,247	19,231	23,492	20,349	**93,450**	**93,500**	23,162	20,056	24,557	21,174
87,500	**87,550**	21,347	18,419	22,445	19,538	**90,500**	**90,550**	22,262	19,244	23,510	20,363	**93,500**	**93,550**	23,177	20,069	24,575	21,188
87,550	**87,600**	21,363	18,433	22,463	19,552	**90,550**	**90,600**	22,278	19,258	23,528	20,377	**93,550**	**93,600**	23,193	20,083	24,593	21,202
87,600	**87,650**	21,378	18,447	22,481	19,566	**90,600**	**90,650**	22,293	19,272	23,546	20,391	**93,600**	**93,650**	23,208	20,097	24,611	21,216
87,650	**87,700**	21,393	18,461	22,498	19,579	**90,650**	**90,700**	22,308	19,286	23,563	20,404	**93,650**	**93,700**	23,223	20,111	24,628	21,230
87,700	**87,750**	21,408	18,474	22,516	19,593	**90,700**	**90,750**	22,323	19,299	23,581	20,418	**93,700**	**93,750**	23,238	20,124	24,646	21,245
87,750	**87,800**	21,424	18,488	22,534	19,607	**90,750**	**90,800**	22,339	19,313	23,599	20,432	**93,750**	**93,800**	23,254	20,138	24,664	21,261
87,800	**87,850**	21,439	18,502	22,552	19,621	**90,800**	**90,850**	22,354	19,327	23,617	20,446	**93,800**	**93,850**	23,269	20,152	24,682	21,276
87,850	**87,900**	21,454	18,516	22,569	19,634	**90,850**	**90,900**	22,369	19,341	23,634	20,459	**93,850**	**93,900**	23,284	20,166	24,699	21,291
87,900	**87,950**	21,469	18,529	22,587	19,648	**90,900**	**90,950**	22,384	19,354	23,652	20,473	**93,900**	**93,950**	23,299	20,179	24,717	21,306
87,950	**88,000**	21,485	18,543	22,605	19,662	**90,950**	**91,000**	22,400	19,368	23,670	20,487	**93,950**	**94,000**	23,315	20,193	24,735	21,322
88,000						**91,000**						**94,000**					
88,000	**88,050**	21,500	18,557	22,623	19,676	**91,000**	**91,050**	22,415	19,382	23,688	20,501	**94,000**	**94,050**	23,330	20,207	24,753	21,337
88,050	**88,100**	21,515	18,571	22,640	19,689	**91,050**	**91,100**	22,430	19,396	23,705	20,514	**94,050**	**94,100**	23,345	20,221	24,770	21,352
88,100	**88,150**	21,530	18,584	22,658	19,703	**91,100**	**91,150**	22,445	19,409	23,723	20,528	**94,100**	**94,150**	23,360	20,234	24,788	21,367
88,150	**88,200**	21,546	18,598	22,676	19,717	**91,150**	**91,200**	22,461	19,423	23,741	20,542	**94,150**	**94,200**	23,376	20,248	24,806	21,383
88,200	**88,250**	21,561	18,612	22,694	19,731	**91,200**	**91,250**	22,476	19,437	23,759	20,556	**94,200**	**94,250**	23,391	20,262	24,824	21,398
88,250	**88,300**	21,576	18,626	22,711	19,744	**91,250**	**91,300**	22,491	19,451	23,776	20,569	**94,250**	**94,300**	23,406	20,276	24,841	21,413
88,300	**88,350**	21,591	18,639	22,729	19,758	**91,300**	**91,350**	22,506	19,464	23,794	20,583	**94,300**	**94,350**	23,421	20,289	24,859	21,428
88,350	**88,400**	21,607	18,653	22,747	19,772	**91,350**	**91,400**	22,522	19,478	23,812	20,597	**94,350**	**94,400**	23,437	20,303	24,877	21,444
88,400	**88,450**	21,622	18,667	22,765	19,786	**91,400**	**91,450**	22,537	19,492	23,830	20,611	**94,400**	**94,450**	23,452	20,317	24,895	21,459
88,450	**88,500**	21,637	18,681	22,782	19,799	**91,450**	**91,500**	22,552	19,506	23,847	20,624	**94,450**	**94,500**	23,467	20,331	24,912	21,474
88,500	**88,550**	21,652	18,694	22,800	19,813	**91,500**	**91,550**	22,567	19,519	23,865	20,638	**94,500**	**94,550**	23,482	20,344	24,930	21,489
88,550	**88,600**	21,668	18,708	22,818	19,827	**91,550**	**91,600**	22,583	19,533	23,883	20,652	**94,550**	**94,600**	23,498	20,358	24,948	21,505
88,600	**88,650**	21,683	18,722	22,836	19,841	**91,600**	**91,650**	22,598	19,547	23,901	20,666	**94,600**	**94,650**	23,513	20,372	24,966	21,520
88,650	**88,700**	21,698	18,736	22,853	19,854	**91,650**	**91,700**	22,613	19,561	23,918	20,679	**94,650**	**94,700**	23,528	20,386	24,983	21,535
88,700	**88,750**	21,713	18,749	22,871	19,868	**91,700**	**91,750**	22,628	19,574	23,936	20,693	**94,700**	**94,750**	23,543	20,399	25,001	21,550
88,750	**88,800**	21,729	18,763	22,889	19,882	**91,750**	**91,800**	22,644	19,588	23,954	20,707	**94,750**	**94,800**	23,559	20,413	25,019	21,566
88,800	**88,850**	21,744	18,777	22,907	19,896	**91,800**	**91,850**	22,659	19,602	23,972	20,721	**94,800**	**94,850**	23,574	20,427	25,037	21,581
88,850	**88,900**	21,759	18,791	22,924	19,909	**91,850**	**91,900**	22,674	19,616	23,989	20,734	**94,850**	**94,900**	23,589	20,441	25,054	21,596
88,900	**88,950**	21,774	18,804	22,942	19,923	**91,900**	**91,950**	22,689	19,629	24,007	20,748	**94,900**	**94,950**	23,604	20,454	25,072	21,611
88,950	**89,000**	21,790	18,818	22,960	19,937	**91,950**	**92,000**	22,705	19,643	24,025	20,762	**94,950**	**95,000**	23,620	20,468	25,090	21,627

* This column must also be used by a qualifying widow(er).

(Continued on page 70)

If line 39 (taxable income) is—		And you are—				If line 39 (taxable income) is—		And you are—			
At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household	At least	But less than	Single	Married filing jointly *	Married filing separately	Head of a household
		Your tax is—						Your tax is—			
95,000						**98,000**					
95,000	**95,050**	23,635	20,482	25,108	21,642	**98,000**	**98,050**	24,550	21,307	26,173	22,557
95,050	**95,100**	23,650	20,496	25,125	21,657	**98,050**	**98,100**	24,565	21,321	26,190	22,572
95,100	**95,150**	23,665	20,509	25,143	21,672	**98,100**	**98,150**	24,580	21,334	26,208	22,587
95,150	**95,200**	23,681	20,523	25,161	21,688	**98,150**	**98,200**	24,596	21,348	26,226	22,603
95,200	**95,250**	23,696	20,537	25,179	21,703	**98,200**	**98,250**	24,611	21,362	26,244	22,618
95,250	**95,300**	23,711	20,551	25,196	21,718	**98,250**	**98,300**	24,626	21,376	26,261	22,633
95,300	**95,350**	23,726	20,564	25,214	21,733	**98,300**	**98,350**	24,641	21,389	26,279	22,648
95,350	**95,400**	23,742	20,578	25,232	21,749	**98,350**	**98,400**	24,657	21,403	26,297	22,664
95,400	**95,450**	23,757	20,592	25,250	21,764	**98,400**	**98,450**	24,672	21,417	26,315	22,679
95,450	**95,500**	23,772	20,606	25,267	21,779	**98,450**	**98,500**	24,687	21,431	26,332	22,694
95,500	**95,550**	23,787	20,619	25,285	21,794	**98,500**	**98,550**	24,702	21,444	26,350	22,709
95,550	**95,600**	23,803	20,633	25,303	21,810	**98,550**	**98,600**	24,718	21,458	26,368	22,725
95,600	**95,650**	23,818	20,647	25,321	21,825	**98,600**	**98,650**	24,733	21,472	26,386	22,740
95,650	**95,700**	23,833	20,661	25,338	21,840	**98,650**	**98,700**	24,748	21,486	26,403	22,755
95,700	**95,750**	23,848	20,674	25,356	21,855	**98,700**	**98,750**	24,763	21,499	26,421	22,770
95,750	**95,800**	23,864	20,688	25,374	21,871	**98,750**	**98,800**	24,779	21,513	26,439	22,786
95,800	**95,850**	23,879	20,702	25,392	21,886	**98,800**	**98,850**	24,794	21,527	26,457	22,801
95,850	**95,900**	23,894	20,716	25,409	21,901	**98,850**	**98,900**	24,809	21,541	26,474	22,816
95,900	**95,950**	23,909	20,729	25,427	21,916	**98,900**	**98,950**	24,824	21,554	26,492	22,831
95,950	**96,000**	23,925	20,743	25,445	21,932	**98,950**	**99,000**	24,840	21,568	26,510	22,847
96,000						**99,000**					
96,000	**96,050**	23,940	20,757	25,463	21,947	**99,000**	**99,050**	24,855	21,582	26,528	22,862
96,050	**96,100**	23,955	20,771	25,480	21,962	**99,050**	**99,100**	24,870	21,596	26,545	22,877
96,100	**96,150**	23,970	20,784	25,498	21,977	**99,100**	**99,150**	24,885	21,609	26,563	22,892
96,150	**96,200**	23,986	20,798	25,516	21,993	**99,150**	**99,200**	24,901	21,623	26,581	22,908
96,200	**96,250**	24,001	20,812	25,534	22,008	**99,200**	**99,250**	24,916	21,637	26,599	22,923
96,250	**96,300**	24,016	20,826	25,551	22,023	**99,250**	**99,300**	24,931	21,651	26,616	22,938
96,300	**96,350**	24,031	20,839	25,569	22,038	**99,300**	**99,350**	24,946	21,664	26,634	22,953
96,350	**96,400**	24,047	20,853	25,587	22,054	**99,350**	**99,400**	24,962	21,678	26,652	22,969
96,400	**96,450**	24,062	20,867	25,605	22,069	**99,400**	**99,450**	24,977	21,692	26,670	22,984
96,450	**96,500**	24,077	20,881	25,622	22,084	**99,450**	**99,500**	24,992	21,706	26,687	22,999
96,500	**96,550**	24,092	20,894	25,640	22,099	**99,500**	**99,550**	25,007	21,719	26,705	23,014
96,550	**96,600**	24,108	20,908	25,658	22,115	**99,550**	**99,600**	25,023	21,733	26,723	23,030
96,600	**96,650**	24,123	20,922	25,676	22,130	**99,600**	**99,650**	25,038	21,747	26,741	23,045
96,650	**96,700**	24,138	20,936	25,693	22,145	**99,650**	**99,700**	25,053	21,761	26,758	23,060
96,700	**96,750**	24,153	20,949	25,711	22,160	**99,700**	**99,750**	25,068	21,774	26,776	23,075
96,750	**96,800**	24,169	20,963	25,729	22,176	**99,750**	**99,800**	25,084	21,788	26,794	23,091
96,800	**96,850**	24,184	20,977	25,747	22,191	**99,800**	**99,850**	25,099	21,802	26,812	23,106
96,850	**96,900**	24,199	20,991	25,764	22,206	**99,850**	**99,900**	25,114	21,816	26,829	23,121
96,900	**96,950**	24,214	21,004	25,782	22,221	**99,900**	**99,950**	25,129	21,829	26,847	23,136
96,950	**97,000**	24,230	21,018	25,800	22,237	**99,950**	**100,000**	25,145	21,843	26,865	23,152
97,000											
97,000	**97,050**	24,245	21,032	25,818	22,252						
97,050	**97,100**	24,260	21,046	25,835	22,267						
97,100	**97,150**	24,275	21,059	25,853	22,282						
97,150	**97,200**	24,291	21,073	25,871	22,298						
97,200	**97,250**	24,306	21,087	25,889	22,313						
97,250	**97,300**	24,321	21,101	25,906	22,328						
97,300	**97,350**	24,336	21,114	25,924	22,343						
97,350	**97,400**	24,352	21,128	25,942	22,359						
97,400	**97,450**	24,367	21,142	25,960	22,374						
97,450	**97,500**	24,382	21,156	25,977	22,389						
97,500	**97,550**	24,397	21,169	25,995	22,404						
97,550	**97,600**	24,413	21,183	26,013	22,420						
97,600	**97,650**	24,428	21,197	26,031	22,435						
97,650	**97,700**	24,443	21,211	26,048	22,450						
97,700	**97,750**	24,458	21,224	26,066	22,465						
97,750	**97,800**	24,474	21,238	26,084	22,481						
97,800	**97,850**	24,489	21,252	26,102	22,496						
97,850	**97,900**	24,504	21,266	26,119	22,511						
97,900	**97,950**	24,519	21,279	26,137	22,526						
97,950	**98,000**	24,535	21,293	26,155	22,542						

$100,000 or over — use the Tax Rate Schedules on page 71

* This column must also be used by a qualifying widow(er).

2001 Tax Rate Schedules

CAUTION Use **only** if your taxable income (Form 1040, line 39) is $100,000 or more. If less, use the **Tax Table.** Even though you cannot use the Tax Rate Schedules below if your taxable income is less than $100,000, all levels of taxable income are shown so taxpayers can see the tax rate that applies to each level.

Schedule X—Use if your filing status is **Single**

If the amount on Form 1040, line 39, is: *Over-*	*But not over-*	Enter on Form 1040, line 40	*of the amount over-*
$0	$27,050	..... **15%**	**$0**
27,050	65,550	**$4,057.50 + 27.5%**	**27,050**
65,550	136,750	**14,645.00 + 30.5%**	**65,550**
136,750	297,350	**36,361.00 + 35.5%**	**136,750**
297,350	.....	**93,374.00 + 39.1%**	**297,350**

Schedule Y-1—Use if your filing status is **Married filing jointly** or **Qualifying widow(er)**

If the amount on Form 1040, line 39, is: *Over-*	*But not over-*	Enter on Form 1040, line 40	*of the amount over-*
$0	$45,200	..... **15%**	**$0**
45,200	109,250	**$6,780.00 + 27.5%**	**45,200**
109,250	166,500	**24,393.75 + 30.5%**	**109,250**
166,500	297,350	**41,855.00 + 35.5%**	**166,500**
297,350	.....	**88,306.75 + 39.1%**	**297,350**

Schedule Y-2—Use if your filing status is **Married filing separately**

If the amount on Form 1040, line 39, is: *Over-*	*But not over-*	Enter on Form 1040, line 40	*of the amount over-*
$0	$22,600	..... **15%**	**$0**
22,600	54,625	**$3,390.00 + 27.5%**	**22,600**
54,625	83,250	**12,196.88 + 30.5%**	**54,625**
83,250	148,675	**20,927.50 + 35.5%**	**83,250**
148,675	.....	**44,153.38 + 39.1%**	**148,675**

Schedule Z—Use if your filing status is **Head of household**

If the amount on Form 1040, line 39, is: *Over-*	*But not over-*	Enter on Form 1040, line 40	*of the amount over-*
$0	$36,250	..... **15%**	**$0**
36,250	93,650	**$5,437.50 + 27.5%**	**36,250**
93,650	151,650	**21,222.50 + 30.5%**	**93,650**
151,650	297,350	**38,912.50 + 35.5%**	**151,650**
297,350	.....	**90,636.00 + 39.1%**	**297,350**

CAUTION

Dependents, see the worksheet on page 33.

The IRS Restructuring and Reform Act of 1998, the Privacy Act of 1974, and Paperwork Reduction Act of 1980 require that when we ask you for information we must first tell you our legal right to ask for the information, 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, required to obtain a benefit, or mandatory under the law.

This notice applies to all papers you file with us, including this tax return. It also applies to any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is Internal Revenue Code sections 6001, 6011, and 6012(a) and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections. Code section 6109 requires that you provide your social security number or individual taxpayer identification number on what you file. This is so we know who you are, and can process your return and other papers. You must fill in all parts of the tax form that apply to you. But you do not have to check the boxes for the Presidential Election Campaign Fund or for the third-party designee. You also do not have to provide your daytime phone number.

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.

We ask for tax return information to carry out the tax laws of the United States. We need it to figure and collect the right amount of tax.

If you do not file a return, do not provide the information we ask for, or provide fraudulent information, you may be charged penalties and be subject to criminal prosecution. We may also have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on the tax return. This could make the tax higher or delay any refund. Interest may also be charged.

Generally, tax returns and return information are confidential, as stated in Code section 6103. However, Code section 6103 allows or requires the Internal Revenue Service to disclose or give the information shown on your tax return to others as described in the Code. For example, we may disclose your tax information to the Department of Justice, to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, U.S. commonwealths or possessions, and certain foreign governments to carry out their tax laws. We may disclose your tax information to the Department of Treasury and contractors for tax administration purposes; and to other persons as necessary to obtain information which we cannot get in any other way in order to determine the amount of or to collect the tax you owe. We may disclose your tax information to the Comptroller General of the United States to permit the Comptroller General to review the Internal Revenue Service. We may also disclose your tax information to Committees of Congress; Federal, state, and local child support agencies; and to other Federal agencies for the purposes of determining entitlement for benefits or the eligibility for and the repayment of loans.

Please keep this notice with your records. It may help you if we ask you for other information. If you have questions about the rules for filing and giving information, please call or visit any Internal Revenue Service office.

The Time It Takes To Prepare Your Return

We try to create forms and instructions that can be easily understood. Often this is difficult to do because our tax laws are very complex. For some people with income mostly from wages, filling in the forms is easy. For others who have businesses, pensions, stocks, rental income, or other investments, it is more difficult.

We Welcome Comments on Forms

If you have comments concerning the accuracy of the time estimates shown below or suggestions for making these forms simpler, we would be happy to hear from you. You can e-mail us your suggestions and comments through the IRS Internet Home Page (www.irs.gov/help/email2.html) or write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send your return to this address. Instead, see the back cover.

Estimated Preparation Time

The time needed to complete and file Form 1040, its schedules, and accompanying worksheets will vary depending on individual circumstances. The estimated average times are:

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS	Totals
Form 1040	2 hr., 46 min.	3 hr., 30 min.	6 hr., 37 min.	34 min.	13 hr., 27 min.
Sch. A	3 hr., 4 min.	39 min.	1 hr., 34 min.	20 min.	5 hr., 37 min.
Sch. B	33 min.	8 min.	25 min.	20 min.	1 hr., 26 min.
Sch. C	6 hr., 4 min.	1 hr., 31 min.	2 hr., 19 min.	41 min.	10 hr., 35 min.
Sch. C-EZ	45 min.	3 min.	35 min.	20 min.	1 hr., 43 min.
Sch. D	1 hr., 29 min.	2 hr., 59 min.	2 hr., 34 min.	34 min.	7 hr., 36 min.
Sch. D-1	13 min.	1 min.	11 min.	34 min.	59 min.
Sch. E	3 hr.	1 hr.	1 hr., 24 min.	34 min.	5 hr., 58 min.
Sch. EIC	- - - - -	1 min.	13 min.	20 min.	34 min.
Sch. F:					
Cash Method	3 hr., 29 min.	36 min.	1 hr., 27 min.	20 min.	5 hr., 52 min.
Accrual Method	3 hr., 36 min.	26 min.	1 hr., 25 min.	20 min.	5 hr., 47 min.
Sch. H	1 hr., 38 min.	30 min.	53 min.	34 min.	3 hr., 35 min.
Sch. J	19 min.	11 min.	1 hr., 32 min.	20 min.	2 hr., 22 min.
Sch. R	19 min.	15 min.	30 min.	34 min.	1 hr., 38 min.
Sch. SE:					
Short	13 min.	14 min.	13 min.	13 min.	53 min.
Long	26 min.	20 min.	35 min.	20 min.	1 hr., 41 min.

Instructions for Schedules to Form 1040

2001 Instructions for Schedule A, Itemized Deductions

Use Schedule A (Form 1040) to figure your itemized deductions. In most cases, your Federal income tax will be less if you take the **larger** of your itemized deductions or your standard deduction.

If you itemize, you may deduct a part of your medical and dental expenses and unreimbursed employee business expenses, and amounts you paid for certain taxes, interest, contributions, and miscellaneous expenses. You may also deduct certain casualty and theft losses.

CAUTION **Do not** include on Schedule A items deducted elsewhere, such as on Schedule C, C-EZ, E, or F.

Medical and Dental Expenses

You may deduct only the part of your medical and dental expenses that exceeds 7.5% of the amount on Form 1040, line 34.

Pub. 502 discusses the types of expenses that may and may not be deducted. It also explains when you may deduct capital expenses and special care expenses for disabled persons.

CAUTION If you received a distribution from an MSA in 2001, see **Pub. 969** to figure your deduction.

Examples of Medical and Dental Payments You May Deduct

To the extent you were **not reimbursed,** you may deduct what you paid for:

- Insurance premiums for medical and dental care, including premiums for qualified long-term care contracts as defined in Pub. 502. But see **Limit on Long-Term Care Premiums You May Deduct** on this page. Reduce the insurance premiums by any self-employed health insurance deduction you claimed on Form 1040, line 28.

CAUTION You **cannot** deduct insurance premiums paid with pretax dollars because the premiums are not included in box 1 of your W-2 form(s).

- Prescription medicines or insulin.
- Acupuncturists, chiropractors, dentists, eye doctors, medical doctors, occupational therapists, osteopathic doctors, physical therapists, podiatrists, psychiatrists, psychoanalysts (medical care only), and psychologists.
- Medical examinations, X-ray and laboratory services, insulin treatment, and whirlpool baths your doctor ordered.
- Nursing help (including your share of the employment taxes paid). If you paid someone to do both nursing and housework, you may deduct only the cost of the nursing help.
- Hospital care (including meals and lodging), clinic costs, and lab fees.
- Qualified long-term care services (see Pub. 502).
- The supplemental part of Medicare insurance (Medicare B).
- A program to stop smoking and for prescription medicines to alleviate nicotine withdrawal.
- Medical treatment at a center for drug or alcohol addiction.
- Medical aids such as eyeglasses, contact lenses, hearing aids, braces, crutches, wheelchairs, and guide dogs, including the cost of maintaining them.
- Surgery to improve vision including radial keratotomy or other laser eye surgery.
- Lodging expenses (but not meals) while away from home to receive medical care in a hospital or a medical care facility related to a hospital, provided there was no significant element of personal pleasure, recreation, or vacation in the travel. **Do not** deduct more than $50 a night for each eligible person.
- Ambulance service and other travel costs to get medical care. If you used your own car, you may claim what you spent for gas and oil to go to and from the place you received the care; or you may claim **12 cents a mile.** Add parking and tolls to the amount you claim under either method.

Note. Certain medical expenses paid out of a deceased taxpayer's estate may be claimed on the deceased taxpayer's final return. See Pub. 502 for details.

Limit on Long-Term Care Premiums You May Deduct. The amount you may deduct for qualified long-term care contracts (as defined in Pub. 502) depends on the age, at the end of 2001, of the person for whom the premiums were paid. See the following chart for details.

IF the person was, at the end of 2001, age . . .	THEN the most you may deduct is . . .
40 or under	$ 230
41–50	$ 430
51–60	$ 860
61–70	$ 2,290
71 or older	$ 2,860

Examples of Medical and Dental Payments You May Not Deduct

- The basic cost of Medicare insurance (Medicare A).

TIP If you were 65 or older but not entitled to social security benefits, you may deduct premiums you voluntarily paid for Medicare A coverage.

- Cosmetic surgery unless it was necessary to improve a deformity related to a congenital abnormality, an injury from an accident or trauma, or a disfiguring disease.
- Life insurance or income protection policies.
- The Medicare tax on your wages and tips or the Medicare tax paid as part of the self-employment tax or household employment taxes.
- Nursing care for a healthy baby. But you may be able to take a credit for the amount you paid. See the instructions for Form 1040, line 44.
- Illegal operations or drugs.
- Nonprescription medicines (including nicotine gum and certain nicotine patches).

(Continued on page A-2)

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- Travel your doctor told you to take for rest or a change.
- Funeral, burial, or cremation costs.

Line 1

Medical and Dental Expenses

Enter the total of your medical and dental expenses (see page A-1), after you reduce these expenses by any payments received from insurance or other sources. See **Reimbursements** below.

Do not forget to include insurance premiums you paid for medical and dental care. But if you claimed the self-employed health insurance deduction on Form 1040, line 28, reduce the premiums by the amount on line 28.

Whose Medical and Dental Expenses Can You Include? You may include medical and dental bills you paid for:

- Yourself and your spouse.
- All dependents you claim on your return.
- Your child whom you do not claim as a dependent because of the rules explained in **Pub. 501** for children of divorced or separated parents.
- Any person you could have claimed as a dependent on your return if that person had not received $2,900 or more of gross income or had not filed a joint return.

Example. You provided over half of your mother's support but may not claim her as a dependent because she received wages of $2,900 in 2001. You may include on line 1 any medical and dental expenses you paid in 2001 for your mother.

Reimbursements. If your insurance company paid the provider directly for part of your expenses, and you paid only the amount that remained, include on line 1 **only** the amount you paid. If you received a reimbursement in 2001 for medical or dental expenses you paid in 2001, reduce your 2001 expenses by this amount. If you received a reimbursement in 2001 for prior year medical or dental expenses, do not reduce your 2001 expenses by this amount. But if you deducted the expenses in the earlier year and the deduction reduced your tax, you must include the reimbursement in income on Form 1040, line 21. See Pub. 502 for details on how to figure the amount to include.

Cafeteria Plans. Do not include on line 1 insurance premiums paid by an employer-sponsored health insurance plan (cafeteria plan) unless the premiums are included in box 1 of your W-2 form(s). Also, do not include any other medical and dental expenses paid by the plan unless the amount paid is included in box 1 of your W-2 form(s).

Taxes You Paid

Taxes You May Not Deduct

- Federal income and excise taxes.
- Social security, Medicare, Federal unemployment (FUTA), and railroad retirement (RRTA) taxes.
- Customs duties.
- Federal estate and gift taxes. But see the instructions for line 27 on page A-6.
- Certain state and local taxes, including: general sales tax, tax on gasoline, car inspection fees, assessments for sidewalks or other improvements to your property, tax you paid for someone else, and license fees (marriage, driver's, dog, etc.).

Line 5

State and Local Income Taxes

Include on this line the state and local income taxes listed below.

- State and local income taxes withheld from your salary during 2001. Your W-2 form(s) will show these amounts. Forms W-2G, 1099-G, 1099-R, and 1099-MISC may also show state and local income taxes withheld.
- State and local income taxes paid in 2001 for a prior year, such as taxes paid with your 2000 state or local income tax return. **Do not** include penalties or interest.
- State and local estimated tax payments made during 2001, including any part of a prior year refund that you chose to have credited to your 2001 state or local income taxes.
- Mandatory contributions you made to the California, New Jersey, or New York Nonoccupational Disability Benefit Fund, Rhode Island Temporary Disability Benefit Fund, or Washington State Supplemental Workmen's Compensation Fund.

Do not reduce your deduction by:

- Any state or local income tax refund or credit you expect to receive for 2001 or
- Any refund of, or credit for, prior year state and local income taxes you actually received in 2001. Instead, see the instructions for Form 1040, line 10.

Line 6

Real Estate Taxes

Include taxes (state, local, or foreign) you paid on real estate you own that was not used for business, but only if the taxes are based on the assessed value of the property. Also, the assessment must be made uniformly on property throughout the community, and the proceeds must be used for general community or governmental purposes. **Pub. 530** explains the deductions homeowners may take.

Do not include the following amounts on line 6.

- Itemized charges for services to specific property or persons (for example, a $20 monthly charge per house for trash collection, a $5 charge for every 1,000 gallons of water consumed, or a flat charge for mowing a lawn that had grown higher than permitted under a local ordinance).
- Charges for improvements that tend to increase the value of your property (for example, an assessment to build a new sidewalk). The cost of a property improvement is added to the basis of the property. However, a charge is deductible if it is used only to maintain an existing public facility in service (for example, a charge to repair an existing sidewalk, and any interest included in that charge).

If your mortgage payments include your real estate taxes, you may deduct only the amount the mortgage company actually paid to the taxing authority in 2001.

If you sold your home in 2001, any real estate tax charged to the buyer should be shown on your settlement statement and in box 5 of any **Form 1099-S** you received. This amount is considered a refund of real estate taxes. See **Refunds and Rebates** next. Any real estate taxes you paid at closing should be shown on your settlement statement.

Refunds and Rebates. If you received a refund or rebate in 2001 of real estate taxes you paid in 2001, reduce your deduction by the amount of the refund or rebate. If you received a refund or rebate in 2001 of real estate taxes you paid in an earlier year, do not reduce your deduction by this amount. Instead, you must include the refund or rebate in income on Form 1040, line 21, if you deducted the real estate taxes in the earlier year and the deduction reduced your tax. **Pub. 525** tells you how to figure the amount to include in income.

Line 7

Personal Property Taxes

Enter personal property tax you paid, but only if it is based on value alone and it is charged on a yearly basis.

Example. You paid a yearly fee for the registration of your car. Part of the fee was based on the car's value and part was based

on its weight. You may deduct only the part of the fee that was based on the car's value.

Line 8

Other Taxes

If you had any deductible tax not listed on line 5, 6, or 7, list the type and amount of tax. Enter only one total on line 8. Include on this line income tax you paid to a foreign country or U.S. possession.

You may want to take a credit for the foreign tax instead of a deduction. See the instructions for Form 1040, line 43, for details.

Interest You Paid

Whether your interest expense is treated as investment interest, personal interest, or business interest depends on how and when you used the loan proceeds. See **Pub. 535** for details.

In general, if you paid interest in 2001 that applies to any period after 2001, you may deduct only amounts that apply for 2001.

Lines 10 and 11

Home Mortgage Interest

A **home mortgage** is any loan that is secured by your main home or second home. It includes first and second mortgages, home equity loans, and refinanced mortgages.

A **home** may be a house, condominium, cooperative, mobile home, boat, or similar property. It must provide basic living accommodations including sleeping space, toilet, and cooking facilities.

Limit on Home Mortgage Interest. If you took out any mortgages after October 13, 1987, your deduction may be limited. Any additional amounts borrowed after October 13, 1987, on a line-of-credit mortgage you had on that date are treated as a mortgage taken out after October 13, 1987. If you refinanced a mortgage you had on October 13, 1987, treat the new mortgage as taken out on or before October 13, 1987. But if you refinanced for more than the balance of the old mortgage, treat the excess as a mortgage taken out after October 13, 1987.

See **Pub. 936** to figure your deduction if **either 1** or **2** next applies. If you had more than one home at the same time, the dollar amounts in **1** and **2** apply to the total mortgages on both homes.

1. You took out any mortgages after October 13, 1987, and used the proceeds for purposes other than to buy, build, or improve your home, and all of these mortgages totaled over $100,000 at any time during 2001. The limit is $50,000 if married filing separately. An example of this type of mortgage is a home equity loan used to pay off credit card bills, buy a car, or pay tuition.

2. You took out any mortgages after October 13, 1987, and used the proceeds to buy, build, or improve your home, and these mortgages plus any mortgages you took out on or before October 13, 1987, totaled over $1 million at any time during 2001. The limit is $500,000 if married filing separately.

If the total amount of all mortgages is more than the fair market value of the home, additional limits apply. See Pub. 936.

Line 10

Enter on line 10 mortgage interest and points reported to you on **Form 1098.** If this form shows any refund of overpaid interest, do not reduce your deduction by the refund. Instead, see the instructions for Form 1040, line 21.

If you paid more interest to the recipient than is shown on Form 1098, see Pub. 936 to find out if you can deduct the additional interest. If you can, attach a statement explaining the difference and enter "See attached" to the right of line 10.

Note. If you are claiming the **mortgage interest credit** (see the instructions for Form 1040, line 49), subtract the amount shown on line 3 of **Form 8396** from the total deductible interest you paid on your home mortgage. Enter the result on line 10.

Line 11

If you did not receive a Form 1098 from the recipient, report your deductible mortgage interest on line 11.

If you bought your home from the recipient, be sure to show that recipient's name, identifying no., and address on the dotted lines next to line 11. If the recipient is an individual, the identifying no. is his or her social security number (SSN). Otherwise, it is the employer identification number. You must also let the recipient know your SSN. If you do not show the required information about the recipient or let the recipient know your SSN, you may have to pay a $50 penalty.

If you and at least one other person (other than your spouse if filing a joint return) were liable for and paid interest on the mortgage, and the other person received the Form 1098, attach a statement to your return showing the name and address of that person. To the right of line 11, enter "See attached."

Line 12

Points Not Reported on Form 1098

Points are shown on your settlement statement. Points you paid **only** to borrow money are generally deductible over the life of the loan. See **Pub. 936** to figure the amount you may deduct. Points paid for other purposes, such as for a lender's services, are not deductible.

Refinancing. Generally, you must deduct points you paid to refinance a mortgage over the life of the loan. This is true even if the new mortgage is secured by your main home.

If you used part of the proceeds to **improve your main home,** you may be able to deduct the part of the points related to the improvement in the year paid. See Pub. 936 for details.

If you paid off a mortgage early, deduct any remaining points in the year you paid off the mortgage.

Line 13

Investment Interest

Investment interest is interest paid on money you borrowed that is allocable to property held for investment. It does not include any interest allocable to passive activities or to securities that generate tax-exempt income.

Complete and attach **Form 4952** to figure your deduction.

Exception. You do not have to file Form 4952 if **all three** of the following apply.

1. Your investment interest expense is not more than your investment income from interest and ordinary dividends.

2. You have no other deductible investment expenses.

3. You have no disallowed investment interest expense from 2000.

Note. Alaska Permanent Fund dividends, including those reported on **Form 8814,** are not investment income.

For more details, see **Pub. 550.**

Gifts to Charity

You may deduct contributions or gifts you gave to organizations that are religious, charitable, educational, scientific, or literary in purpose. You may also deduct what you gave to organizations that work to prevent cruelty to children or animals. Examples of these organizations are:

- Churches, mosques, synagogues, temples, etc.
- Boy Scouts, Boys and Girls Clubs of America, CARE, Girl Scouts, Goodwill Industries, Red Cross, Salvation Army, United Way, etc.
- Fraternal orders, if the gifts will be used for the purposes listed above.
- Veterans' and certain cultural groups.
- Nonprofit schools, hospitals, and organizations whose purpose is to find a cure for, or help people who have, arthritis, asthma, birth defects, cancer, cerebral palsy, cystic fibrosis, diabetes, heart disease, hemophilia, mental illness or retardation, multiple sclerosis, muscular dystrophy, tuberculosis, etc.
- Federal, state, and local governments if the gifts are solely for public purposes.

To verify an organization's charitable status, you can:

- Check with the organization to which you made the donation. The organization should be able to provide you with verification of its charitable status.
- See **Pub. 78** for a list of most qualified organizations.
- Call our **Tax Exempt/Government Entities Customer Account Services** at **1-877-829-5500.** Assistance is available Monday through Friday from 8:00 a.m. to 9:30 p.m. Eastern time.

Contributions You May Deduct

Contributions may be in cash (keep canceled checks, receipts, or other reliable written records showing the name of the organization and the date and amount given), property, or out-of-pocket expenses you paid to do volunteer work for the kinds of organizations described earlier. If you drove to and from the volunteer work, you may take **14 cents a mile** or the actual cost of gas and oil. Add parking and tolls to the amount you claim under either method. But do not deduct any amounts that were repaid to you.

Gifts From Which You Benefit. If you made a gift and received a benefit in return, such as food, entertainment, or merchandise, you may generally only deduct the amount that is more than the value of the benefit. But this rule does not apply to certain membership benefits provided in return for an annual payment of $75 or less. For details, see **Pub. 526.**

Example. You paid $70 to a charitable organization to attend a fund-raising dinner and the value of the dinner was $40. You may deduct only $30.

Gifts of $250 or More. You may deduct a gift of $250 or more only if you have a statement from the charitable organization showing the information in **1** and **2** below.

In figuring whether a gift is $250 or more, do not combine separate donations. For example, if you gave your church $25 each week for a total of $1,300, treat each $25 payment as a separate gift. If you made donations through payroll deductions, treat each deduction from each paycheck as a separate gift. See Pub. 526 if you made a separate gift of $250 or more through payroll deduction.

1. The amount of any money contributed and a description (but not value) of any property donated.

2. Whether the organization did or did not give you any goods or services in return for your contribution. If you did receive any goods or services, a description and estimate of the value must be included. If you received only intangible religious benefits (such as admission to a religious ceremony), the organization must state this, but it does not have to describe or value the benefit.

You must get the statement by the date you file your return or the due date (including extensions) for filing your return, whichever is earlier. **Do not** attach the statement to your return. Instead, keep it for your records.

Limit on the Amount You May Deduct. See Pub. 526 to figure the amount of your deduction if **any** of the following apply.

- Your cash contributions or contributions of ordinary income property are more than 30% of the amount on Form 1040, line 34.
- Your gifts of capital gain property are more than 20% of the amount on Form 1040, line 34.
- You gave gifts of property that increased in value or gave gifts of the use of property.

You May Not Deduct as Contributions

- Travel expenses (including meals and lodging) while away from home, unless there was no significant element of personal pleasure, recreation, or vacation in the travel.
- Political contributions.
- Dues, fees, or bills paid to country clubs, lodges, fraternal orders, or similar groups.
- Cost of raffle, bingo, or lottery tickets. But you may be able to deduct these expenses on line 27. See page A-6 for details.
- Cost of tuition. But you may be able to:

1. Deduct this expense on line 20 (see page A-5) or

2. Take a credit for this expense. See **Form 8863** for details.

- Value of your time or services.
- Value of blood given to a blood bank.
- The transfer of a future interest in tangible personal property (generally, until the entire interest has been transferred).
- Gifts to individuals and groups that are run for personal profit.
- Gifts to foreign organizations. But you may be able to deduct gifts to certain U.S. organizations that transfer funds to foreign charities and certain Canadian, Israeli, and Mexican charities. See Pub. 526 for details.
- Gifts to organizations engaged in certain political activities that are of direct financial interest to your trade or business. See Internal Revenue Code section 170(f)(9).
- Gifts to groups whose purpose is to lobby for changes in the laws.
- Gifts to civic leagues, social and sports clubs, labor unions, and chambers of commerce.
- Value of benefits received in connection with a contribution to a charitable organization. See Pub. 526 for exceptions.

Line 15

Gifts by Cash or Check

Enter the total contributions you made in cash or by check (including out-of-pocket expenses).

Line 16

Other Than by Cash or Check

Enter your contributions of property. If you gave used items, such as clothing or furniture, deduct their fair market value at the time you gave them. Fair market value is what a willing buyer would pay a willing seller when neither has to buy or sell and both are aware of the conditions of the sale. For more details on determining the value of donated property, see **Pub. 561.**

If the amount of your deduction is more than $500, you must complete and attach **Form 8283.** For this purpose, the "amount

of your deduction" means your deduction **before** applying any income limits that could result in a carryover of contributions. If your total deduction is over $5,000, you may also have to get appraisals of the values of the donated property. See Form 8283 and its instructions for details.

Recordkeeping. If you gave property, you should keep a receipt or written statement from the organization you gave the property to, or a reliable written record, that shows the organization's name and address, the date and location of the gift, and a description of the property. For each gift of property, you should also keep reliable written records that include:

- How you figured the property's value at the time you gave it. If the value was determined by an appraisal, keep a signed copy of the appraisal.
- The cost or other basis of the property if you must reduce it by any ordinary income or capital gain that would have resulted if the property had been sold at its fair market value.
- How you figured your deduction if you chose to reduce your deduction for gifts of capital gain property.
- Any conditions attached to the gift.

Note. If your total deduction for gifts of property is over $500, you gave less than your entire interest in the property, or you made a "qualified conservation contribution," your records should contain additional information. See Pub. 526 for details.

Line 17

Carryover From Prior Year

Enter any carryover of contributions that you could not deduct in an earlier year because they exceeded your adjusted gross income limit. See Pub. 526 for details.

Casualty and Theft Losses

Line 19

Complete and attach **Form 4684** to figure the amount of your loss to enter on line 19.

You may be able to deduct part or all of each loss caused by theft, vandalism, fire, storm, or similar causes, and car, boat, and other accidents. You may also be able to deduct money you had in a financial institution but lost because of the insolvency or bankruptcy of the institution.

You may deduct nonbusiness casualty or theft losses only to the extent that—

1. The amount of **each** separate casualty or theft loss is more than $100 and

2. The total amount of **all** losses during the year is more than 10% of the amount on Form 1040, line 34.

Special rules apply if you had both gains and losses from nonbusiness casualties or thefts. See Form 4684 and its instructions for details.

Use line 22 of Schedule A to deduct the costs of proving that you had a property loss. Examples of these costs are appraisal fees and photographs used to establish the amount of your loss.

For information on Federal disaster area losses, see **Pub. 547.**

Job Expenses and Most Other Miscellaneous Deductions

Pub. 529 discusses the types of expenses that may and may not be deducted.

Examples of expenses you may **not** deduct are:

- Political contributions.
- Personal legal expenses.
- Lost or misplaced cash or property.
- Expenses for meals during regular or extra work hours.
- The cost of entertaining friends.
- Commuting expenses. See Pub. 529 for the definition of commuting.
- Travel expenses for employment away from home if that period of employment exceeds 1 year. See Pub. 529 for an exception for certain Federal employees.
- Travel as a form of education.
- Expenses of attending a seminar, convention, or similar meeting unless it is related to your employment.
- Club dues. See Pub. 529 for exceptions.
- Expenses of adopting a child. But you may be able to take a credit for adoption expenses. See **Form 8839** for details.
- Fines and penalties.
- Expenses of producing tax-exempt income.

Line 20

Unreimbursed Employee Expenses

Enter the total job expenses you paid for which you were not reimbursed. (Amounts your employer included in box 1 of your W-2 form are not considered reimbursements.) But you **must** fill in and attach **Form 2106** if **either 1** or **2** next applies.

1. You claim any travel, transportation, meal, or entertainment expenses for your job.

2. Your employer paid you for any of your job expenses reportable on line 20.

If you used your own vehicle and item **2** does not apply, you may be able to file **Form 2106-EZ** instead.

If you do not have to file Form 2106 or 2106-EZ, list the type and amount of each expense on the dotted lines next to line 20. If you need more space, attach a statement showing the type and amount of each expense. Enter one total on line 20.

Examples of other expenses to include on line 20 are:

- Safety equipment, small tools, and supplies needed for your job.
- Uniforms required by your employer that are not suitable for ordinary wear.
- Protective clothing required in your work, such as hard hats, safety shoes, and glasses.
- Physical examinations required by your employer.
- Dues to professional organizations and chambers of commerce.
- Subscriptions to professional journals.
- Fees to employment agencies and other costs to look for a new job in your present occupation, even if you do not get a new job.
- Certain business use of part of your home. For details, including limits that apply, use TeleTax topic 509 (see page 11 of the Form 1040 instructions) or see **Pub. 587.**
- Certain educational expenses. For details, use TeleTax topic 513 (see page 11 of the Form 1040 instructions) or see **Pub. 508.**

You may be able to take a credit for your educational expenses instead of a deduction. See **Form 8863** for details.

Line 21

Tax Preparation Fees

Enter the fees you paid for preparation of your tax return, including fees paid for filing your return electronically. If you paid your tax by credit card, **do not** include the convenience fee you were charged.

Line 22

Other Expenses

Enter the total amount you paid to produce or collect taxable income and manage or

protect property held for earning income. But **do not** include any personal expenses. List the type and amount of each expense on the dotted lines next to line 22. If you need more space, attach a statement showing the type and amount of each expense. Enter one total on line 22.

Examples of expenses to include on line 22 are:

- Certain legal and accounting fees.
- Clerical help and office rent.
- Custodial (for example, trust account) fees.
- Your share of the investment expenses of a regulated investment company.
- Certain losses on nonfederally insured deposits in an insolvent or bankrupt financial institution. For details, including limits that apply, see **Pub. 529.**
- Casualty and theft losses of property used in performing services as an employee from **Form 4684,** lines 32 and 38b, or **Form 4797,** line 18b(1).
- Deduction for repayment of amounts under a claim of right if $3,000 or less.

Other Miscellaneous Deductions

Line 27

Only the expenses listed next can be deducted on this line. List the type and amount of each expense on the dotted lines next to line 27. If you need more space, attach a statement showing the type and amount of each expense. Enter one total on line 27.

- Gambling losses, but only to the extent of gambling winnings reported on Form 1040, line 21.
- Casualty and theft losses of income-producing property from **Form 4684,** lines 32 and 38b, or **Form 4797,** line 18b(1).
- Federal estate tax on income in respect of a decedent.
- Amortizable bond premium on bonds acquired before October 23, 1986.
- Deduction for repayment of amounts under a claim of right if over $3,000. See **Pub. 525** for details.
- Certain unrecovered investment in a pension.
- Impairment-related work expenses of a disabled person.

For more details, see **Pub. 529.**

Total Itemized Deductions

Line 28

Use the worksheet below to figure the amount to enter on line 28 if the amount on Form 1040, line 34, is over $132,950 if single, married filing jointly, head of household, or qualifying widow(er); $66,475 if married filing separately.

Itemized Deductions Worksheet—Line 28

Keep for Your Records

1.	Add the amounts on Schedule A, lines 4, 9, 14, 18, 19, 26, and 27	**1.** _____
2.	Add the amounts on Schedule A, lines 4, 13, and 19, plus any gambling and casualty or theft losses included on line 27	**2.** _____

CAUTION Be sure your total gambling and casualty or theft losses are clearly identified on the dotted lines next to line 27.

3. Is the amount on line 2 less than the amount on line 1?

☐ **No.** STOP Your deduction is not limited. Enter the amount from line 1 above on Schedule A, line 28.

☐ **Yes.** Subtract line 2 from line 1 **3.** _____

4.	Multiply line 3 above by 80% (.80)	**4.** _____
5.	Enter the amount from Form 1040, line 34	**5.** _____
6.	Enter: $132,950 if single, married filing jointly, head of household, or qualifying widow(er); $66,475 if married filing separately	**6.** _____

7. Is the amount on line 6 less than the amount on line 5?

☐ **No.** STOP Your deduction is not limited. Enter the amount from line 1 above on Schedule A, line 28.

☐ **Yes.** Subtract line 6 from line 5 **7.** _____

8.	Multiply line 7 above by 3% (.03)	**8.** _____
9.	Enter the **smaller** of line 4 or line 8	**9.** _____
10.	**Total itemized deductions.** Subtract line 9 from line 1. Enter the result here and on Schedule A, line 28	**10.** _____

2001 Instructions for Schedule B, Interest and Ordinary Dividends

Use Schedule B (Form 1040) if **any** of the following apply.

- You had over $400 of taxable interest.
- Any of the **Special Rules** listed in the instructions for line 1 below apply to you.
- You are claiming the exclusion of interest from series EE or I U.S. savings bonds issued after 1989.
- You had over $400 of ordinary dividends.
- You received ordinary dividends as a nominee.
- You **(a)** had a foreign account or **(b)** received a distribution from, or were a grantor of, or transferor to, a foreign trust. Part III of the schedule has questions about foreign accounts and trusts.

TIP You may list more than one payer on each entry space for lines 1 and 5, but be sure to clearly show the amount paid next to the payer's name. Add the separate amounts paid by the payers listed on an entry space and enter the total in the "Amount" column. If you still need more space, attach separate statements that are the same size as the printed schedule. Use the same format as lines 1 and 5, but show your totals on Schedule B. Be sure to put your name and social security number (SSN) on the statements and attach them at the end of your return.

Part I. Interest

Line 1

Interest

Report on line 1 **all** of your taxable interest. List each payer's name and show the amount.

Special Rules

Seller-Financed Mortgages

If you sold your home or other property and the buyer used the property as a personal residence, list first any interest the buyer paid you on a mortgage or other form of seller financing. Be sure to show the buyer's name, address, and SSN. You must also let the buyer know your SSN. If you do not show the buyer's name, address, and SSN, or let the buyer know your SSN, you may have to pay a $50 penalty.

Nominees

If you received a **Form 1099-INT** that includes interest you received as a nominee (that is, in your name, but the interest actually belongs to someone else), report the total on line 1. Do this even if you later distributed some or all of this income to others. Under your last entry on line 1, put a subtotal of all interest listed on line 1. Below this subtotal, enter "Nominee Distribution" and show the total interest you received as a nominee. Subtract this amount from the subtotal and enter the result on line 2.

TIP If you received interest as a nominee, you must give the actual owner a Form 1099-INT unless the owner is your spouse. You must also file a **Form 1096** and a Form 1099-INT with the IRS. For more details, see the **General Instructions for Forms 1099, 1098, 5498, and W-2G** and **Instructions for Forms 1099-INT and 1099-OID.**

Accrued Interest

When you buy bonds between interest payment dates and pay accrued interest to the seller, this interest is taxable to the seller. If you received a Form 1099 for interest as a purchaser of a bond with accrued interest, follow the rules earlier under **Nominees** to see how to report the accrued interest on Schedule B. But identify the amount to be subtracted as "Accrued Interest."

Tax-Exempt Interest

If you received a **Form 1099-INT** for tax-exempt interest, follow the rules earlier under **Nominees** to see how to report the interest on Schedule B. But identify the amount to be subtracted as "Tax-Exempt Interest."

Original Issue Discount (OID)

If you are reporting OID in an amount less than the amount shown on Form 1099-OID, follow the rules earlier under **Nominees** to see how to report the OID on Schedule B. But identify the amount to be subtracted as "OID Adjustment."

Amortizable Bond Premium

If you are reducing your interest income on a bond by the amount of amortizable bond premium, follow the rules earlier under **Nominees** to see how to report the interest on Schedule B. But identify the amount to be subtracted as "ABP Adjustment."

Line 3

Excludable Interest on Series EE and I U.S. Savings Bonds Issued After 1989

If, during 2001, you cashed series EE or I U.S. savings bonds issued after 1989 and you paid qualified higher education expenses for yourself, your spouse, or your dependents, you may be able to exclude part or all of the interest on those bonds. See **Form 8815** for details.

Part II. Ordinary Dividends

Note. You may have to file **Form 5471** if, in 2001, you were an officer or director of a foreign corporation. You may also have to file Form 5471 if, in 2001, you owned 10% or more of the total **(a)** value of a foreign corporation's stock or **(b)** combined voting power of all classes of a foreign corporation's stock with voting rights. For details, see Form 5471 and its instructions.

Line 5

Ordinary Dividends

Report on line 5 **all** of your ordinary dividends. List each payer's name and show the amount.

TIP Do not report capital gain distributions on line 5. Instead, see the instructions for Form 1040, line 13.

(Continued on page B-2)

Nominees

If you received a **Form 1099-DIV** that includes ordinary dividends you received as a nominee (that is, in your name, but the ordinary dividends actually belong to someone else), report the total on line 5. Do this even if you later distributed some or all of this income to others. Under your last entry on line 5, put a subtotal of all ordinary dividends listed on line 5. Below this subtotal, enter "Nominee Distribution" and show the total ordinary dividends you received as a nominee. Subtract this amount from the subtotal and enter the result on line 6.

If you received ordinary dividends as a nominee, you must give the actual owner a Form 1099-DIV unless the owner is your spouse. You must also file a **Form 1096** and a Form 1099-DIV with the IRS. For more details, see the **General Instructions for Forms 1099, 1098, 5498, and W-2G** and **Instructions for Form 1099-DIV.**

Part III. Foreign Accounts and Trusts

Lines 7a and 7b

Foreign Accounts

Line 7a

Check the "Yes" box on line 7a if **either 1** or **2** next applies.

1. You own more than 50% of the stock in any corporation that owns one or more foreign bank accounts.

2. At any time during the year you had an interest in or signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account).

Note. Item **2** does not apply to foreign securities held in a U.S. securities account.

Exceptions. Check the "No" box if any of the following applies to you.

- The combined value of the accounts was $10,000 or less during the whole year.
- The accounts were with a U.S. military banking facility operated by a U.S. financial institution.
- You were an officer or employee of a commercial bank that is supervised by the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation; the account was in your employer's name; **and** you did not have a personal financial interest in the account.
- You were an officer or employee of a domestic corporation with securities listed on national securities exchanges or with assets of more than $1 million and 500 or more shareholders of record; the account was in your employer's name; you did not have a personal financial interest in the account; and the corporation's chief financial officer has given you written notice that the corporation has filed a current report that includes the account.

See **Form TD F 90-22.1** to find out if you are considered to have an interest in or signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account).

If you checked the "Yes" box on line 7a, file Form TD F 90-22.1 by June 30, 2002, with the **Department of the Treasury** at the address shown on that form. **Do not** attach it to Form 1040.

Line 7b

If you checked the "Yes" box on line 7a, enter the name of the foreign country or countries in the space provided on line 7b. Attach a separate statement if you need more space.

Line 8

Foreign Trusts

If you received a distribution from a foreign trust, you must provide additional information. For this purpose, a loan of cash or marketable securities generally is considered to be a distribution. See **Form 3520** for details.

If you were the grantor of, or transferor to, a foreign trust that existed during 2001, you may have to file Form 3520.

2001 Instructions for Schedule C, Profit or Loss From Business

Use Schedule C (Form 1040) to report income or loss from a business you operated or a profession you practiced as a sole proprietor. Also, use Schedule C to report wages and expenses you had as a statutory employee. An activity qualifies as a business if your primary purpose for engaging in the activity is for income or profit and you are involved in the activity with continuity and regularity. For example, a sporadic activity or a hobby does not qualify as a business. To report income from a nonbusiness activity, see the instructions for Form 1040, line 21.

Small businesses and statutory employees with expenses of $2,500 or less may be able to file **Schedule C-EZ** instead of Schedule C. See Schedule C-EZ for details.

You may be subject to state and local taxes and other requirements such as business licenses and fees. Check with your state and local governments for more information.

Section references are to the Internal Revenue Code.

General Instructions

Other Schedules and Forms You May Have To File

Schedule A to deduct interest, taxes, and casualty losses not related to your business.

Schedule E to report rental real estate and royalty income or (loss) that is **not** subject to self-employment tax.

Schedule F to report profit or (loss) from farming.

Schedule SE to pay self-employment tax on income from any trade or business.

Form 4562 to claim depreciation on assets placed in service in 2001, to claim amortization that began in 2001, or to report information on listed property.

Form 4684 to report a casualty or theft gain or loss involving property used in your trade or business or income-producing property.

Form 4797 to report sales, exchanges, and involuntary conversions (not from a casualty or theft) of trade or business property.

Form 8271 if you are claiming or reporting on Schedule C or C-EZ any income, deduction, loss, credit, or other tax benefit from a tax shelter.

Form 8594 to report certain purchases or sales of groups of assets that constitute a trade or business.

Form 8824 to report like-kind exchanges.

Form 8829 to claim expenses for business use of your home.

Husband-Wife Business. If you and your spouse jointly own and operate a business and share in the profits and losses, you are partners in a partnership, whether or not you have a formal partnership agreement. **Do not** use Schedule C or C- EZ. Instead, file **Form 1065.** See **Pub. 541** for more details.

Single-Member Limited Liability Company (LLC). Generally, a single-member domestic LLC is not treated as a separate entity for Federal income tax purposes. If you are the sole member of a domestic LLC, file Schedule C or C-EZ (or Schedule E or F, if applicable). However, you may elect to treat a domestic LLC as a corporation. See **Form 8832** for details on the election and the tax treatment of a foreign LLC.

Heavy Highway Vehicle Use Tax. If you use certain highway trucks, truck-trailers, tractor-trailers, or buses in your trade or business, you may have to pay a Federal highway motor vehicle use tax. See **Form 2290** to find out if you owe this tax.

Information Returns. You may have to file information returns for wages paid to employees, certain payments of fees and other nonemployee compensation, interest, rents, royalties, real estate transactions, annuities, and pensions. You may also have to file an information return if you sold $5,000 or more of consumer products to a person on a buy-sell, deposit-commission, or other similar basis for resale. For details, see the 2001 **General Instructions for Forms 1099, 1098, 5498, and W-2G.**

If you received cash of more than $10,000 in one or more related transactions in your trade or business, you may have to file **Form 8300.** For details, see **Pub. 1544.**

Additional Information

See **Pub. 334** for more information for small businesses.

Specific Instructions

Filers of Form 1041. Do not complete the block labeled "Social security number." Instead, enter your employer identification number (EIN) on line D.

Line A

Describe the business or professional activity that provided your principal source of income reported on line 1. If you owned more than one business, you must complete a separate Schedule C for each business. Give the general field or activity and the type of product or service. If your general field or activity is wholesale or retail trade, or services connected with production services (mining, construction, or manufacturing), also give the type of customer or client. For example, "wholesale sale of hardware to retailers" or "appraisal of real estate for lending institutions."

Line D

You need an EIN only if you had a qualified retirement plan or were required to file an employment, excise, estate, trust, or alcohol, tobacco, and firearms tax return. If you need an EIN, file **Form SS-4.** If you do not have an EIN, leave line D blank. **Do not** enter your SSN.

Line E

Enter your business address. Show a street address instead of a box number. Include the suite or room number, if any. If you conducted the business from your home located at the address shown on Form 1040, page 1, you do not have to complete this line.

Line F

Generally, you can use the cash method, accrual method, or any other method permitted by the Internal Revenue Code. In all cases, the method used must clearly reflect income. Unless you are a qualifying taxpayer, you must use the accrual method for sales and purchases of inventory items. See the Part III instructions on page C-6 for the definition of a qualifying taxpayer. Special rules apply to long-term contracts. See section 460 for details.

If you use the **cash method,** show all items of taxable income actually or constructively received during the year (in cash, property, or services). Income is constructively received when it is credited to your account or set aside for you to use. Also, show amounts actually paid during the year for deductible expenses.

If you use the **accrual method,** report income when you earn it and deduct expenses when you incur them even if you do not pay them during the tax year.

Accrual-basis taxpayers are put on a cash basis for deducting business expenses owed to a related cash-basis taxpayer. Other rules determine the timing of deductions based on economic performance. See **Pub. 538.**

Cat. No. 24329W

To change your accounting method, you generally must file **Form 3115.** You may also have to make an adjustment to prevent amounts of income or expense from being duplicated or omitted. This is called a section 481(a) adjustment, which is taken into account over a period not to exceed 4 years.

Example. You change to the cash method of accounting and choose to account for inventoriable items in the same manner as materials and supplies that are not incidental. You accrued sales in 2000 for which you received payment in 2001. You must report those sales in both years as a result of changing your accounting method and must make a section 481(a) adjustment to prevent duplication of income.

See Rev. Proc. 99-49, 1999-2 C.B. 725, to figure the amount of this adjustment for 2001. You can find Rev. Proc. 99-49 on page 725 of Internal Revenue Bulletin 1999-52 at www.irs.gov. Include any positive section 481(a) adjustment on line 6. If the section 481(a) adjustment is negative, report it in Part V.

Line G

Participation, for purposes of the following seven material participation tests, generally includes any work you did in connection with an activity if you owned an interest in the activity at the time you did the work. The capacity in which you did the work does not matter. However, work is not treated as participation if it is work that an owner would not customarily do in the same type of activity and one of your main reasons for doing the work was to avoid the disallowance of losses or credits from the activity under the passive activity rules.

Work you did as an investor in an activity is not treated as participation unless you were directly involved in the day-to-day management or operations of the activity. Work done as an investor includes:

1. Studying and reviewing financial statements or reports on the activity,

2. Preparing or compiling summaries or analyses of the finances or operations of the activity for your own use, and

3. Monitoring the finances or operations of the activity in a nonmanagerial capacity.

Participation by your spouse during the tax year in an activity you own can be counted as your participation in the activity. This applies even if your spouse did not own an interest in the activity and whether or not you and your spouse file a joint return.

Material Participation. For purposes of the passive activity rules, you materially participated in the operation of this trade or business activity during 2001 if you meet any of the following seven tests.

1. You participated in the activity for more than 500 hours during the tax year.

2. Your participation in the activity for the tax year was substantially all of the participation in the activity of all individuals (including individuals who did not own any interest in the activity) for the tax year.

3. You participated in the activity for more than 100 hours during the tax year, and you participated at least as much as any other person for the tax year. This includes individuals who did not own any interest in the activity.

4. The activity is a significant participation activity for the tax year, and you participated in all significant participation activities for more than 500 hours during the year. An activity is a "significant participation activity" if it involves the conduct of a trade or business, you participated in the activity for more than 100 hours during the tax year, and you did not materially participate under any of the material participation tests (other than this test 4).

5. You materially participated in the activity for any 5 of the prior 10 tax years.

6. The activity is a personal service activity in which you materially participated for any 3 prior tax years. A personal service activity is an activity that involves performing personal services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, or any other trade or business in which capital is not a material income-producing factor.

7. Based on all the facts and circumstances, you participated in the activity on a regular, continuous, and substantial basis during the tax year. But you do not meet this test if you participated in the activity for 100 hours or less during the tax year. Your participation in managing the activity does not count in determining if you meet this test if any person (except you) **(a)** received compensation for performing management services in connection with the activity or **(b)** spent more hours during the tax year than you spent performing management services in connection with the activity (regardless of whether the person was compensated for the services).

If you meet any of the above tests, check the "Yes" box.

If you **do not** meet any of the above tests, check the "No" box. This business is a **passive activity.** If you have a loss from this business, see **Limit on Losses** below. If you have a profit from this business activity but have current year losses from other passive activities or you have prior year unallowed passive activity losses, see the Instructions for Form 8582.

Exception for Oil and Gas. If you are filing Schedule C to report income and deductions from an oil or gas well in which you own a working interest directly or through an entity that does not limit your liability, check the "Yes" box. The activity of owning the working interest is not a passive activity regardless of your participation.

Limit on Losses. If you checked the "No" box and you have a loss from this business, you may have to use **Form 8582** to figure your allowable loss, if any, to enter on Schedule C, line 31. Generally, you can deduct losses from passive activities only to the extent of income from passive activities.

For details, see **Pub. 925.**

Line H

If you started or acquired this business in 2001, check the box on line H. Also check the box if you are reopening or restarting this business after temporarily closing it, and you did not file a 2000 Schedule C or C-EZ for this business.

Part I. Income

Except as otherwise provided in the Internal Revenue Code, gross income includes all income from whatever source derived. Gross income, however, does not include extraterritorial income that is qualifying foreign trade income. Use **Form 8873** to figure the extraterritorial income exclusion. Report it on Schedule C as explained in the Instructions for Form 8873.

Line 1

Enter gross receipts from your trade or business. Include amounts you received in your trade or business that were properly shown on **Forms 1099-MISC.** If the total amounts that were reported in box 7 of Forms 1099-MISC are more than the total you are reporting on line 1, attach a statement explaining the difference.

Statutory Employees. If you received a Form W-2 and the "Statutory employee" box in box 13 of that form was checked, report your income and expenses related to that income on Schedule C or C-EZ. Enter your statutory employee income from box 1 of Form W-2 on line 1 of Schedule C or C-EZ and **check the box** on that line. Social security and Medicare tax should have been withheld from your earnings; therefore, you do not owe self-employment tax on these earnings. Statutory employees include full-time life insurance agents, certain agent or commission drivers and traveling salespersons, and certain homeworkers.

If you had both self-employment income and statutory employee income, you **must** file two Schedules C. You **cannot** use Schedule C-EZ or combine these amounts on a single Schedule C.

Installment Sales. Generally, the installment method may not be used to report income from the sale of **(a)** personal property regularly sold under the installment method or **(b)** real property held for resale to customers. But the installment method may be used to report income from sales of certain residential lots and timeshares if you elect to pay interest on the tax due on that income after the year of sale. See section 453(l)(2)(B) for details. If you make this election, include the interest on Form 1040,

line 58. Also, enter "453(l)(3)" and the amount of the interest on the dotted line to the left of line 58.

If you use the installment method, attach a schedule to your return. Show separately for 2001 and the 3 preceding years: gross sales, cost of goods sold, gross profit, percentage of gross profit to gross sales, amounts collected, and gross profit on amounts collected.

Line 6

Report on line 6 amounts from finance reserve income, scrap sales, bad debts you recovered, interest (such as on notes and accounts receivable), state gasoline or fuel tax refunds you got in 2001, credit for Federal tax paid on gasoline or other fuels claimed on your 2000 Form 1040, prizes and awards related to your trade or business, and other kinds of miscellaneous business income. Include amounts you received in your trade or business as shown on **Form 1099-PATR.** Also, include any recapture of the deduction for clean-fuel vehicles used in your business and clean-fuel vehicle refueling property. For details, see **Pub. 535.**

If the business use percentage of any listed property (defined in the instructions for line 13 on this page) decreased to 50% or less in 2001, report on this line any recapture of excess depreciation, including any section 179 expense deduction. Use **Form 4797** to figure the recapture. Also, if the business use percentage drops to 50% or less on leased listed property (other than a vehicle), include on this line any inclusion amount. See **Pub. 946** to figure the amount.

Part II. Expenses

Capitalizing Costs of Property. If you produced real or tangible personal property or acquired property for resale, certain expenses attributable to the property generally must be included in inventory costs or capitalized. In addition to direct costs, producers of inventory property generally must also include part of certain indirect costs in their inventory. Purchasers of personal property acquired for resale must include part of certain indirect costs in inventory only if the average annual gross receipts for the 3 prior tax years exceed $10 million. Also, you must capitalize part of the indirect costs that benefit real or tangible personal property constructed for use in a trade or business, or noninventory property produced for sale to customers. Reduce the amounts on lines 8–26 and Part V by amounts capitalized. For details, see **Pub. 538.**

Exception for Certain Small Producers. Producers whose average annual gross receipts are $1 million or less who account for inventoriable items in the same manner as materials and supplies that are not incidental may currently deduct expenditures for direct labor and all indirect costs that would otherwise be included in inventory costs. See **Cost of Goods Sold** on page C-6 for more details.

Exception for Creative Property. If you are an artist, author, or photographer, you may be exempt from the capitalization rules. However, your personal efforts must have created (or reasonably be expected to create) the property. This exception does not apply to any expense related to printing, photographic plates, motion picture films, video tapes, or similar items. These expenses are subject to the capitalization rules. For details, see Pub. 538.

Line 9

Include debts and partial debts from sales or services that were included in income and are definitely known to be worthless. If you later collect a debt that you deducted as a bad debt, include it as income in the year collected. For details, see **Pub. 535.**

Line 10

You can deduct the actual expenses of running your car or truck or take the **standard mileage rate.** You **must** use actual expenses if you used your vehicle for hire (such as a taxicab) or you used more than one vehicle simultaneously in your business (such as in fleet operations). You cannot use actual expenses for a leased vehicle if you previously used the standard mileage rate for that vehicle.

You can take the standard mileage rate for 2001 **only** if:

- You owned the vehicle and use the standard mileage rate for the first year you placed the vehicle in service or
- You leased the vehicle and are using the standard mileage rate for the entire lease period (except the period, if any, before 1998).

If you deduct actual expenses:

- Include on line 10 the business portion of expenses for gasoline, oil, repairs, insurance, tires, license plates, etc., and
- Show depreciation on line 13 and rent or lease payments on line 20a.

If you take the standard mileage rate, multiply the number of business miles by 34.5 cents. Add to this amount your parking fees and tolls, and enter the total on line 12. **Do not** deduct depreciation, rent or lease payments, or your actual operating expenses.

For details, see **Pub. 463.**

Information on Your Vehicle. If you claim any car and truck expenses, you must provide certain information on the use of your vehicle by completing one of the following.

- Part IV of Schedule C or Part III of Schedule C-EZ if: **(a)** you are claiming the standard mileage rate, you lease your vehicle, or your vehicle is fully depreciated and **(b)** you are **not** required to file **Form 4562** for any other reason. If you used more than one vehicle during the year, attach your own schedule with the information requested in Part IV of Schedule C, or Part III of Schedule C-EZ, for each additional vehicle.
- Part V of Form 4562 if you are claiming depreciation on your vehicle or you are required to file Form 4562 for any other reason (see the instructions for line 13).

Line 12

Enter your deduction for depletion on this line. If you have timber depletion, attach **Form T.** See **Pub. 535** for details.

Line 13

Depreciation and Section 179 Expense Deduction. Depreciation is the annual deduction allowed to recover the cost or other basis of business or investment property having a useful life substantially beyond the tax year. You can also depreciate improvements made to leased business property. However, stock in trade, inventories, and land are not depreciable. Depreciation starts when you first use the property in your business or for the production of income. It ends when you take the property out of service, deduct all your depreciable cost or other basis, or no longer use the property in your business or for the production of income. You may also elect under section 179 to expense part of the cost of certain property you bought in 2001 for use in your business. See the Instructions for Form 4562 to figure the amount to enter on line 13.

When To Attach Form 4562. You must complete and attach Form 4562 **only** if:

- You are claiming depreciation on property placed in service during 2001;
- You are claiming depreciation on listed property (defined below), regardless of the date it was placed in service; or
- You are claiming a section 179 expense deduction.

If you acquired depreciable property for the first time in 2001, see Pub. 946.

Listed property generally includes, but is not limited to:

- Passenger automobiles weighing 6,000 pounds or less;
- Any other property used for transportation if the nature of the property lends itself to personal use, such as motorcycles, pickup trucks, etc.;
- Any property used for entertainment or recreational purposes (such as photographic, phonographic, communication, and video recording equipment);
- Cellular telephones or other similar telecommunications equipment; and
- Computers or peripheral equipment.

Exceptions. Listed property does not include photographic, phonographic, communication, or video equipment used exclusively in your trade or business or at

your regular business establishment. It also does not include any computer or peripheral equipment used exclusively at a regular business establishment and owned or leased by the person operating the establishment. For purposes of these exceptions, a portion of your home is treated as a regular business establishment only if that portion meets the requirements under section 280A(c)(1) for deducting expenses for the business use of your home.

See the instructions for line 6 on page C-3 if the business use percentage of any listed property decreased to 50% or less in 2001.

Line 14

Deduct contributions to employee benefit programs that are not an incidental part of a pension or profit-sharing plan included on line 19. Examples are accident and health plans, group-term life insurance, and dependent care assistance programs.

Do not include on line 14 any contributions you made on your behalf as a self-employed person to an accident and health plan or for group-term life insurance. You may be able to deduct on Form 1040, line 28, part of the amount you paid for health insurance on behalf of yourself, your spouse, and dependents, even if you do not itemize your deductions. See the instructions for Form 1040, line 28, for details.

Line 15

Deduct premiums paid for business insurance on line 15. Deduct on line 14 amounts paid for employee accident and health insurance. Do not deduct amounts credited to a reserve for self-insurance or premiums paid for a policy that pays for your lost earnings due to sickness or disability. For details, see **Pub. 535.**

Lines 16a and 16b

Interest Allocation Rules. The tax treatment of interest expense differs depending on its type. For example, home mortgage interest and investment interest are treated differently. "Interest allocation" rules require you to allocate (classify) your interest expense so it is deducted (or capitalized) on the correct line of your return and receives the right tax treatment. These rules could affect how much interest you are allowed to deduct on Schedule C or C-EZ.

Generally, you allocate interest expense by tracing how the proceeds of the loan were used. See **Pub. 535** for details.

Do not deduct interest you paid or accrued on debts allocable to investment property. This interest is generally deducted on **Schedule A.** For details, see **Pub. 550.**

If you paid interest on a debt secured by your main home and any of the proceeds from that debt were used in connection with your trade or business, see Pub. 535 to figure the amount that is deductible on Schedule C or C-EZ.

If you have a mortgage on real property used in your business (other than your main home), enter on line 16a the interest you paid for 2001 to banks or other financial institutions for which you received a **Form 1098** (or similar statement). If you did not receive a Form 1098, enter the interest on line 16b.

If you paid more mortgage interest than is shown on Form 1098, see Pub. 535 to find out if you can deduct the additional interest. If you can, include the amount on line 16a. Attach a statement to your return explaining the difference and enter "See attached" in the margin next to line 16a.

If you and at least one other person (other than your spouse if you file a joint return) were liable for and paid interest on the mortgage and the other person received the Form 1098, include your share of the interest on line 16b. Attach a statement to your return showing the name and address of the person who received the Form 1098. In the margin next to line 16b, enter "See attached."

If you paid interest in 2001 that applies to future years, deduct only the part that applies to 2001.

Line 17

Include on this line fees for tax advice related to your business and for preparation of the tax forms related to your business.

Line 19

Enter your deduction for contributions to a pension, profit-sharing, or annuity plan, or plans for the benefit of your employees. If the plan includes you as a self-employed person, enter contributions made as an employer on your behalf on Form 1040, line 29, not on Schedule C.

Generally, you must file the applicable form listed below if you maintain a pension, profit-sharing, or other funded-deferred compensation plan. The filing requirement is not affected by whether or not the plan qualified under the Internal Revenue Code, or whether or not you claim a deduction for the current tax year. There is a penalty for failure to timely file these forms.

Form 5500. File this form for a plan that is not a one-participant plan (see below).

Form 5500-EZ. File this form for a one-participant plan. A **one-participant plan** is a plan that only covers you (or you and your spouse).

For details, see **Pub. 560.**

Lines 20a and 20b

If you rented or leased vehicles, machinery, or equipment, enter on line 20a the business portion of your rental cost. But if you leased a vehicle for a term of 30 days or more, you may have to reduce your deduction by an amount called the **inclusion amount.**

You may have to do this if—

The lease term began during . . .	And the vehicle's fair market value on the first day of the lease exceeded . . .
1999, 2000, or 2001	$15,500
1997 or 1998	15,800
1995 or 1996	15,500

If the lease term began before 1995, see Pub. 463 to find out if you have an inclusion amount.

See **Pub. 463** to figure your inclusion amount.

Enter on line 20b amounts paid to rent or lease other property, such as office space in a building.

Line 21

Deduct the cost of repairs and maintenance. Include labor, supplies, and other items that do not add to the value or increase the life of the property. Do not deduct the value of your own labor. Do not deduct amounts spent to restore or replace property; they must be capitalized.

Line 22

Generally, you can deduct the cost of supplies only to the extent you actually consumed and used them in your business during the tax year (unless you deducted them in a prior tax year). However, if you had incidental supplies on hand for which you kept no inventories or records of use, you may deduct the cost of supplies you actually purchased during the tax year, provided that method clearly reflects income.

Line 23

You can deduct the following taxes and licenses on this line.

- State and local sales taxes imposed on you as the seller of goods or services. If you collected this tax from the buyer, you must also include the amount collected in gross receipts or sales on line 1.
- Real estate and personal property taxes on business assets.
- Licenses and regulatory fees for your trade or business paid each year to state or local governments. But some licenses, such as liquor licenses, may have to be amortized. See **Pub. 535** for details.
- Social security and Medicare taxes paid to match required withholding from your employees' wages. Also, Federal unemployment tax paid. Reduce your deduction by the amount of the current year credit shown on line 4 of **Form 8846.**

- Federal highway use tax.

Do not deduct the following on this line.

- Federal income taxes, including your self-employment tax. However, you may deduct one-half of your self-employment tax on Form 1040, line 27.
- Estate and gift taxes.
- Taxes assessed to pay for improvements, such as paving and sewers.
- Taxes on your home or personal use property.
- State and local sales taxes on property purchased for use in your business. Instead, treat these taxes as part of the cost of the property.
- State and local sales taxes imposed on the buyer that you were required to collect and pay over to state or local governments. These taxes are not included in gross receipts or sales nor are they a deductible expense. However, if the state or local government allowed you to retain any part of the sales tax you collected, you must include that amount as income on line 6.
- Other taxes and license fees not related to your business.

Line 24a

Enter your expenses for lodging and transportation connected with overnight travel for business while away from your tax home. Generally, your tax home is your main place of business regardless of where you maintain your family home. You cannot deduct expenses paid or incurred in connection with employment away from home if that period of employment exceeds 1 year. Also, you cannot deduct travel expenses for your spouse, your dependent, or any other individual unless that person is your employee, the travel is for a bona fide business purpose, and the expenses would otherwise be deductible by that person.

Do not include expenses for meals and entertainment on this line. Instead, see the instructions for lines 24b and 24c below.

You cannot deduct expenses for attending a foreign convention unless it is directly related to your trade or business and it is as reasonable for the meeting to be held outside the North American area as within it. These rules apply to both employers and employees. Other rules apply to luxury water travel.

For details, see **Pub. 463.**

Lines 24b and 24c

On line 24b, enter your total business meal and entertainment expenses. Include meals while traveling away from home for business. Instead of the actual cost of your meals while traveling away from home, you may use the standard meal allowance. For more details, see **Pub. 463** and **Pub. 1542.**

Business meal expenses are deductible only if they are **(a)** directly related to or associated with the active conduct of your trade or business, **(b)** not lavish or extravagant, and **(c)** incurred while you or your employee is present at the meal.

You cannot deduct any expense paid or incurred for a facility (such as a yacht or hunting lodge) used for any activity usually considered entertainment, amusement, or recreation.

Also, you cannot deduct membership dues for any club organized for business, pleasure, recreation, or other social purpose. This includes country clubs, golf and athletic clubs, airline and hotel clubs, and clubs operated to provide meals under conditions favorable to business discussion. But it does not include civic or public service organizations, professional organizations (such as bar and medical associations), business leagues, trade associations, chambers of commerce, boards of trade, and real estate boards, unless a principal purpose of the organization is to entertain, or provide entertainment facilities for, members or their guests.

There are exceptions to these rules as well as other rules that apply to sky-box rentals and tickets to entertainment events. See Pub. 463.

Generally, you may deduct only 50% of your business meal and entertainment expenses, including meals incurred while away from home on business. For individuals subject to the Department of Transportation (DOT) hours of service limits, that percentage is increased to 60% for business meals consumed during, or incident to, any period of duty for which those limits are in effect. Individuals subject to the DOT hours of service limits include the following persons:

- Certain air transportation workers (such as pilots, crew, dispatchers, mechanics, and control tower operators) who are under Federal Aviation Administration regulations.
- Interstate truck operators who are under DOT regulations.
- Certain merchant mariners who are under Coast Guard regulations.

However, you may fully deduct meals and entertainment furnished or reimbursed to an employee if you properly treat the expense as wages subject to withholding. You may also fully deduct meals and entertainment provided to a nonemployee to the extent the expenses are includible in the gross income of that person and reported on Form 1099-MISC. See **Pub. 535** for details and other exceptions.

Figure how much of the amount on line 24b is not deductible and enter that amount on line 24c.

Line 25

Deduct only utility expenses for your trade or business.

Local Telephone Service. If you used your home phone for business, do not deduct the base rate (including taxes) of the first phone line into your residence. But you can deduct expenses for any additional costs you incurred for business that are more than the cost of the base rate for the first phone line. For example, if you had a second line, you can deduct the business percentage of the charges for that line, including the base rate charges.

Line 26

Enter the total salaries and wages for the tax year. Do not include salaries and wages deducted elsewhere on your return or amounts paid to yourself. Reduce your deduction by the current year credits claimed on:

- **Form 5884,** Work Opportunity Credit,
- **Form 8844,** Empowerment Zone Employment Credit,
- **Form 8845,** Indian Employment Credit, and
- **Form 8861,** Welfare-to-Work Credit.

If you provided taxable fringe benefits to your employees, such as personal use of a car, do not deduct as wages the amount applicable to depreciation and other expenses claimed elsewhere.

Line 30

Business Use of Your Home. You may be able to deduct certain expenses for business use of your home, subject to limitations. You must attach **Form 8829** if you claim this deduction. For details, see the Instructions for Form 8829 and **Pub. 587.**

Line 31

If you have a loss, the amount of loss you can deduct this year may be limited. Go to line 32 before entering your loss on line 31. If you answered "No" to Question G on Schedule C, also see the Instructions for Form 8582. Enter the net profit or **deductible** loss here. Combine this amount with any profit or loss from other businesses, and enter the total on Form 1040, line 12, and Schedule SE, line 2. Estates and trusts should enter the total on Form 1041, line 3.

If you have a net profit on line 31, this amount is earned income and may qualify you for the earned income credit. See the instructions for Form 1040, lines 61a and 61b, for details.

Statutory Employees. Include your net profit or deductible loss from line 31 with other Schedule C amounts on Form 1040, line 12. However, **do not** report this amount on Schedule SE, line 2. If you are required to file Schedule SE because of other self-employment income, see the Instructions for Schedule SE.

Line 32

At-Risk Rules. Generally, if you have **(a)** a business loss and **(b)** amounts in the business for which you are **not at risk,** you will have to complete **Form 6198** to figure your allowable loss. The at-risk rules generally limit the amount of loss (including loss on the disposition of assets) you can claim to the amount you could actually lose in the business.

Check **box 32b** if you have amounts for which you are not at risk in this business, such as the following.

- Nonrecourse loans used to finance the business, to acquire property used in the business, or to acquire the business that are not secured by your own property (other than property used in the business). However, there is an exception for certain nonrecourse financing borrowed by you in connection with holding real property.

- Cash, property, or borrowed amounts used in the business (or contributed to the business, or used to acquire the business) that are protected against loss by a guarantee, stop-loss agreement, or other similar arrangement (excluding casualty insurance and insurance against tort liability).

- Amounts borrowed for use in the business from a person who has an interest in the business, other than as a creditor, or who is related under section 465(b)(3) to a person (other than you) having such an interest.

If all amounts are at risk in this business, check **box 32a** and enter your loss on line 31. But if you answered "No" to Question G, you may need to complete **Form 8582** to figure your deductible loss. See the Instructions for Form 8582 for details.

If you checked **box 32b,** see Form 6198 to determine the amount of your deductible loss. But if you answered "No" to Question G, your loss may be further limited. See the Instructions for Form 8582. If your at-risk amount is zero or less, enter zero on line 31. Be sure to attach Form 6198 to your return. If you checked box 32b and you do not attach Form 6198, the processing of your tax return may be delayed.

Any loss from this business not allowed for 2001 because of the at-risk rules is treated as a deduction allocable to the business in 2002. For details, see the Instructions for Form 6198 and **Pub. 925.**

Part III. Cost of Goods Sold

Generally, if you engaged in a trade or business in which the production, purchase, or sale of merchandise was an income-producing factor, you must take inventories into account at the beginning and end of your tax year.

However, if you are a qualifying taxpayer, you may adopt or change your accounting method to account for inventoriable items in the same manner as materials and supplies that are not incidental. A **qualifying taxpayer** is a taxpayer **(a)** whose average annual gross receipts for the 3 prior tax years are $1 million or less and **(b)** whose business is not a tax shelter (as defined in section 448(d)(3)). Under this accounting method, inventory costs for raw materials purchased for use in producing finished goods and merchandise purchased for resale are deductible in the year the finished goods or merchandise are sold (but not before the year you paid for the raw materials or merchandise, if you are also using the cash method). Enter amounts paid for all raw materials and merchandise during 2001 on line 36. The amount you can deduct for 2001 is figured on line 42. For additional guidance on this method of accounting for inventoriable items, see Rev. Proc. 2001-10. You can find Rev. Proc. 2001-10 on page 272 of Internal Revenue Bulletin 2001-2 at www.irs.gov.

Note. Certain direct and indirect expenses may have to be capitalized or included in inventory. See the instructions for Part II beginning on page C-3.

Line 33

Your inventories can be valued at cost; cost or market value, whichever is lower; or any other method approved by the IRS. However, you are required to use cost if you are using the cash method of accounting.

Line 35

If you are changing your method of accounting beginning with 2001, refigure last year's closing inventory using your new method of accounting and enter the result on line 35. If there is a difference between last year's closing inventory and the refigured amount, attach an explanation and take it into account when figuring your section 481(a) adjustment. See the example on page C-2 for details.

Line 41

If you account for inventoriable items in the same manner as materials and supplies that are not incidental, enter on line 41 the portion of your raw materials and merchandise purchased for resale that are included on line 40 and were not sold during the year.

Part V. Other Expenses

Include all ordinary and necessary business expenses not deducted elsewhere on Schedule C. List the type and amount of each expense separately in the space provided. Enter the total on lines 48 and 27. Do not include the cost of business equipment or furniture, replacements or permanent improvements to property, or personal, living, and family expenses. Do not include charitable contributions. Also, you may not deduct fines or penalties paid to a government for violating any law. For details on business expenses, see **Pub. 535.**

Amortization. Include amortization in this part. For amortization that begins in 2001, you must complete and attach **Form 4562.**

You may amortize:

- The cost of pollution-control facilities.

- Amounts paid for research and experimentation.

- Certain business startup costs.

- Qualified forestation and reforestation costs. See Pub. 535 for limitations.

- Amounts paid to acquire, protect, expand, register, or defend trademarks or trade names.

- Goodwill and certain other intangibles.

In general, you **may not** amortize real property construction period interest and taxes. Special rules apply for allocating interest to real or personal property produced in your trade or business.

At-Risk Loss Deduction. Any loss from this activity that was not allowed as a deduction last year because of the at-risk rules is treated as a deduction allocable to this activity in 2001.

Capital Construction Fund. Do not claim on Schedule C or C-EZ the deduction for amounts contributed to a capital construction fund set up under the Merchant Marine Act of 1936. Instead, reduce the amount you would otherwise enter on Form 1040, line 39, by the amount of the deduction. Next to line 39, enter "CCF" and the amount of the deduction. For details, see **Pub. 595.**

Deduction for Clean-Fuel Vehicles and Clean-Fuel Vehicle Refueling Property. You may deduct part of the cost of qualified clean-fuel vehicle property used in your business and qualified clean-fuel vehicle refueling property. See Pub. 535 for details.

Disabled Access Credit and the Deduction for Removing Barriers to Individuals With Disabilities and the Elderly. You may be able to claim a tax credit of up to $5,000 for eligible expenditures paid or incurred in 2001 to provide access to your business for individuals with disabilities. See **Form 8826** for details. You can also deduct up to $15,000 of costs paid or incurred in 2001 to remove architectural or transportation barriers to individuals with disabilities and the elderly. However, you cannot take both the credit and the deduction on the same expenditures.

These codes for the Principal Business or Professional Activity classify sole proprietorships by the type of activity they are engaged in to facilitate the administration of the Internal Revenue Code. These six-digit codes are based on the North American Industry Classification System (NAICS).

Select the category that best describes your primary business activity (for example, Real Estate). Then select the activity that best identifies the principal source of your sales or receipts (for example, real estate agent). Now find the six-digit code assigned to this activity and **enter it on line B of Schedule C or C-EZ** (for example, 531210, the Code for offices of real estate agents and brokers).

Note. If your principal source of income is from farming activities, you should file **Schedule F,** Profit or Loss From Farming.

Accommodation, Food Services, & Drinking Places

Accommodation

- 721310 Rooming & boarding houses
- 721210 RV (recreational vehicle) parks & recreational camps
- 721100 Travel accommodation (including hotels, motels, & bed & breakfast inns)

Food Services & Drinking Places

- 722410 Drinking places (alcoholic beverages)
- 722110 Full-service restaurants
- 722210 Limited-service eating places
- 722300 Special food services (including food service contractors & caterers)

Administrative & Support and Waste Management & Remediation Services

Administrative & Support Services

- 561430 Business service centers (including private mail centers & copy shops)
- 561740 Carpet & upholstery cleaning services
- 561440 Collection agencies
- 561450 Credit bureaus
- 561410 Document preparation services
- 561300 Employment services
- 561710 Exterminating & pest control services
- 561210 Facilities support (management) services
- 561600 Investigation & security services
- 561720 Janitorial services
- 561730 Landscaping services
- 561110 Office administrative services
- 561420 Telephone call centers (including telephone answering services & telemarketing bureaus)
- 561500 Travel arrangement & reservation services
- 561490 Other business support services (including repossession services, court reporting, & stenotype services)
- 561790 Other services to buildings & dwellings
- 561900 Other support services (including packaging & labeling services, & convention & trade show organizers)

Waste Management & Remediation Services

- 562000 Waste management & remediation services

Agriculture, Forestry, Hunting, & Fishing

- 112900 Animal production (including breeding of cats and dogs)
- 114110 Fishing
- 113000 Forestry & logging (including forest nurseries & timber tracts)
- 114210 Hunting & trapping

Support Activities for Agriculture & Forestry

- 115210 Support activities for animal production (including farriers)
- 115110 Support activities for crop production (including cotton ginning, soil preparation, planting, & cultivating)
- 115310 Support activities for forestry

Arts, Entertainment, & Recreation

Amusement, Gambling, & Recreation Industries

- 713100 Amusement parks & arcades
- 713200 Gambling industries
- 713900 Other amusement & recreation services (including golf courses, skiing facilities, marinas, fitness centers, bowling centers, skating rinks, miniature golf courses)

Museums, Historical Sites, & Similar Institutions

- 712100 Museums, historical sites, & similar institutions

Performing Arts, Spectator Sports, & Related Industries

- 711410 Agents & managers for artists, athletes, entertainers, & other public figures
- 711510 Independent artists, writers, & performers
- 711100 Performing arts companies
- 711300 Promoters of performing arts, sports, & similar events
- 711210 Spectator sports (including professional sports clubs & racetrack operations)

Construction

- 233110 Land subdivision & land development
- 233300 Nonresidential building construction
- 233200 Residential building construction

Heavy Construction

- 234100 Highway, street, bridge, & tunnel construction
- 234900 Other heavy construction

Special Trade Contractors

- 235500 Carpentry & floor contractors
- 235710 Concrete contractors
- 235310 Electrical contractors
- 235400 Masonry, drywall, insulation, & tile contractors
- 235210 Painting & wall covering contractors
- 235110 Plumbing, heating, & air-conditioning contractors
- 235610 Roofing, siding, & sheet metal contractors
- 235810 Water well drilling contractors
- 235900 Other special trade contractors

Educational Services

- 611000 Educational services (including schools, colleges, & universities)

Finance & Insurance

Credit Intermediation & Related Activities

- 522100 Depository credit intermediation (including commercial banking, savings institutions, & credit unions)
- 522200 Nondepository credit intermediation (including sales financing & consumer lending)
- 522300 Activities related to credit intermediation (including loan brokers)

Insurance Agents, Brokers, & Related Activities

- 524210 Insurance agencies & brokerages
- 524290 Other insurance related activities

Securities, Commodity Contracts, & Other Financial Investments & Related Activities

- 523140 Commodity contracts brokers
- 523130 Commodity contracts dealers
- 523110 Investment bankers & securities dealers
- 523210 Securities & commodity exchanges
- 523120 Securities brokers
- 523900 Other financial investment activities (including investment advice)

Health Care & Social Assistance

Ambulatory Health Care Services

- 621610 Home health care services
- 621510 Medical & diagnostic laboratories
- 621310 Offices of chiropractors
- 621210 Offices of dentists
- 621330 Offices of mental health practitioners (except physicians)
- 621320 Offices of optometrists
- 621340 Offices of physical, occupational & speech therapists, & audiologists
- 621111 Offices of physicians (except mental health specialists)
- 621112 Offices of physicians, mental health specialists
- 621391 Offices of podiatrists
- 621399 Offices of all other miscellaneous health practitioners
- 621400 Outpatient care centers
- 621900 Other ambulatory health care services (including ambulance services, blood, & organ banks)

Hospitals

- 622000 Hospitals

Nursing & Residential Care Facilities

- 623000 Nursing & residential care facilities

Social Assistance

- 624410 Child day care services
- 624200 Community food & housing, & emergency & other relief services
- 624100 Individual & family services
- 624310 Vocational rehabilitation services

Information

- 511000 Publishing industries

Broadcasting & Telecommunications

- 513000 Broadcasting & telecommunications

Information Services & Data Processing Services

- 514210 Data processing services
- 514100 Information services (including news syndicates, libraries, & on-line information services)

Motion Picture & Sound Recording

- 512100 Motion picture & video industries (except video rental)
- 512200 Sound recording industries

Manufacturing

- 315000 Apparel mfg.
- 312000 Beverage & tobacco product mfg.
- 334000 Computer & electronic product mfg.
- 335000 Electrical equipment, appliance, & component mfg.
- 332000 Fabricated metal product mfg.
- 337000 Furniture & related product mfg.
- 333000 Machinery mfg.
- 339110 Medical equipment & supplies mfg.
- 322000 Paper mfg.
- 324100 Petroleum & coal products mfg.
- 326000 Plastics & rubber products mfg.
- 331000 Primary metal mfg.
- 323100 Printing & related support activities
- 313000 Textile mills
- 314000 Textile product mills
- 336000 Transportation equipment mfg.
- 321000 Wood product mfg.
- 339900 Other miscellaneous mfg.

Chemical Manufacturing

- 325100 Basic chemical mfg.
- 325500 Paint, coating, & adhesive mfg.
- 325300 Pesticide, fertilizer, & other agricultural chemical mfg.
- 325410 Pharmaceutical & medicine mfg.
- 325200 Resin, synthetic rubber, & artificial & synthetic fibers & filaments mfg.
- 325600 Soap, cleaning compound, & toilet preparation mfg.
- 325900 Other chemical product & preparation mfg.

Food Manufacturing

- 311110 Animal food mfg.
- 311800 Bakeries & tortilla mfg.
- 311500 Dairy product mfg.
- 311400 Fruit & vegetable preserving & speciality food mfg.
- 311200 Grain & oilseed milling
- 311610 Animal slaughtering & processing
- 311710 Seafood product preparation & packaging
- 311300 Sugar & confectionery product mfg.
- 311900 Other food mfg. (including coffee, tea, flavorings, & seasonings)

Leather & Allied Product Manufacturing

316210 Footwear mfg. (including leather, rubber, & plastics)
316110 Leather & hide tanning & finishing
316990 Other leather & allied product mfg.

Nonmetallic Mineral Product Manufacturing

327300 Cement & concrete product mfg.
327100 Clay product & refractory mfg.
327210 Glass & glass product mfg.
327400 Lime & gypsum product mfg.
327900 Other nonmetallic mineral product mfg.

Mining

212110 Coal mining
212200 Metal ore mining
212300 Nonmetallic mineral mining & quarrying
211110 Oil & gas extraction
213110 Support activities for mining

Other Services

Personal & Laundry Services

812111 Barber shops
812112 Beauty salons
812220 Cemeteries & crematories
812310 Coin-operated laundries & drycleaners
812320 Drycleaning & laundry services (except coin-operated) (including laundry & drycleaning drop off & pickup sites)
812210 Funeral homes & funeral services
812330 Linen & uniform supply
812113 Nail salons
812930 Parking lots & garages
812910 Pet care (except veterinary) services
812920 Photofinishing
812190 Other personal care services (including diet & weight reducing centers)
812990 All other personal services

Repair & Maintenance

811120 Automotive body, paint, interior, & glass repair
811110 Automotive mechanical & electrical repair & maintenance
811190 Other automotive repair & maintenance (including oil change & lubrication shops & car washes)
811310 Commercial & industrial machinery & equipment (except automotive & electronic) repair & maintenance
811210 Electronic & precision equipment repair & maintenance
811430 Footwear & leather goods repair
811410 Home & garden equipment & appliance repair & maintenance
811420 Reupholstery & furniture repair
811490 Other personal & household goods repair & maintenance

Professional, Scientific, & Technical Services

541100 Legal services
541211 Offices of certified public accountants
541214 Payroll services
541213 Tax preparation services
541219 Other accounting services

Architectural, Engineering, & Related Services

541310 Architectural services
541350 Building inspection services
541340 Drafting services
541330 Engineering services
541360 Geophysical surveying & mapping services
541320 Landscape architecture services
541370 Surveying & mapping (except geophysical) services
541380 Testing laboratories

Computer Systems Design & Related Services

541510 Computer systems design & related services

Specialized Design Services

541400 Specialized design services (including interior, industrial, graphic, & fashion design)

Other Professional, Scientific, & Technical Services

541800 Advertising & related services
541600 Management, scientific, & technical consulting services
541910 Market research & public opinion polling
541920 Photographic services
541700 Scientific research & development services
541930 Translation & interpretation services
541940 Veterinary services
541990 All other professional, scientific, & technical services

Real Estate & Rental & Leasing

Real Estate

531100 Lessors of real estate (including miniwarehouses & self-storage units)
531210 Offices of real estate agents & brokers
531320 Offices of real estate appraisers
531310 Real estate property managers
531390 Other activities related to real estate

Rental & Leasing Services

532100 Automotive equipment rental & leasing
532400 Commercial & industrial machinery & equipment rental & leasing
532210 Consumer electronics & appliances rental
532220 Formal wear & costume rental
532310 General rental centers
532230 Video tape & disc rental
532290 Other consumer goods rental

Religious, Grantmaking, Civic, Professional, & Similar Organizations

813000 Religious, grantmaking, civic, professional, & similar organizations

Retail Trade

Building Material & Garden Equipment & Supplies Dealers

444130 Hardware stores
444110 Home centers
444200 Lawn & garden equipment & supplies stores
444120 Paint & wallpaper stores
444190 Other building materials dealers

Clothing & Accessories Stores

448130 Children's & infants' clothing stores
448150 Clothing accessories stores
448140 Family clothing stores
448310 Jewelry stores
448320 Luggage & leather goods stores
448110 Men's clothing stores
448210 Shoe stores
448120 Women's clothing stores
448190 Other clothing stores

Electronic & Appliance Stores

443130 Camera & photographic supplies stores
443120 Computer & software stores
443111 Household appliance stores
443112 Radio, television, & other electronics stores

Food & Beverage Stores

445310 Beer, wine, & liquor stores
445220 Fish & seafood markets
445230 Fruit & vegetable markets
445100 Grocery stores (including supermarkets & convenience stores without gas)
445210 Meat markets
445290 Other specialty food stores

Furniture & Home Furnishing Stores

442110 Furniture stores
442200 Home furnishings stores

Gasoline Stations

447100 Gasoline stations (including convenience stores with gas)

General Merchandise Stores

452000 General merchandise stores

Health & Personal Care Stores

446120 Cosmetics, beauty supplies, & perfume stores
446130 Optical goods stores
446110 Pharmacies & drug stores
446190 Other health & personal care stores

Motor Vehicle & Parts Dealers

441300 Automotive parts, accessories, & tire stores
441222 Boat dealers
441221 Motorcycle dealers
441110 New car dealers
441210 Recreational vehicle dealers (including motor home & travel trailer dealers)
441120 Used car dealers
441229 All other motor vehicle dealers

Sporting Goods, Hobby, Book, & Music Stores

451211 Book stores
451120 Hobby, toy, & game stores
451140 Musical instrument & supplies stores
451212 News dealers & newsstands
451220 Prerecorded tape, compact disc, & record stores
451130 Sewing, needlework, & piece goods stores
451110 Sporting goods stores

Miscellaneous Store Retailers

453920 Art dealers
453110 Florists
453220 Gift, novelty, & souvenir stores
453930 Manufactured (mobile) home dealers
453210 Office supplies & stationery stores
453910 Pet & pet supplies stores
453310 Used merchandise stores
453990 All other miscellaneous store retailers (including tobacco, candle, & trophy shops)

Nonstore Retailers

454110 Electronic shopping & mail-order houses
454310 Fuel dealers
454210 Vending machine operators
454390 Other direct selling establishments (including door-to-door retailing, frozen food plan providers, party plan merchandisers, & coffee-break service providers)

Transportation & Warehousing

481000 Air transportation
485510 Charter bus industry
484110 General freight trucking, local
484120 General freight trucking, long-distance
485210 Interurban & rural bus transportation
486000 Pipeline transportation
482110 Rail transportation
487000 Scenic & sightseeing transportation
485410 School & employee bus transportation
484200 Specialized freight trucking (including household moving vans)
485300 Taxi & limousine service
485110 Urban transit systems
483000 Water transportation
485990 Other transit & ground passenger transportation
488000 Support activities for transportation (including motor vehicle towing)

Couriers & Messengers

492000 Couriers & messengers

Warehousing & Storage Facilities

493100 Warehousing & storage (except lessors of miniwarehouses & self-storage units)

Utilities

221000 Utilities

Wholesale Trade

Wholesale Trade, Durable Goods

421600 Electrical goods
421200 Furniture & home furnishing
421700 Hardware, & plumbing & heating equipment & supplies
421940 Jewelry, watch, precious stone, & precious metals
421300 Lumber & other construction materials
421800 Machinery, equipment, & supplies
421500 Metal & mineral (except petroleum)
421100 Motor vehicle & motor vehicle parts & supplies
421400 Professional & commercial equipment & supplies
421930 Recyclable materials
421910 Sporting & recreational goods & supplies
421920 Toy & hobby goods & supplies
421990 Other miscellaneous durable goods

Wholesale Trade, Nondurable Goods

422300 Apparel, piece goods, & notions
422800 Beer, wine, & distilled alcoholic beverage
422920 Books, periodicals, & newspapers
422600 Chemical & allied products
422210 Drugs & druggists' sundries
422500 Farm product raw materials
422910 Farm supplies
422930 Flower, nursery stock, & florists' supplies
422400 Grocery & related products
422950 Paint, varnish, & supplies
422100 Paper & paper products
422700 Petroleum & petroleum products
422940 Tobacco & tobacco products
422990 Other miscellaneous nondurable goods

999999 **Unclassified establishments (unable to classify)**

2001 Instructions for Schedule D, Capital Gains and Losses

Use Schedule D (Form 1040) to report the following.

- The sale or exchange of a capital asset (defined on this page) not reported on another form or schedule.
- Gains from involuntary conversions (other than from casualty or theft) of capital assets not held for business or profit.
- Capital gain distributions not reported directly on Form 1040, line 13.
- Nonbusiness bad debts.

Additional Information. See **Pub. 544** and **Pub. 550** for more details. For a comprehensive filled-in example of Schedule D, see Pub. 550.

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

General Instructions

Changes To Note

- We have simplified the tax computation in Part IV for most taxpayers by eliminating 14 lines. Because of this change, taxpayers with unrecaptured section 1250 gain or 28% rate gain must complete a new worksheet on page D-9 to figure the tax on line 40 of Part IV.
- For 2001 and later years, qualified 5-year gain is taxed at 8% to the extent it otherwise would have been taxed at 10%. See the instructions for line 29 on page D-8.
- You may make an election to recognize gain on certain assets held on January 1, 2001. See page D-2 for details.

Other Forms You May Have To File

Use **Form 4797** to report the following.

- The sale or exchange of:

1. Property used in a trade or business;

2. Depreciable and amortizable property;

3. Oil, gas, geothermal, or other mineral property; and

4. Section 126 property.

- The involuntary conversion (other than from casualty or theft) of property used in a trade or business and capital assets held for business or profit.
- The disposition of noncapital assets other than inventory or property held primarily for sale to customers in the ordinary course of your trade or business.
- Ordinary loss on the sale, exchange, or worthlessness of small business investment company (section 1242) stock.
- Ordinary loss on the sale, exchange, or worthlessness of small business (section 1244) stock.
- Ordinary gain or loss on securities held in connection with your trading business, if you previously made a mark-to-market election. See **Special Rules for Traders in Securities** beginning on page D-3.

Use **Form 4684** to report involuntary conversions of property due to casualty or theft.

Use **Form 6781** to report gains and losses from section 1256 contracts and straddles.

Use **Form 8824** to report like-kind exchanges. A like-kind exchange occurs when you exchange business or investment property for property of a like kind.

Capital Asset

Most property you own and use for personal purposes, pleasure, or investment is a capital asset. For example, your house, furniture, car, stocks, and bonds are capital assets. A capital asset is any property held by you **except** the following.

- Stock in trade or other property included in inventory or held mainly for sale to customers.
- Accounts or notes receivable for services performed in the ordinary course of your trade or business or as an employee, or from the sale of stock in trade or other property held mainly for sale to customers.
- Depreciable property used in your trade or business, even if it is fully depreciated.
- Real estate used in your trade or business.
- Copyrights, literary, musical, or artistic compositions, letters or memoranda, or similar property: **(a)** created by your personal efforts; **(b)** prepared or produced for you (in the case of letters, memoranda, or similar property); or **(c)** that you received from someone who created them or for whom they were created, as mentioned in **(a)** or **(b),** in a way (such as by gift) that entitled you to the basis of the previous owner.
- U.S. Government publications, including the Congressional Record, that you received from the government, other than by purchase at the normal sales price, or that you got from someone who had received it in a similar way, if your basis is determined by reference to the previous owner's basis.
- Certain commodities derivative financial instruments held by a dealer. See section 1221(a)(6).
- Certain hedging transactions entered into in the normal course of your trade or business. See section 1221(a)(7).
- Supplies regularly used in your trade or business.

Short Term or Long Term

Separate your capital gains and losses according to how long you held or owned the property. The holding period for short-term capital gains and losses is 1 year or less. The holding period for long-term capital gains and losses is more than 1 year. To figure the holding period, begin counting on the day after you received the property and include the day you disposed of it.

If you disposed of property that you acquired by inheritance, report the disposition as a long-term gain or loss, regardless of how long you held the property.

A nonbusiness bad debt must be treated as a short-term capital loss. See Pub. 550 for what qualifies as a nonbusiness bad debt and how to enter it on Schedule D.

Capital Gain Distributions

These distributions are paid by a mutual fund (or other regulated investment company) or real estate investment trust from its net realized long-term capital gains. Enter on line 13, column (f), the **total** capital gain distributions paid to you during the year, regardless of how long you held your investment. This amount is shown in box 2a of **Form 1099-DIV.**

If there is an amount in box 2b of Form 1099-DIV, include that amount on line 13, column (g).

If there is an amount in box 2c, include that amount on line 2 of the **Qualified 5-Year Gain Worksheet** on page D-8 if you are required to complete line 29 of Schedule D.

If there is an amount in box 2d, include that amount on line 11 of the **Unrecaptured Section 1250 Gain Worksheet** on page D-7 if you are required to complete line 19 of Schedule D.

If there is an amount in box 2e, see **Exclusion of Gain on Qualified Small Business (QSB) Stock** beginning on page D-4.

If you received capital gain distributions as a nominee (that is, they were paid to you but actually belong to someone else), report on line 13 only the amount that belongs to you. Attach a statement showing the full amount you received and the amount you received as a nominee. See the Instructions

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for Schedule B for filing requirements for Forms 1099-DIV and 1096.

Election To Recognize Gain on Certain Assets Held on January 1, 2001

You may elect to treat certain assets you held on January 1, 2001, as having been sold and then reacquired on the same date. The purpose of the election is to make future gain on the asset eligible for an 18% (instead of 20%) capital gains tax rate. The 18% tax rate is applicable to the extent the gain would otherwise be taxed at 20% if the holding period of the asset begins after December 31, 2000, and the asset is held for more than 5 years.

Any gain on the deemed sale **must** be recognized without regard to any provision of the Internal Revenue Code. For example, if you make the deemed election with respect to your main home, you cannot exclude the gain on the deemed sale under section 121.

A loss from a deemed sale is not allowed in any tax year, but the asset will be eligible for the 18% rate on any future gain. Your basis in the reacquired asset is its closing market price or fair market value, whichever applies, on the date of the deemed sale, whether the deemed sale results in a gain or an unallowed loss.

Any readily tradable stock (that is a capital asset) not sold before January 2, 2001, for which the election is made is deemed to have been sold on January 2, 2001, at its closing market price on that date and reacquired on that date for the same amount. For this purpose, readily tradable stock includes shares issued by an open-end mutual fund. Any other capital asset or property used in a trade or business (section 1231 property) held on January 1, 2001, for which the election is made is deemed to have been sold and reacquired on January 1, 2001, for its fair market value on that date.

If you make the election with respect to your interest in a pass-through entity (such as a mutual fund, partnership, S corporation, etc.) and the pass-through entity makes the election with respect to assets it holds, the pass-through entity's election will be considered to immediately precede your election for deemed sales that occur on the same day.

To make the election, report the deemed sale(s) on your 2001 tax return as if it was an actual sale. However, if the deemed sale results in a loss, enter zero instead of the amount of the loss. Attach a statement to your return stating that you are making an election under section 311 of the Taxpayer Relief Act of 1997 and listing the asset(s) for which you are making the election. You must file the tax return no later than its due date (including extensions). However, if you timely filed your tax return without making the election for one or more eligible assets, you can still make the election for those assets on an amended return filed within 6 months of the due date of your tax return (excluding extensions). Write "Election Under Section 311 of the Taxpayer Relief Act of 1997" at the top of the amended return. Once made, an election for any asset is irrevocable.

Note. You may **not** make this election for any asset that you disposed of (in a transaction in which gain or loss is recognized in whole or in part) before the close of the 1-year period beginning on the date that the asset would have been treated as sold under this election.

Sale of Your Home

If you sold or exchanged your main home, **do not** report it on your tax return unless your gain exceeds your exclusion amount. Generally, if you meet the two tests below, you can exclude up to $250,000 of gain. If both you and your spouse meet these tests and you file a joint return, you can exclude up to $500,000 of gain (but only one spouse needs to meet the ownership requirement in **Test 1**).

Test 1. You owned and used the home as your main home for 2 years or more during the 5-year period ending on the date you sold or exchanged your home.

Test 2. You have not sold or exchanged another main home during the 2-year period ending on the date of the sale or exchange of your home.

See **Pub. 523** for details, including how to report any taxable gain on Schedule D, if:

- You do not meet one of the above two tests,
- You (or your spouse if married) used any part of the home for business or rental purposes after May 6, 1997, **or**
- Your gain exceeds your exclusion amount.

Partnership Interests

A sale or other disposition of an interest in a partnership may result in ordinary income, collectibles gain (28% rate gain), or unrecaptured section 1250 gain. For details on 28% rate gain, see page D-6. For details on unrecaptured section 1250 gain, see the instructions for line 19 beginning on page D-6.

Capital Assets Held for Personal Use

Generally, gain from the sale or exchange of a capital asset held for personal use is a capital gain. Report it on Schedule D, Part I or Part II. However, if you converted depreciable property to personal use, all or part of the gain on the sale or exchange of that property may have to be recaptured as ordinary income. Use Part III of **Form 4797** to figure the amount of ordinary income recapture. The recapture amount is included on line 31 (and line 13) of Form 4797. **Do not** enter any gain for this property on line 32 of Form 4797. If you are not completing Part III for any other properties, enter "N/A" on line 32. If the total gain is more than the recapture amount, enter "From Form 4797" in column (a) of line 1 or line 8 of Schedule D, skip columns (b) through (e), and in column (f) enter the excess of the total gain over the recapture amount.

Loss from the sale or exchange of a capital asset held for personal use is not deductible. But if you had a loss from the sale or exchange of real estate held for personal use for which you received a **Form 1099-S,** you must report the transaction on Schedule D even though the loss is not deductible. For example, you have a loss on the sale of a vacation home that is not your main home and you received a Form 1099-S for the transaction. Report the transaction on line 1 or 8, depending on how long you owned the home. Complete columns (a) through (e). Because the loss is not deductible, enter zero in column (f).

Nondeductible Losses

Do not deduct a loss from the direct or indirect sale or exchange of property between any of the following.

- Members of a family.
- A corporation and an individual owning more than 50% of the corporation's stock (unless the loss is from a distribution in complete liquidation of a corporation).
- A grantor and a fiduciary of a trust.
- A fiduciary and a beneficiary of the same trust.
- A fiduciary and a beneficiary of another trust created by the same grantor.
- An executor of an estate and a beneficiary of that estate, unless the sale or exchange was to satisfy a pecuniary bequest (that is, a bequest of a sum of money).
- An individual and a tax-exempt organization controlled by the individual or the individual's family.

See **Pub. 544** for more details on sales and exchanges between related parties.

If you disposed of **(a)** an asset used in an activity to which the at-risk rules apply or **(b)** any part of your interest in an activity to which the at-risk rules apply, and you have amounts in the activity for which you are not at risk, see the Instructions for Form 6198.

If the loss is allowable under the at-risk rules, it may then be subject to the passive activity rules. See **Form 8582** and its instructions for details on reporting capital gains and losses from a passive activity.

Items for Special Treatment

- Transactions by a securities dealer. See section 1236.
- Bonds and other debt instruments. See **Pub. 550.**
- Certain real estate subdivided for sale that may be considered a capital asset. See section 1237.
- Gain on the sale of depreciable property to a more than 50% owned entity or to a trust of which you are a beneficiary. See **Pub. 544.**
- Gain on the disposition of stock in an interest charge domestic international sales corporation. See section 995(c).
- Gain on the sale or exchange of stock in certain foreign corporations. See section 1248.
- Transfer of property to a partnership that would be treated as an investment company if it were incorporated. See **Pub. 541.**
- Sales of stock received under a qualified public utility dividend reinvestment plan. See Pub. 550.
- Transfer of appreciated property to a political organization. See section 84.
- In general, no gain or loss is recognized on the transfer of property from an individual to a spouse or a former spouse if the transfer is incident to a divorce. See **Pub. 504.**
- Amounts received on the retirement of a debt instrument generally are treated as received in exchange for the debt instrument. See Pub. 550.
- Any loss on the disposition of converted wetland or highly erodible cropland that is first used for farming after March 1, 1986, is reported as a long-term capital loss on Schedule D, but any gain is reported as ordinary income on **Form 4797.**
- Amounts received by shareholders in corporate liquidations. See Pub. 550.
- Cash received in lieu of fractional shares of stock as a result of a stock split or stock dividend. See Pub. 550.
- Mutual fund load charges may not be taken into account in determining gain or loss on certain dispositions of stock in mutual funds if reinvestment rights were exercised. See **Pub. 564.**
- The sale or exchange of S corporation stock or an interest in a trust held for more than 1 year may result in collectibles gain (28% rate gain). See page D-6.
- Gain or loss on the disposition of securities futures contracts. See Pub. 550.
- Gain on the constructive sale of certain appreciated financial positions. See Pub. 550.
- The receipt of cash or stock (that you later sold) upon the demutualization of an insurance company. See Pub. 550 or use TeleTax topic 430 (see page 11 of the Form 1040 instructions).
- Certain constructive ownership transactions. Gain in excess of the gain you would have recognized if you had held a financial asset directly during the term of a derivative contract must be treated as ordinary income. See section 1260. If any portion of the constructive ownership transaction was open in any prior year, you may have to pay interest. See section 1260(b) for details, including how to figure the interest. Include the interest as an additional tax on Form 1040, line 58. Write "Section 1260(b) interest" and the amount of the interest to the left of line 58. This interest is not deductible.
- The sale of publicly traded securities, if you elect to postpone gain by purchasing common stock or a partnership interest in a specialized small business investment company during the 60-day period that began on the date of the sale. See Pub. 550.
- The sale of qualified securities held for at least 3 years to an employee stock ownership plan or eligible worker-owned cooperative, if you elect to postpone gain by purchasing qualified replacement property. See Pub. 550.
- The sale of qualified empowerment zone assets acquired after December 21, 2000, that you held for more than 1 year, if you elect to postpone gain by purchasing other qualified empowerment zone assets during the 60-day period that began on the date of the sale. See Pub. 550 and **Pub. 954.**

Wash Sales

A wash sale occurs when you sell or otherwise dispose of stock or securities (including a contract or option to acquire or sell stock or securities) at a loss and, within 30 days before or after the sale or disposition, you directly or indirectly:

- Buy substantially identical stock or securities,
- Acquire substantially identical stock or securities in a fully taxable trade, or
- Enter into a contract or option to acquire substantially identical stock or securities.

You **cannot** deduct losses from wash sales unless the loss was incurred in the ordinary course of your business as a dealer in stock or securities. The basis of the substantially identical property (or contract or option to acquire such property) is its cost increased by the disallowed loss. For more details on wash sales, see **Pub. 550.**

Report a wash sale transaction on line 1 or 8. Enter the full amount of the (loss) in column (f). Directly below the line on which you reported the loss, enter "Wash Sale" in column (a), and enter as a positive amount in column (f) the amount of the loss not allowed.

Special Rules for Traders in Securities

You are a **trader in securities** if you are engaged in the **business** of buying and selling securities for your own account. To be engaged in business as a trader in securities:

- You must seek to **profit from daily market movements** in the prices of securities and not from dividends, interest, or capital appreciation.
- Your activity must be **substantial.**
- You must carry on the activity with **continuity** and **regularity.**

The following facts and circumstances should be considered in determining if your activity is a business.

- Typical holding periods for securities bought and sold.
- The frequency and dollar amount of your trades during the year.
- The extent to which you pursue the activity to produce income for a livelihood.
- The amount of time you devote to the activity.

You are considered an investor, and not a trader, if your activity does not meet the above definition of a business. It does not matter whether you call yourself a trader or a "day trader."

Like an investor, a trader must report each sale of securities (taking into account commissions and any other costs of acquiring or disposing of the securities) on Schedule D or D-1 or on an attached statement containing all the same information for each sale in a similar format. However, if a trader previously made the mark-to-market election (see below), each transaction is reported in Part II of **Form 4797** instead of Schedules D and D-1. Regardless of whether a trader reports his or her gains and losses on Schedules D and D-1 or Form 4797, the gain or loss from the disposition of securities is **not** taken into account when figuring net earnings from self-employment on Schedule SE. See the Instructions for Schedule SE for an exception that applies to section 1256 contracts.

The limitation on investment interest expense that applies to investors does not apply to interest paid or incurred in a trading business. A trader reports interest expense and other expenses (excluding commissions and other costs of acquiring or disposing of securities) from a trading business on Schedule C (instead of Schedule A).

A trader also may hold securities for investment. The rules for investors generally will apply to those securities. Allocate interest and other expenses between your trading business and your investment securities.

Mark-To-Market Election for Traders

A trader may make an election under section 475(f) to report all gains and losses from

securities held in connection with a trading business as ordinary income (or loss), including securities held at the end of the year. Securities held at the end of the year are "marked to market" by treating them as if they were sold (and reacquired) for fair market value on the last business day of the year. Generally, the election must be made by the due date (**not** including extensions) of the tax return for the year **prior** to the year for which the election becomes effective. To be effective for 2001, the election must have been made by April 16, **2001.**

Starting with the year the election becomes effective, a trader reports all gains and losses from securities held in connection with the trading business, including securities held at the end of the year, in Part II of Form 4797. If you previously made the election, see the Instructions for Form 4797. For details on making the mark-to-market election for 2002, see Pub. 550 or Rev. Proc. 99-17, 1999-1 C.B. 503. You can find Rev. Proc. 99-17 on page 52 of Internal Revenue Bulletin 1999-7 at www.irs.gov.

If you hold securities for investment, they must be identified as such in your records on the day they are acquired (for example, by holding the securities in a separate brokerage account). Securities held for investment are not marked-to-market.

Short Sales

A short sale is a contract to sell property you borrowed for delivery to a buyer. At a later date, you either buy substantially identical property and deliver it to the lender or deliver property that you held but did not want to transfer at the time of the sale. Usually, your holding period is the amount of time you actually held the property eventually delivered to the lender to close the short sale. However, your gain when closing a short sale is short term if you **(a)** held substantially identical property for 1 year or less on the date of the short sale or **(b)** acquired property substantially identical to the property sold short after the short sale but on or before the date you close the short sale. If you held substantially identical property for more than 1 year on the date of a short sale, any loss realized on the short sale is a long-term capital loss, even if the property used to close the short sale was held 1 year or less.

Gain or Loss From Options

Report on Schedule D gain or loss from the closing or expiration of an option that is not a section 1256 contract but is a capital asset in your hands. If an option you purchased expired, enter the expiration date in column (c) and enter **"EXPIRED"** in column (d). If an option that was granted (written) expired, enter the expiration date in column (b) and enter **"EXPIRED"** in column (e). Fill in the other columns as appropriate. See **Pub. 550** for details.

Undistributed Capital Gains

Include on line 11, column (f), the amount from box 1a of **Form 2439.** This represents your share of the undistributed long-term capital gains of the regulated investment company (including a mutual fund) or real estate investment trust.

If there is an amount in box 1b of Form 2439, include that amount on line 11, column (g).

If there is an amount in box 1c, include that amount on line 2 of the **Qualified 5-Year Gain Worksheet** on page D-8 if you are required to complete line 29 of Schedule D.

If there is an amount in box 1d, include that amount on line 11 of the **Unrecaptured Section 1250 Gain Worksheet** on page D-7 if you are required to complete line 19 of Schedule D.

If there is an amount in box 1e, see **Exclusion of Gain on Qualified Small Business (QSB) Stock** on this page.

Enter on Form 1040, line 65, the tax paid as shown in box 2 of Form 2439. Also on line 65, check the box for Form 2439. Add to the basis of your stock the excess of the amount included in income over the amount of the credit for the tax paid. See **Pub. 550** for details.

Installment Sales

If you sold property (other than publicly traded stocks or securities) at a gain and you will receive a payment in a tax year after the year of sale, you generally must report the sale on the installment method unless you elect not to. Use **Form 6252** to report the sale on the installment method. Also use Form 6252 to report any payment received in 2001 from a sale made in an earlier year that you reported on the installment method.

To elect out of the installment method, report the full amount of the gain on Schedule D on a timely filed return (including extensions) for the year of the sale. If your original return was filed on time, you may make the election on an amended return filed no later than 6 months after the due date of your return (excluding extensions). Write "Filed pursuant to section 301.9100-2" at the top of the amended return.

Exclusion of Gain on Qualified Small Business (QSB) Stock

Section 1202 allows for an exclusion of up to 50% of the eligible gain on the sale or exchange of QSB stock. The section 1202 exclusion applies only to QSB stock held for more than 5 years.

To be **QSB stock,** the stock must meet **all** of the following tests.

- It must be stock in a C corporation (that is, not S corporation stock).
- It must have been originally issued after August 10, 1993.
- As of the date the stock was issued, the corporation was a domestic C corporation with total gross assets of $50 million or less **(a)** at all times after August 9, 1993, and before the stock was issued and **(b)** immediately after the stock was issued. Gross assets include those of any predecessor of the corporation. All corporations that are members of the same parent-subsidiary controlled group are treated as one corporation.
- You must have acquired the stock at its original issue (either directly or through an underwriter), either in exchange for money or other property or as pay for services (other than as an underwriter) to the corporation. In certain cases, you may meet the test if you acquired the stock from another person who met the test (such as by gift or inheritance) or through a conversion or exchange of QSB stock you held.
- During substantially all the time you held the stock:

1. The corporation was a C corporation,

2. At least 80% of the value of the corporation's assets were used in the active conduct of one or more qualified businesses (defined below), and

3. The corporation **was not** a foreign corporation, DISC, former DISC, regulated investment company, real estate investment trust, REMIC, FASIT, cooperative, or a corporation that has made (or that has a subsidiary that has made) a section 936 election.

Note. A specialized small business investment company (SSBIC) is treated as having met test **2** above.

A **qualified business** is any business **other than** a—

- Business involving services performed in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, or brokerage services.
- Business whose principal asset is the reputation or skill of one or more employees.
- Banking, insurance, financing, leasing, investing, or similar business.
- Farming business (including the raising or harvesting of trees).
- Business involving the production of products for which percentage depletion can be claimed.
- Business of operating a hotel, motel, restaurant, or similar business.

For more details about limits and additional requirements that may apply, see section 1202.

Pass-Through Entities

If you held an interest in a pass-through entity (a partnership, S corporation, or mutual fund or other regulated investment

company) that sold QSB stock, to qualify for the exclusion you must have held the interest on the date the pass-through entity acquired the QSB stock and at all times thereafter until the stock was sold.

How To Report

Report in column (f) of line 8 the entire gain realized on the sale of QSB stock. In column (g) of line 8, report as 28% rate gain an amount equal to the section 1202 exclusion. Complete all other columns as indicated. Directly below the line on which you reported the gain, enter in column (a) "Section 1202 exclusion" and enter as a (loss) in column (f) the amount of the allowable exclusion.

Gain From Form 1099-DIV. If you received a Form 1099-DIV with a gain in box 2e, part or all of that gain (which is also included in box 2a) may be eligible for the section 1202 exclusion. In column (a) of line 8, enter the name of the corporation whose stock was sold. In column (f), enter the amount of your allowable exclusion as a loss. In column (g), enter the amount of your allowable exclusion as a gain.

Gain From Form 2439. If you received a Form 2439 with a gain in box 1e, part or all of that gain (which is also included in box 1a) may be eligible for the section 1202 exclusion. In column (a) of line 8, enter the name of the corporation whose stock was sold. In column (f), enter the amount of your allowable exclusion as a loss. In column (g), enter the amount of your allowable exclusion as a gain.

Gain From an Installment Sale of QSB Stock. If all payments are not received in the year of sale, a sale of QSB stock that is not traded on an established securities market generally is treated as an installment sale and is reported on Form 6252. Figure the allowable section 1202 exclusion for the year by multiplying the total amount of the exclusion by a fraction, the numerator of which is the amount of eligible gain to be recognized for the tax year and the denominator of which is the total amount of eligible gain. In column (a) of line 8, enter the name of the corporation whose stock was sold. In column (f), enter the amount of your allowable exclusion as a loss. In column (g), enter the amount of your allowable exclusion as a gain.

Alternative Minimum Tax. You must enter 42% of your allowable exclusion for the year on **Form 6251,** line 14m.

Rollover of Gain From QSB Stock

If you sold QSB stock (defined on page D-4) that you held for more than 6 months, you may elect to postpone gain if you purchase other QSB stock during the 60-day period that began on the date of the sale. A pass-through entity also may make the election to postpone gain. The benefit of the postponed gain applies to your share of the entity's postponed gain if you held an interest in the entity for the entire period the entity held the QSB stock. If a pass-through entity sold QSB stock held for more than 6 months and you held an interest in the entity for the entire period the entity held the stock, you also may elect to postpone gain if you, rather than the pass-through entity, purchase the replacement QSB stock within the 60-day period.

You must recognize gain to the extent the sale proceeds exceed the cost of the replacement stock. Reduce the basis of the replacement stock by any postponed gain.

You must make the election no later than the due date (including extensions) for filing your tax return for the tax year in which the QSB stock was sold. If your original return was filed on time, you may make the election on an amended return filed no later than 6 months after the due date of your return (excluding extensions). Write "Filed pursuant to section 301.9100-2" at the top of the amended return.

To make the election, report the entire gain realized on the sale on line 1 or 8. Directly below the line on which you reported the gain, enter in column (a) "Section 1045 rollover," and enter as a (loss) in column (f) the amount of the postponed gain.

Specific Instructions

Lines 1 and 8

Enter all sales and exchanges of capital assets, including stocks, bonds, etc., and real estate (if not reported on Form 4684, 4797, 6252, 6781, or 8824). But **do not** report the sale of your main home unless required (see page D-2). Include these transactions even if you did not receive a **Form 1099-B** or **1099-S** (or substitute statement) for the transaction. You can use stock ticker symbols or abbreviations to describe the property as long as they are based on the descriptions of the property as shown on Form 1099-B or 1099-S (or substitute statement).

Use **Schedule D-1** to list additional transactions for lines 1 and 8. Use as many Schedules D-1 as you need. Enter on Schedule D, lines 2 and 9, the combined totals from all your Schedules D-1.

Add the following amounts reported to you for 2001 on Forms 1099-B and 1099-S (or substitute statements) that you are not reporting on another form or schedule included with your return: **(a)** proceeds from transactions involving stocks, bonds, and other securities and **(b)** gross proceeds from real estate transactions (other than the sale of your main home if you are not required to report it). If this total is **more** than the total of lines 3 and 10, attach an explanation of the difference.

Column (b)—Date Acquired

Enter in this column the date the asset was acquired. Use the trade date for stocks and bonds traded on an exchange or over-the-counter market. For stock or other property sold short, enter the date the stock or property was delivered to the broker or lender to close the short sale.

If you disposed of property that you acquired by inheritance, report the gain or (loss) on line 8 and enter **"INHERITED"** in column (b) instead of the date you acquired the property.

If you sold a block of stock (or similar property) that was acquired through several different purchases, you may report the sale on one line and enter **"VARIOUS"** in column (b). However, you still must report the short-term gain or (loss) on the sale in Part I and the long-term gain or (loss) in Part II.

Column (c)—Date Sold

Enter in this column the date the asset was sold. Use the trade date for stocks and bonds traded on an exchange or over-the-counter market. For stock or other property sold short, enter the date you sold the stock or property you borrowed to open the short sale transaction.

Column (d)—Sales Price

Enter in this column either the gross sales price or the net sales price from the sale. If you sold stocks or bonds and you received a Form 1099-B (or substitute statement) from your broker that shows gross sales price, enter that amount in column (d). But if Form 1099-B (or substitute statement) indicates that gross proceeds minus commissions and option premiums were reported to the IRS, enter that net amount in column (d). If you enter the net amount in column (d), **do not** include the commissions and option premiums from the sale in column (e).

You should not have received a Form 1099-B (or substitute statement) for a transaction merely representing the return of your original investment in a nontransferable obligation, such as a savings bond or a certificate of deposit. But if you did, report the amount shown on Form 1099-B (or substitute statement) in both columns (d) and (e).

Be sure to add all sales price entries on lines 1 and 8, column (d), to amounts on lines 2 and 9, column (d). Enter the totals on lines 3 and 10.

Column (e)—Cost or Other Basis

In general, the cost or other basis is the cost of the property plus purchase commissions and improvements, minus depreciation,

Capital Loss Carryover Worksheet—Line 18

Keep for Your Records

Use this worksheet to figure your capital loss carryovers from 2001 to 2002 if Schedule D, line 18, is a loss and **(a)** that loss is a smaller loss than the loss on Schedule D, line 17, **or (b)** Form 1040, line 37, is a loss. Otherwise, you do not have any carryovers.

1.	Enter the amount from Form 1040, line 37. If a loss, enclose the amount in parentheses		**1.** _____
2.	Enter the loss from Schedule D, line 18, as a positive amount		**2.** _____
3.	Combine lines 1 and 2. If zero or less, enter -0-		**3.** _____
4.	Enter the **smaller** of line 2 or line 3		**4.** _____
	If line 7 of Schedule D is a loss, go to line 5; otherwise, enter -0- on line 5 and go to line 9.		
5.	Enter the loss from Schedule D, line 7, as a positive amount		**5.** _____
6.	Enter any gain from Schedule D, line 16	**6.** _____	
7.	Add lines 4 and 6		**7.** _____
8.	**Short-term capital loss carryover to 2002.** Subtract line 7 from line 5. If zero or less, enter -0-		**8.** _____
	If line 16 of Schedule D is a loss, go to line 9; otherwise, skip lines 9 through 13.		
9.	Enter the loss from Schedule D, line 16, as a positive amount		**9.** _____
10.	Enter any gain from Schedule D, line 7	**10.** _____	
11.	Subtract line 5 from line 4. If zero or less, enter -0-	**11.** _____	
12.	Add lines 10 and 11		**12.** _____
13.	**Long-term capital loss carryover to 2002.** Subtract line 12 from line 9. If zero or less, enter -0-		**13.** _____

amortization, and depletion. If you inherited the property, got it as a gift, or received it in a tax-free exchange, involuntary conversion, or "wash sale" of stock, you may not be able to use the actual cost as the basis. If you do not use the actual cost, attach an explanation of your basis.

If you sold stock, adjust your basis by subtracting all the nontaxable distributions you received before the sale. Also adjust your basis for any stock splits. See **Pub. 550** for details.

You may elect to use an average basis for all shares of a mutual fund if you acquired the shares at various times and prices and you left the shares on deposit in an account handled by a custodian or agent who acquired or redeemed those shares. If you are reporting an average basis, include "AVGB" in column (a) of Schedule D. For details on making the election and how to figure average basis, see **Pub. 564.**

The basis of property acquired by gift is generally the basis of the property in the hands of the donor. The basis of property acquired from a decedent is generally the fair market value at the date of death. See **Pub. 544** for details.

Increase the cost or other basis of an original issue discount (OID) debt instrument by the amount of OID that has been included in gross income for that instrument.

If a charitable contribution deduction is allowed because of a bargain sale of property to a charitable organization, the adjusted basis for purposes of determining gain from the sale is the amount that has the same ratio to the adjusted basis as the amount realized has to the fair market value.

Increase your cost or other basis by any expense of sale, such as broker's fees, commissions, state and local transfer taxes, and option premiums, before making an entry in column (e), unless you reported the net sales price in column (d).

For more details, see **Pub. 551.**

Column (f)—Gain or (Loss)

You **must** make a separate entry in this column for each transaction reported on lines 1 and 8 and any other line(s) that applies to you. For lines 1 and 8, subtract the amount in column (e) from the amount in column (d). Enter negative amounts in parentheses.

Column (g)—28% Rate Gain or (Loss)

Enter in column (g) **only** the amount, if any, from Part II, column (f), that is equal to the amount of your section 1202 exclusion from the eligible gain on qualified small business stock (see page D-4) or from collectibles gains and losses. A **collectibles gain or loss** is any long-term gain or deductible long-term loss from the sale or exchange of a collectible that is a capital asset.

Collectibles include works of art, rugs, antiques, metals (such as gold, silver, and platinum bullion), gems, stamps, coins, alcoholic beverages, and certain other tangible property.

Also include gain (but not loss) from the sale or exchange of an interest in a partnership, S corporation, or trust held for more than 1 year and attributable to unrealized appreciation of collectibles. For details, see Regulations section 1.1(h)-1. Also attach the statement required under Regulations section 1.1(h)-1(e).

Line 19

If you complete Part IV, complete the worksheet on page D-7 if **any** of the following apply for 2001.

- You sold or otherwise disposed of section 1250 property (generally, real property that you depreciated) held more than 1 year.
- You received installment payments for section 1250 property held more than 1 year for which you are reporting gain on the installment method.
- You received a Schedule K-1 from an estate or trust, partnership, or S corporation that shows "unrecaptured section 1250 gain."
- You received a Form 1099-DIV or Form 2439 from a real estate investment trust or regulated investment company (including a mutual fund) that reports "unrecaptured section 1250 gain."
- You reported a long-term capital gain from the sale or exchange of an interest in a partnership that owned section 1250 property.

Instructions for the Unrecaptured Section 1250 Gain Worksheet on Page D-7

Lines 1 through 3. If you had more than one property described on line 1, complete lines 1 through 3 for each property on a separate worksheet. Enter the total of the line 3 amounts for all properties on line 3 and go to line 4.

Line 4. To figure the amount to enter on line 4, follow the steps below for each installment sale of trade or business property held more than 1 year.

Step 1. Figure the **smaller** of **(a)** the depreciation allowed or allowable or **(b)** the

total gain for the sale. This is the **smaller** of line 22 or line 24 of your 2001 Form 4797 (or the comparable lines of Form 4797 for the year of sale) for the property.

Step 2. Reduce the amount figured in step 1 by any section 1250 ordinary income recapture for the sale. This is the amount from line 26g of your 2001 Form 4797 (or the comparable line of Form 4797 for the year of sale) for the property. The result is your total unrecaptured section 1250 gain that must be allocated to the installment payments received from the sale.

Step 3. Generally, the amount of section 1231 gain on each installment payment is treated as unrecaptured section 1250 gain until the total unrecaptured section 1250 gain figured in step 2 has been used in full. Figure the amount of gain treated as unrecaptured section 1250 gain for installment payments received in 2001 as the **smaller** of **(a)** the amount from line 26 or line 37 of the 2001 Form 6252, whichever applies, or **(b)** the amount of unrecaptured section 1250 gain remaining to be reported. This amount is generally the total unrecaptured section 1250 gain for the sale reduced by all gain reported in prior years (excluding section 1250 ordinary income recapture). However, if you chose not to treat all of the gain from payments received after May 6, 1997, and before August 24, 1999, as unrecaptured section 1250 gain, use only the amount you chose to treat as unrecaptured section 1250 gain for those payments to reduce the total unrecaptured section 1250 gain remaining to be reported for the sale. Include this amount on line 4.

Line 10. Include on line 10 your share of the partnership's unrecaptured section 1250 gain that would result if the partnership had transferred all of its section 1250 property in a fully taxable transaction immediately before you sold or exchanged your interest in that partnership. If you recognized less than all of the realized gain, the partnership will be treated as having transferred only a proportionate amount of each section 1250 property. For details, see Regulations section 1.1(h)-1. Also attach the statement required under Regulations section 1.1(h)-1(e).

Line 12. An example of an amount to include on line 12 is unrecaptured section 1250 gain from the sale of a vacation home you previously used as a rental property but converted to personal use prior to the sale. To figure the amount to enter on line 12, follow the applicable instructions below.

Installment sales. To figure the amount to include on line 12, follow the steps below for each installment sale of property held more than 1 year for which you did not make an entry in Part I of your Form 4797 for the year of sale.

- **Step 1.** Figure the **smaller** of **(a)** the depreciation allowed or allowable or **(b)** the total gain for the sale. This is the **smaller** of line 22 or line 24 of your 2001 Form 4797 (or the comparable lines of Form 4797 for the year of sale) for the property.
- **Step 2.** Reduce the amount figured in step 1 by any section 1250 ordinary income recapture for the sale. This is the amount from line 26g of your 2001 Form 4797 (or the comparable line of Form 4797 for the year of sale) for the property. The result is your total unrecaptured section 1250 gain that must be allocated to the installment payments received from the sale.

Unrecaptured Section 1250 Gain Worksheet—Line 19

Keep for Your Records

If you are not reporting a gain on Form 4797, line 7, skip lines 1 through 9 and go to line 10.

1.	If you have a section 1250 property in Part III of Form 4797 for which you made an entry in Part I of Form 4797 (but not on Form 6252), enter the **smaller** of line 22 or line 24 of Form 4797 for that property. If you did not have any such property, go to line 4. If you had more than one such property, see instructions		**1.**
2.	Enter the amount from Form 4797, line 26g, for the property for which you made an entry on line 1		**2.**
3.	Subtract line 2 from line 1		**3.**
4.	Enter the total unrecaptured section 1250 gain included on line 26 or line 37 of Form(s) 6252 from installment sales of trade or business property held more than 1 year (see instructions)		**4.**
5.	Enter the total of any amounts reported to you on a Schedule K-1 from a partnership or an S corporation as "unrecaptured section 1250 gain"		**5.**
6.	Add lines 3 through 5		**6.**
7.	Enter the **smaller** of line 6 or the gain from Form 4797, line 7	**7.**	
8.	Enter the amount, if any, from Form 4797, line 8	**8.**	
9.	Subtract line 8 from line 7. If zero or less, enter -0-		**9.**
10.	Enter the amount of any gain from the sale or exchange of an interest in a partnership attributable to unrecaptured section 1250 gain (see instructions)		**10.**
11.	Enter the total of any amounts reported to you on a Schedule K-1, Form 1099-DIV, or Form 2439 as "unrecaptured section 1250 gain" from an estate, trust, real estate investment trust, or mutual fund (or other regulated investment company)		**11.**
12.	Enter the total of any unrecaptured section 1250 gain from sales (including installment sales) or other dispositions of section 1250 property held more than 1 year for which you did not make an entry in Part I of Form 4797 for the year of sale (see instructions)		**12.**
13.	Add lines 9 through 12		**13.**
14.	Enter the gain or (loss) from Schedule D, line 15	**14.**	
15.	Enter the (loss), if any, from Schedule D, line 7. If Schedule D, line 7, is zero or a gain, enter -0-	**15.**	
16.	Combine lines 14 and 15. If the result is zero or a gain, enter -0-. If the result is a (loss), enter it as a positive amount		**16.**
17.	**Unrecaptured section 1250 gain.** Subtract line 16 from line 13. If zero or less, enter -0-. Enter the result here and on Schedule D, line 19		**17.**

● **Step 3.** Generally, the amount of capital gain on each installment payment is treated as unrecaptured section 1250 gain until the total unrecaptured section 1250 gain figured in step 2 has been used in full. Figure the amount of gain treated as unrecaptured section 1250 gain for installment payments received in 2001 as the **smaller** of **(a)** the amount from line 26 or line 37 of your 2001 Form 6252, whichever applies, or **(b)** the amount of unrecaptured section 1250 gain remaining to be reported. This amount is generally the total unrecaptured section 1250 gain for the sale reduced by all gain reported in prior years (excluding section 1250 ordinary income recapture). However, if you chose not to treat all of the gain from payments received after May 6, 1997, and before August 24, 1999, as unrecaptured section 1250 gain, use only the amount you chose to treat as unrecaptured section 1250 gain for those payments to reduce the total unrecaptured section 1250 gain remaining to be reported for the sale. Include this amount on line 12.

Other sales or dispositions of section 1250 property. For each sale of property held more than 1 year (for which you did not make an entry in Part I of Form 4797), figure the **smaller** of **(a)** the depreciation allowed or allowable or **(b)** the total gain for the sale. This is the **smaller** of line 22 or line 24 of Form 4797 for the property. Next, reduce that amount by any section 1250 ordinary income recapture for the sale. This is the amount from line 26g of Form 4797 for the property. The result is the total unrecaptured section 1250 gain for the sale. Include this amount on line 12.

Line 29—Qualified 5-Year Gain

Qualified 5-year gain is long-term capital gain (other than 28% rate gain or gain on line 6 or 10 through 12 of the **Unrecaptured Section 1250 Gain Worksheet**) from the sale or other disposition of property held more than 5 years. Qualified 5-year gain is taxed at 8% to the extent the gain would otherwise be taxed at 10%. To figure your qualified 5-year gain, complete the worksheet on this page if any of the following apply.

● You sold or otherwise disposed of property at a gain that you had held for more than 5 years.

● You received a Schedule K-1 from an estate, trust, partnership, or S corporation that reports "qualified 5-year gain."

● You received a Form 1099-DIV (or Form 2439) with "qualified 5-year gain" reported in box 2c (box 1c of Form 2439).

● You received payments from an installment sale of property that you had held for more than 5 years when you entered into the installment sale.

Example. John and Carol Maple had the following capital gains for 2001.

1. A sale of stock held for 3 years at a gain of $3,700.

2. A sale of stock held for more than 5 years at a gain of $500.

3. A sale of stock held for 6 years at a loss of $1,950.

4. An $1,800 capital gain distribution from a mutual fund reported in box 2a of Form 1099-DIV. The Form 1099-DIV also shows $900 in box 2c.

5. A sale of a painting held for more than 5 years at a gain of $1,800.

6. A sale of a rental home for $101,000 purchased in 1995 for $100,000, on which $4,300 of allowable straight-line depreciation was claimed, for a net gain of $5,300.

7. A Schedule K-1 from a partnership reporting $2,300 of total long-term capital gain, $200 "qualified 5-year gain" from capital assets, a $5,200 net loss from trade or business (section 1231) property, and $400 "qualified 5-year gain" from trade or business (section 1231) property.

8. A long-term capital loss carryover of $5,800.

John and Carol Maple have total qualified 5-year gain of $3,000 figured on the **Qualified 5-Year Gain Worksheet** as follows. They enter $2,300 from items 2 and 5 on line 1. To complete line 2, the Maples first determine that the amount on their Form 4797, line 7, is $100, consisting of the $5,300 gain from item 6 and the $5,200 loss from item 7. Because Form 4797, line 7, is more than zero, they include the $5,300 gain from item 6 and the $400 gain from item 7, or $5,700, on line 2. The Maples enter zero on line 3. They enter $900 from item 4 and $200 from item 7, or $1,100, on line 4. The Maples add lines 1 through 4 of the worksheet and enter $9,100 on line 5. On line 6, they include the $1,800 gain from item 5 because it is 28% rate gain from the sale of a collectible and $4,300 from item 6 because it is included on line 6 of the **Unrecaptured Section 1250 Gain Worksheet.** (The Maples entered $4,300 on line 1 of the Unrecaptured Section 1250 Gain Worksheet, zero on line 2, and $4,300 on lines 3 and 6.) The Maples subtract the $6,100 on line 6 of the worksheet from the $9,100 on line 5. They enter the result, $3,000 on line 7 of the worksheet and on Schedule D, line 29.

Qualified 5-Year Gain Worksheet—Line 29

Keep for Your Records

1.	Enter the total of all gains that you reported on line 8, column (f), of Schedules D and D-1 from dispositions of property held more than 5 years. **Do not** reduce these gains by any losses	**1.** _____
2.	Enter the total of all gains from dispositions of property held more than 5 years from Form 4797, Part I, but **only** if Form 4797, line 7, is more than zero. **Do not** reduce these gains by any losses . . .	**2.** _____
3.	Enter the total of all capital gains from dispositions of property held more than 5 years from Form 4684, line 4; Form 6252; Form 6781, Part II; and Form 8824. **Do not** reduce these gains by any losses .	**3.** _____
4.	Enter the total of any qualified 5-year gain reported to you on: ● Form 1099-DIV, box 2c; ● Form 2439, box 1c; and ● Schedule K-1 from a partnership, S corporation, estate, or trust (**do not** include gains from section 1231 property; take them into account on line 2 above, but **only** if Form 4797, line 7, is more than zero).	**4.** _____
5.	Add lines 1 through 4	**5.** _____
6.	Enter the part, if any, of the gain on line 5 that is: ● Attributable to 28% rate gain **or** ● Included on line 6, 10, 11, or 12 of the **Unrecaptured Section 1250 Gain Worksheet** on page D-7.	**6.** _____
7.	**Qualified 5-year gain.** Subtract line 6 from line 5. Enter the result here and on Schedule D, line 29	**7.** _____

Schedule D Tax Worksheet—Line 40

Keep for Your Records

Complete this worksheet only if line 15 or line 19 of Schedule D is more than zero. Otherwise, complete Part IV of Schedule D to figure your tax. **Exception: Do not** use Schedule D, Part IV, or this worksheet to figure your tax if line 16 or line 17 of Schedule D or Form 1040, line 39, is zero or less; instead, see the instructions for Form 1040, line 40.

1. Enter your taxable income from Form 1040, line 39 . . . . . **1.** _____

2. Enter the **smaller** of line 16 or line 17 of Schedule D . . . **2.** _____

3. If you are filing Form 4952, enter the amount from Form 4952, line 4e. Otherwise, enter -0-. **Also enter this amount on Schedule D, line 22** . . . . . **3.** _____

4. Subtract line 3 from line 2. If zero or less, enter -0- . . . . . **4.** _____

5. Combine lines 7 and 15 of Schedule D. If zero or less, enter -0- **5.** _____

6. Enter the **smaller** of line 5 above or Schedule D, line 15, but not less than zero . . . . . **6.** _____

7. Enter the amount from Schedule D, line 19 . . . . . **7.** _____

8. Add lines 6 and 7 . . . . . **8.** _____

9. Subtract line 8 from line 4. If zero or less, enter -0- . . . . . **9.** _____

10. Subtract line 9 from line 1. If zero or less, enter -0- . . . . . **10.** _____

11. Enter the **smaller** of:

- The amount on line 1 **or**
- $45,200 if married filing jointly or qualifying widow(er);
  $27,050 if single;
  $36,250 if head of household; or
  $22,600 if married filing separately

. . . . . **11.** _____

12. Enter the **smaller** of line 10 or line 11 . . . . . **12.** _____

13. Subtract line 4 from line 1. If zero or less, enter -0- . . . **13.** _____

14. Enter the **larger** of line 12 or line 13 . . . . . ▶ **14.** _____

15. Figure the tax on the amount on line 14. Use the Tax Table or Tax Rate Schedules, whichever applies ▶ **15.** _____

If lines 11 and 12 are the same, skip lines 16 through 21 and go to line 22. Otherwise, go to line 16.

16. Subtract line 12 from line 11 . . . . . ▶ **16.** _____

17. Enter your qualified 5-year gain, if any, from line 7 of the worksheet on page D-8. **Also enter this amount on Schedule D, line 29** . . . . . **17.** _____

18. Enter the **smaller** of line 16 above or line 17 above . . . . . **18.** _____

19. Multiply line 18 by 8% (.08) . . . . . **19.** _____

20. Subtract line 18 from line 16 . . . . . **20.** _____

21. Multiply line 20 by 10% (.10) . . . . . **21.** _____

If lines 1 and 11 are the same, skip lines 22 through 34 and go to line 35. Otherwise, go to line 22.

22. Enter the **smaller** of line 1 or line 9 . . . . . **22.** _____

23. Enter the amount from line 16 (if line 16 is blank, enter -0-) . **23.** _____

24. Subtract line 23 from line 22 . . . . . ▶ **24.** _____

25. Multiply line 24 by 20% (.20) . . . . . **25.** _____

If line 7 is zero or blank, skip lines 26 through 31 and go to line 32. Otherwise, go to line 26.

26. Enter the **smaller** of line 4 or line 7 . . . . . **26.** _____

27. Add lines 4 and 14 . . . . . **27.** _____

28. Enter the amount from line 1 above . . **28.** _____

29. Subtract line 28 from line 27. If zero or less, enter -0- . . . **29.** _____

30. Subtract line 29 from line 26. If zero or less, enter -0- . . . . . ▶ **30.** _____

31. Multiply line 30 by 25% (.25) . . . . . **31.** _____

If line 6 is zero, skip lines 32 through 34 and go to line 35. Otherwise, go to line 32.

32. Add lines 14, 16, 24, and 30 . . . . . **32.** _____

33. Subtract line 32 from line 1 . . . . . **33.** _____

34. Multiply line 33 by 28% (.28) . . . . . **34.** _____

35. Add lines 15, 19, 21, 25, 31, and 34 . . . . . **35.** _____

36. Figure the tax on the amount on line 1. Use the Tax Table or Tax Rate Schedules, whichever applies . . **36.** _____

37. **Tax on all taxable income (including capital gains).** Enter the **smaller** of line 35 or line 36. Also enter this amount on Schedule D, line 40, **and** Form 1040, line 40 . . . . . **37.** _____

2001 Instructions for Schedule E, Supplemental Income and Loss

Use Schedule E (Form 1040) to report income or loss from rental real estate, royalties, partnerships, S corporations, estates, trusts, and residual interests in REMICs.

You may attach your own schedule(s) to report income or loss from any of these sources. Use the same format as on Schedule E.

Enter separately on Schedule E the total income and the total loss for each part. Enclose loss figures in (parentheses).

Part I

Income or Loss From Rental Real Estate and Royalties

Use Part I to report:

- Income and expenses from rentals of real estate (including personal property leased with real estate) and
- Royalty income and expenses.

See the instructions for lines 3 and 4 to determine if you should report your rental real estate and royalty income on **Schedule C, Schedule C-EZ,** or **Form 4835** instead of Schedule E.

If you own a part interest in a rental real estate property, report only your part of the income and expenses on Schedule E.

Complete lines 1 and 2 for each rental real estate property. Leave these lines blank for each royalty property.

If you have more than three rental real estate or royalty properties, complete and attach as many Schedules E as you need to list them. But fill in the "Totals" column on only one Schedule E. The figures in the "Totals" column on that Schedule E should be the combined totals of all your Schedules E. If you are also using page 2 of Schedule E, use the same Schedule E on which you entered the combined totals for Part I.

Personal Property. Do not use Schedule E to report income and expenses from the rental of personal property, such as equipment or vehicles. Instead, use Schedule C or C-EZ if you are in the business of renting personal property. You are in the business of renting personal property if the primary purpose for renting the property is income or profit and you are involved in the rental activity with continuity and regularity.

If your rental of personal property is not a business, see the Instructions for Form 1040, lines 21 and 32, to find out how to report the income and expenses.

Extraterritorial Income Exclusion. Except as otherwise provided in the Internal Revenue Code, gross income includes all income from whatever source derived. Gross income, however, does not include extraterritorial income that is qualifying foreign trade income. Use **Form 8873** to figure the extraterritorial income exclusion. Report it on Schedule E as explained in the Instructions for Form 8873.

Filers of Form 1041

If you are a fiduciary filing Schedule E with Form 1041, enter the estate's or trust's employer identification number (EIN) in the space for "Your social security number."

Line 1

For rental real estate property only, show:

- The kind of property you rented (for example, townhouse).
- The street address, city or town, and state. You do not have to give the ZIP code.
- Your percentage of ownership in the property, if less than 100%.

Line 2

If you rented out a dwelling unit that you also used for **personal purposes** during the year, you may not be able to deduct all the expenses for the rental part. "Dwelling unit" (unit) means a house, apartment, condominium, or similar property.

A day of **personal use** is any day, or part of a day, that the unit was used by:

- You for personal purposes;
- Any other person for personal purposes, if that person owns part of the unit (unless rented to that person under a "shared equity" financing agreement);
- Anyone in your family (or in the family of someone else who owns part of the unit), unless the unit is rented at a fair rental price to that person as his or her main home;
- Anyone who pays less than a fair rental price for the unit; or
- Anyone under an agreement that lets you use some other unit.

Do not count as personal use:

- Any day you spent working substantially full time repairing and maintaining the unit, even if family members used it for recreational purposes on that day or
- Any days you used the unit as your main home before or after renting it or offering it for rent, if you rented or tried to rent it for at least 12 consecutive months (or for a period of less than 12 consecutive months at the end of which you sold or exchanged it).

Check "Yes" if you or your family used the unit for personal purposes in 2001 more than the **greater** of:

1. 14 days or

2. 10% of the total days it was rented to others at a fair rental price.

Otherwise, check "No."

If you checked "No," you can deduct all your expenses for the rental part, subject to the **At-Risk Rules** and the **Passive Activity Loss Rules** explained on pages E-3 and E-4.

If you checked "Yes" and rented the unit out for fewer than 15 days, do not report the rental income and do not deduct any rental expenses. If you itemize deductions on Schedule A, you may deduct allowable interest, taxes, and casualty losses.

If you checked "Yes" and rented the unit out for at least 15 days, you may **not** be able to deduct all your rental expenses. You can deduct all of the following expenses for the rental part on Schedule E.

- Mortgage interest.
- Real estate taxes.
- Casualty losses.
- Other rental expenses not related to your use of the unit as a home, such as advertising expenses and rental agents' fees.

If any income is left after deducting these expenses, you can deduct other expenses, including depreciation, up to the amount of remaining income. You can carry over to 2002 the amounts you cannot deduct.

See **Pub. 527** for details.

Cat. No. 24332T

Line 3

If you received rental income from real estate (including personal property leased with real estate) and you were not in the real estate business, report the income on line 3. Include income received for renting a room or other space. If you received services or property instead of money as rent, report the fair market value as rental income.

Be sure to enter the total of all your rents in the "Totals" column even if you have only one property.

If you provided significant services to the renter, such as maid service, report the rental activity on Schedule C or C-EZ, not on Schedule E. Significant services **do not** include the furnishing of heat and light, cleaning of public areas, trash collection, or similar services.

If you were in the real estate sales business, include on line 3 only the rent received from real estate (including personal property leased with real estate) you held for investment or speculation. Do not use Schedule E to report income and expenses from rentals of real estate held for sale to customers in the ordinary course of your real estate sales business. Instead, use Schedule C or C-EZ for these rentals.

For more details on rental income, use TeleTax topic 414 (see page 11 of the Form 1040 instructions) or see Pub. 527.

Rental Income From Farm Production or Crop Shares. Report farm rental income and expenses on Form 4835 if:

- You received rental income based on crops or livestock produced by the tenant **and**
- You did not manage or operate the farm to any great extent.

Line 4

Report on line 4 **royalties** from oil, gas, or mineral properties (not including operating interests); copyrights; and patents. Use a separate column (A, B, or C) for each royalty property. Be sure to enter the total of all your royalties in the "Totals" column even if you have only one source of royalties.

If you received $10 or more in royalties during 2001, the payer should send you a **Form 1099-MISC** or similar statement by January 31, 2002, showing the amount you received.

If you are in business as a self-employed writer, inventor, artist, etc., report your royalty income and expenses on Schedule C or C-EZ.

You may be able to treat amounts received as "royalties" for the transfer of a patent or amounts received on the disposal of coal and iron ore as the sale of a capital asset. For details, see **Pub. 544.**

Enter on line 4 the gross amount of royalty income, even if state or local taxes were withheld from oil or gas payments you received. Include taxes withheld by the producer on line 16.

General Instructions for Lines 5 Through 21

Enter your rental and royalty expenses for each property in the appropriate column. You can deduct all ordinary and necessary expenses, such as taxes, interest, repairs, insurance, management fees, agents' commissions, and depreciation.

Do not deduct the value of your own labor or amounts paid for capital investments or capital improvements.

Enter your total expenses for mortgage interest (line 12), total expenses before depreciation expense or depletion (line 19), and depreciation expenses or depletion (line 20) in the "Totals" column even if you have only one property.

Renting Out Part of Your Home. If you rent out only part of your home or other property, deduct the part of your expenses that applies to the rented part.

Credit or Deduction for Access Expenditures. You may be able to claim a tax credit for eligible expenditures paid or incurred in 2001 to provide access to your business for individuals with disabilities. See **Form 8826** for details.

You can also deduct up to $15,000 of qualified costs paid or incurred in 2001 to remove architectural or transportation barriers to individuals with disabilities and the elderly.

You cannot take both the credit and the deduction for the same expenditures. See **Pub. 535** for details.

Line 6

You may deduct ordinary and necessary auto and travel expenses related to your rental activities, including 50% of meal expenses incurred while traveling away from home. You generally can either deduct your actual expenses or take the standard mileage rate. You **must** use actual expenses if you use more than one vehicle simultaneously in your rental activities (as in fleet operations). You cannot use actual expenses for a leased vehicle if you previously used the standard mileage rate for that vehicle.

You can use the standard mileage rate for 2001 **only** if:

- You owned the vehicle and use the standard mileage rate for the first year you placed the vehicle in service or
- You leased the vehicle and are using the standard mileage rate for the entire lease period (except the period, if any, before 1998).

If you deduct actual auto expenses:

- Include on line 6 the rental activity portion of the cost of gasoline, oil, repairs, insurance, tires, etc. and
- Show auto rental or lease payments on line 18 and depreciation on line 20.

If you take the standard mileage rate, multiply the number of miles you drove your auto in connection with your rental activities by 34.5 cents. Include this amount and your parking fees and tolls on line 6.

If you claim any auto expenses (actual or the standard mileage rate), you must complete Part V of **Form 4562** and attach Form 4562 to your return.

See Pub. 527 and **Pub. 463** for details.

Line 10

Include on line 10 fees for tax advice and the preparation of tax forms related to your rental real estate or royalty properties.

Do not deduct legal fees paid or incurred to defend or protect title to property, to recover property, or to develop or improve property. Instead, you must capitalize these fees and add them to the property's basis.

Lines 12 and 13

In general, to determine the interest expense allocable to your rental activities, you must have records to show how the proceeds of each debt were used. Specific tracing rules apply for allocating debt proceeds and repayment. See Pub. 535 for details.

If you have a mortgage on your rental property, enter on line 12 the amount of interest you paid for 2001 to banks or other financial institutions. Be sure to fill in the "Totals" column.

Do not deduct prepaid interest when you paid it. You can deduct it only in the year to which it is properly allocable. Points, including loan origination fees, charged only for the use of money must be deducted over the life of the loan.

If you paid $600 or more in interest on a mortgage during 2001, the recipient should send you a **Form 1098** or similar statement by January 31, 2002, showing the total interest received from you.

If you paid more mortgage interest than is shown on your Form 1098 or similar statement, see Pub. 535 to find out if you can deduct the additional interest. If you can,

enter the entire amount on line 12. Attach a statement to your return explaining the difference. Write "See attached" in the left margin next to line 12.

Note. If the recipient was not a financial institution or you did not receive a Form 1098 from the recipient, report your deductible mortgage interest on line 13.

If you and at least one other person (other than your spouse if you file a joint return) were liable for and paid interest on the mortgage, and the other person received Form 1098, report your share of the interest on line 13. Attach a statement to your return showing the name and address of the person who received Form 1098. In the left margin next to line 13, write "See attached."

Line 14

You may deduct the cost of repairs made to keep your property in good working condition. Repairs generally do not add significant value to the property or extend its life. Examples of repairs are fixing a broken lock or painting a room. Improvements that increase the value of the property or extend its life, such as replacing a roof or renovating a kitchen, must be capitalized and depreciated (that is, they cannot be deducted in full in the year they are paid or incurred). See the instructions for line 20.

Line 17

You may deduct the cost of ordinary and necessary telephone calls related to your rental activities or royalty income (for example, calls to the renter). However, the base rate (including taxes and other charges) for local telephone service for the first telephone line into your residence is a personal expense and is not deductible.

Line 20

Depreciation is the annual deduction you must take to recover the cost or other basis of business or investment property having a useful life substantially beyond the tax year. Land is not depreciable.

Depreciation starts when you first use the property in your business or for the production of income. It ends when you deduct all your depreciable cost or other basis or no longer use the property in your business or for the production of income.

See the Instructions for Form 4562 to figure the amount of depreciation to enter on line 20. Be sure to fill in the "Totals" column.

You must complete and attach Form 4562 **only** if you are claiming:

- Depreciation on property first placed in service during 2001;
- Depreciation on listed property (defined in the Instructions for Form 4562), including a vehicle, regardless of the date it was placed in service; or
- A section 179 expense deduction or amortization of costs that began in 2001.

See Pub. 527 for more information on depreciation of residential rental property. See **Pub. 946** for a more comprehensive guide to depreciation.

If you own mineral property or an oil, gas, or geothermal well, you may be able to take a deduction for depletion. See Pub. 535 for details.

Line 22

At-Risk Rules

Generally, you must complete **Form 6198** to figure your allowable loss if you have:

- A loss from an activity carried on as a trade or business or for the production of income **and**
- Amounts in the activity for which you are not at risk.

The at-risk rules generally limit the amount of loss (including loss on the disposition of assets) you can claim to the amount you could actually lose in the activity. However, the at-risk rules do not apply to losses from an activity of holding real property, if you acquired your interest in the activity before 1987 and the property was placed in service before 1987. The activity of holding mineral property does not qualify for this exception.

In most cases, you are **not** at risk for amounts such as the following.

- Nonrecourse loans used to finance the activity, to acquire property used in the activity, or to acquire your interest in the activity that are not secured by your own property (other than property used in the activity). However, there is an exception for certain nonrecourse financing borrowed by you in connection with holding real property. See **Qualified nonrecourse financing** below.
- Cash, property, or borrowed amounts used in the activity (or contributed to the activity, or used to acquire your interest in the activity) that are protected against loss by a guarantee, stop-loss agreement, or other similar arrangement (excluding casualty insurance and insurance against tort liability).
- Amounts borrowed for use in the activity from a person who has an interest in the activity (other than as a creditor) or who is related, under Internal Revenue Code section 465(b)(3), to a person (other than you) having such an interest.

Qualified nonrecourse financing is treated as an amount at risk if it is secured by real property used in an activity of holding real property that is subject to the at-risk rules. Qualified nonrecourse financing is financing for which no one is personally liable for repayment and is:

- Borrowed by you in connection with holding real property,
- Not convertible from a debt obligation to an ownership interest, **and**
- Loaned or guaranteed by any Federal, state, or local government, or borrowed by you from a **qualified person.**

A **qualified person** is a person who actively and regularly engages in the business of lending money, such as a bank or savings and loan association. A qualified person **cannot** be:

- Related to you (unless the nonrecourse financing obtained is commercially reasonable and on the same terms as loans involving unrelated persons),
- The seller of the property (or a person related to the seller), or
- A person who receives a fee due to your investment in real property (or a person related to that person).

If you have amounts for which you are not at risk, use Form 6198 to determine the amount of your deductible loss. Enter that amount in the appropriate column of Schedule E, line 22. In the space to the left of line 22, write "Form 6198." Attach Form 6198 to your return.

Line 23

Do not complete line 23 if the amount on line 22 is from royalty properties.

If you have a rental real estate loss from a passive activity (defined on page E-4), the amount of loss you can deduct may be limited by the passive activity loss rules. You may need to complete **Form 8582** to figure the amount of loss, if any, to enter on line 23.

If your rental real estate loss is not from a passive activity **or** you meet the following exception, you do not have to complete Form 8582. Enter the loss from line 22 on line 23.

Exception for Certain Rental Real Estate Activities. If you meet **all three** of the following conditions, your rental real estate losses are not limited by the passive activity loss rules. If you **do not** meet **all three** of these conditions, see the Instructions for Form 8582 to find out if you must complete and attach Form 8582.

1. Rental real estate activities are your only passive activities.

2. You do not have any prior year unallowed losses from any passive activities.

3. All of the following apply if you have an overall net loss from these activities:

- You actively participated (defined below) in all of the rental real estate activities;
- If married filing separately, you lived apart from your spouse all year;
- Your overall net loss from these activities is $25,000 or less ($12,500 or less if married filing separately);
- You have no current or prior year unallowed credits from passive activities; **and**
- Your modified adjusted gross income (defined later) is $100,000 or less ($50,000 or less if married filing separately).

Active Participation. You can meet the active participation requirement without regular, continuous, and substantial involvement in real estate activities. But you must have participated in making management decisions or arranging for others to provide services (such as repairs) in a significant and bona fide sense. Such management decisions include:

- Approving new tenants,
- Deciding on rental terms,
- Approving capital or repair expenditures, and
- Other similar decisions.

You are not considered to actively participate if, at any time during the tax year, your interest (including your spouse's interest) in the activity was less than 10% by value of all interests in the activity.

Modified Adjusted Gross Income. This is your adjusted gross income from Form 1040, line 33, without taking into account:

- Any passive activity loss,
- Rental real estate losses allowed under the exception for real estate professionals (explained on this page),
- Taxable social security or equivalent railroad retirement benefits,
- Deductible contributions to a traditional IRA or certain other qualified retirement plans under Internal Revenue Code section 219,
- The student loan interest deduction,
- The deduction for one-half of self-employment tax, and
- The exclusion of amounts received under an employer's adoption assistance program.

However, if you file **Form 8815,** include in your modified adjusted gross income the savings bond interest excluded on line 14 of that form.

Passive Activity Loss Rules

The passive activity loss rules may limit the amount of losses you can deduct. These rules apply to losses in Parts I, II, and III, and line 39 of Schedule E.

Losses from passive activities may be subject first to the at-risk rules. Losses deductible under the at-risk rules are then subject to the passive activity loss rules.

You generally can deduct losses from passive activities only to the extent of income from passive activities. An exception applies to certain rental real estate activities (as previously explained).

Passive Activity. A passive activity is any business activity in which you **do not** materially participate and any rental activity, except as provided on this page. If you are a limited partner, you generally are not treated as having materially participated in the partnership's activities for the year.

The rental of real or personal property is generally a rental activity under the passive activity loss rules, but exceptions apply. If your rental of property is not treated as a rental activity, you must determine whether it is a trade or business activity, and if so, whether you materially participated in the activity for the tax year.

See the Instructions for Form 8582 to determine whether you materially participated in the activity and for the definition of "rental activity."

See **Pub. 925** for special rules that apply to rentals of:

- Substantially nondepreciable property,
- Property incidental to development activities, and
- Property to activities in which you materially participate.

Exception for Real Estate Professionals. If you were a real estate professional in 2001, any rental real estate activity in which you materially participated is not a passive activity. You were a **real estate professional** only if you met **both** of the following conditions.

1. More than half of the personal services you performed in trades or businesses were performed in real property trades or businesses in which you materially participated.

2. You performed more than 750 hours of services in real property trades or businesses in which you materially participated.

For purposes of this rule, each interest in rental real estate is a separate activity, unless you elect to treat all your interests in rental real estate as one activity. To make this election, attach a statement to your original tax return that declares you are a qualifying taxpayer for the year and you are making the election under Internal Revenue Code section 469(c)(7)(A). The election applies for the year made and all later years in which you are a real estate professional. You may revoke the election only if your facts and circumstances materially change.

If you are married filing jointly, either you or your spouse must separately meet both of the above conditions, without taking into account services performed by the other spouse.

A real property trade or business is any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business. Services you performed as an employee are not treated as performed in a real property trade or business unless you owned more than 5% of the stock (or more than 5% of the capital or profits interest) in the employer.

If you were a real estate professional for 2001, complete line 42 on page 2 of Schedule E.

Other Exceptions. The rental of your home that you also used for personal purposes is not a passive activity. See the instructions for line 2.

A working interest in an oil or gas well that you held directly or through an entity that did not limit your liability is not a passive activity even if you do not materially participate.

Royalty income not derived in the ordinary course of a trade or business reported on Schedule E generally is not considered income from a passive activity.

For details on passive activities, see the Instructions for Form 8582 and Pub. 925.

Parts II and III

If you need more space in Part II or III to list your income or losses, attach a continuation sheet using the same format as shown in Part II or III. However, be sure to complete the "Totals" columns for lines 28a and 28b, or lines 33a and 33b, as appropriate. If you also completed Part I on more than one Schedule E, use the same Schedule E on which you entered the combined totals in Part I.

Tax Shelter Registration Number. Complete and attach **Form 8271** if you are reporting any deduction, loss, credit, other tax benefit, or income from an interest purchased or otherwise acquired in a tax shelter.

Form 8271 is used to report the name, tax shelter registration number, and identifying number of the tax shelter. There is a $250 penalty if you do not report the registration number of the tax shelter on your tax return.

Tax Preference Items. If you are a partner, a shareholder in an S corporation, or a beneficiary of an estate or trust, you must take into account your share of preferences and adjustments from these entities for the alternative minimum tax on **Form 6251** or Schedule I of **Form 1041.**

Part II

Income or Loss From Partnerships and S Corporations

If you are a member of a partnership or joint venture or a shareholder in an S corporation, use Part II to report your share of the partnership or S corporation income (even if not received) or loss.

You should receive a **Schedule K-1** from the partnership or S corporation. You should also receive a copy of the Partner's or Shareholder's Instructions for Schedule K-1. Your copy of Schedule K-1 and its instructions will tell you where on your return to report your share of the items. If you did not receive these instructions with your Schedule K-1, see page 7 of the Form 1040 instructions for how to get a copy. **Do not** attach Schedules K-1 to your return. Keep them for your records.

If you are treating items on your tax return differently from the way the partnership (other than an electing large partnership) or S corporation reported them on its return, you may have to file **Form 8082.** If you are a partner in an electing large partnership, you must report the items shown on Schedule K-1 (Form 1065-B) on your tax return the same way that the partnership reported the items on Schedule K-1.

Special Rules That Limit Losses. Please note the following.

- If you have a current year loss, or a prior year unallowed loss, from a partnership or an S corporation, see **At-Risk Rules** and **Passive Activity Loss Rules** on pages E-3 and E-4.

Partners and S corporation shareholders should get a separate statement of income, expenses, deductions, and credits for each activity engaged in by the partnership and S corporation. If you are subject to the at-risk rules for any activity, use Form 6198 to figure the amount of any deductible loss. If the activity is nonpassive, enter any deductible loss from Form 6198 on the appropriate line in Part II, column (i), of Schedule E.

- If you have a passive activity loss, you generally need to complete Form 8582 to figure the amount of the allowable loss to enter in Part II, column (g), for that activity. But if you are a **general** partner or an S corporation shareholder reporting your share of a partnership or an S corporation loss from a rental real estate activity **and** you meet **all three** of the conditions listed in the instructions for line 23, you do not have to complete Form 8582. Instead, enter your allowable loss in Part II, column (g).

If you have passive activity income, complete Part II, column (h), for that activity.

If you have nonpassive income or losses, complete Part II, columns (i) through (k), as appropriate.

Partnerships

See the Schedule K-1 instructions before entering on your return other partnership items from a passive activity or income or loss from any publicly traded partnership.

If you have other partnership items, such as depletion, from a nonpassive activity, show each item on a separate line in Part II. You may deduct unreimbursed ordinary and necessary expenses you paid on behalf of the partnership if you were required to pay these expenses under the partnership agreement. Enter deductible **unreimbursed partnership expenses** from nonpassive activities on a separate line in Part II, column (i). However, enter on Schedule A any unreimbursed partnership expenses deductible as itemized deductions.

Report allowable interest expense paid or incurred from debt-financed acquisitions in Part II or on Schedule A depending on the type of expenditure to which the interest is allocated. See Pub. 535 for details.

If you claimed a credit for Federal tax on gasoline or other fuels on your 2000 Form 1040 based on information received from the partnership, enter as income in column (h) or column (k), whichever applies, the amount of the credit claimed for 2000.

If you have losses or deductions from a prior year that you could not deduct because of the at-risk or basis rules, and the amounts are now deductible, **do not** combine the prior year amounts with any current year amounts to arrive at a net figure to report on Schedule E. Instead, report the prior year amounts and the current year amounts on separate lines of Schedule E.

Part or all of your share of partnership income or loss from the operation of the business may be considered net earnings from self-employment that must be reported on **Schedule SE.** Enter the amount from Schedule K-1 (Form 1065), line 15a (or from Schedule K-1 (Form 1065-B), box 9 (code **K-1**)), on Schedule SE, after you reduce this amount by any allowable expenses attributable to that income.

Foreign Partnerships. If you are a U.S. person, you may have to file **Form 8865** if any of the following applies:

- You controlled a foreign partnership (that is, you owned more than a 50% direct or indirect interest in the partnership).
- You owned at least a 10% direct or indirect interest in a foreign partnership while U.S. persons controlled that partnership.
- You had an acquisition, disposition, or change in proportional interest of a foreign partnership that:

1. Increased your direct interest to at least 10% or reduced your direct interest of at least 10% to less than 10% or

2. Changed your direct interest by at least a 10% interest.

- You contributed property to a foreign partnership in exchange for a partnership interest if:

1. Immediately after the contribution, you owned, directly or indirectly, at least a 10% interest in the partnership or

2. The fair market value of the property you contributed to the partnership in exchange for a partnership interest, when added to other contributions of property you made to the partnership during the preceding 12-month period, exceeds $100,000.

Also, you may have to file Form 8865 to report certain dispositions by a foreign partnership of property you previously contributed to that partnership if you were a partner at the time of the disposition.

For more details, including penalties for failing to file Form 8865, see Form 8865 and its separate instructions.

S Corporations

If you are a shareholder in an S corporation, your share of the corporation's aggregate losses and deductions (combined income, losses, and deductions) is limited to the adjusted basis of your corporate stock and any debt the corporation owes you. Any loss or deduction not allowed this year because of the basis limitation may be carried forward and deducted in a later year subject to the basis limitation for that year.

If you are claiming a deduction for your share of an aggregate loss, attach to your return a computation of the adjusted basis of your corporate stock and of any debt the corporation owes you. See the Schedule K-1 instructions for details.

After applying the basis limitation, the deductible amount of your aggregate losses and deductions may be further reduced by the at-risk rules and the passive activity loss rules explained earlier.

If you have losses or deductions from a prior year that you could not deduct because of the basis or at-risk limitations, and the amounts are now deductible, **do not** combine the prior year amounts with any current year amounts to arrive at a net figure to report on Schedule E. Instead, report the

prior year amounts and the current year amounts on separate lines of Schedule E.

Distributions of prior year accumulated earnings and profits of S corporations are dividends and are reported on Form 1040, line 9.

Interest expense relating to the acquisition of shares in an S corporation may be fully deductible on Schedule E. For details, see Pub. 535.

Your share of the net income of an S corporation is **not** subject to self-employment tax.

Part III

Income or Loss From Estates and Trusts

If you are a beneficiary of an estate or trust, use Part III to report your part of the income (even if not received) or loss. You should receive a **Schedule K-1** (Form 1041) from the fiduciary. Your copy of Schedule K-1 and its instructions will tell you where on your return to report the items from Schedule K-1. **Do not** attach Schedule K-1 to your return. Keep it for your records.

If you are treating items on your tax return differently from the way the estate or trust reported them on its return, you may have to file Form 8082.

If you have estimated taxes credited to you from a trust (Schedule K-1, line 14a), write "ES payment claimed" and the amount on the dotted line next to line 36. **Do not** include this amount in the total on line 36. Instead, enter the amount on Form 1040, line 60.

A U.S. person who transferred property to a foreign trust may have to report the income received by the trust as a result of the transferred property if, during 2001, the trust had a U.S. beneficiary. For details, see **Form 3520.**

Part IV

Income or Loss From Real Estate Mortgage Investment Conduits (REMICs)

If you are the holder of a residual interest in a real estate mortgage investment conduit (REMIC), use Part IV to report your total share of the REMIC's taxable income or loss for each quarter included in your tax year. You should receive **Schedule Q** (Form 1066) and instructions from the REMIC for each quarter. **Do not** attach Schedules Q to your return. Keep them for your records.

If you are treating REMIC items on your tax return differently from the way the REMIC reported them on its return, you may have to file Form 8082.

If you are the holder of a residual interest in more than one REMIC, attach a continuation sheet using the same format as in Part IV. Enter the totals of columns (d) and (e) on line 38 of Schedule E. If you also completed Part I on more than one Schedule E, use the same Schedule E on which you entered the combined totals in Part I.

REMIC income or loss is not income or loss from a passive activity.

Note. If you are the holder of a regular interest in a REMIC, **do not** use Schedule E to report the income you received. Instead, report it on Form 1040, line 8a.

Column (c). Report the total of the amounts shown on Schedule(s) Q, line 2c. This is the **smallest** amount you are allowed to report as your taxable income (Form 1040, line 39). It is also the **smallest** amount you are allowed to report as your alternative minimum taxable income (AMTI) (Form 6251, line 21).

If the amount in column (c) is larger than your taxable income would otherwise be, enter the amount from column (c) on Form 1040, line 39. Similarly, if the amount in column (c) is larger than your AMTI would otherwise be, enter the amount from column (c) on Form 6251, line 21. Write "Sch. Q" on the dotted line to the left of this amount on Form 1040 or 6251.

Note. These rules also apply to estates and trusts that hold a residual interest in a REMIC. Be sure to make the appropriate entries on the comparable lines on Form 1041.

Do not include the amount shown in column (c) in the total on line 38 of Schedule E.

Column (e). Report the total of the amounts shown on Schedule(s) Q, line 3b. If you itemize your deductions on Schedule A, include this amount on line 22.

Part V

Summary

Line 41

You will not be charged a penalty for underpayment of estimated tax if:

1. Your gross farming or fishing income for 2000 or 2001 is at least two-thirds of your gross income and

2. You file your 2001 tax return and pay the tax due by March 1, 2002.

2001 Instructions for Schedule F, Profit or Loss From Farming

Use Schedule F (Form 1040) to report farm income and expenses. File it with Form 1040, 1041, 1065, or 1065-B.

This activity may subject you to state and local taxes and other requirements such as business licenses and fees. Check with your state and local governments for more information.

Additional Information. Pub. 225 has samples of filled-in forms and schedules, and lists important dates that apply to farmers.

General Instructions

Other Schedules and Forms You May Have To File

Schedule E to report rental income from pastureland that is based on a flat charge. Report this income in Part I of Schedule E. But report on line 10 of Schedule F pasture income received from taking care of someone else's livestock.

Schedule J to figure your tax by averaging your farm income over the previous 3 years. Doing so may reduce your tax.

Schedule SE to pay self-employment tax on income from any trade or business, including farming.

Form 4562 to claim depreciation on assets placed in service in 2001, to claim amortization that began in 2001, or to report information on vehicles and other listed property.

Form 4684 to report a casualty or theft gain or loss involving farm business property including livestock held for draft, breeding, sport, or dairy purposes.

See Pub. 225 for more information on how to report various farm losses, such as losses due to death of livestock or damage to crops or other farm property.

Form 4797 to report sales, exchanges, or involuntary conversions (other than from a casualty or theft) of certain farm property. Also use this form to report sales of livestock held for draft, breeding, sport, or dairy purposes.

Form 4835 to report rental income based on farm production or crop shares if you did not materially participate (for self-employment tax purposes) in the management or operation of the farm. This income is not subject to self-employment tax. See Pub. 225.

Form 8824 to report like-kind exchanges.

Heavy Highway Vehicle Use Tax

If you use certain highway trucks, truck-trailers, tractor-trailers, or buses in your trade or business, you may have to pay a Federal highway motor vehicle use tax. See **Form 2290** to find out if you owe this tax.

Information Returns

You may have to file information returns for wages paid to employees, certain payments of fees and other nonemployee compensation, interest, rents, royalties, annuities, and pensions. You may also have to file an information return if you sold $5,000 or more of consumer products to a person on a buy-sell, deposit-commission, or other similar basis for resale. For more information, see the 2001 General Instructions for Forms 1099, 1098, 5498, and W-2G.

If you received cash of more than $10,000 in one or more related transactions in your farming business, you may have to file **Form 8300.** For details, see **Pub. 1544.**

Estimated Tax

If you had to make estimated tax payments in 2001 and you underpaid your estimated tax, you will not be charged a penalty if **both** of the following apply.

1. Your gross farming or fishing income for 2000 or 2001 is at least two-thirds of your gross income.

2. You file your 2001 tax return and pay the tax due by March 1, 2002.

For details, see Pub. 225.

Specific Instructions

Filers of Forms 1041, 1065, and 1065-B

Do not complete the block labeled "Social security number (SSN)." Instead, enter your employer identification number (EIN) on line D.

Lines A and B

On line A, enter your principal crop or activity for the current year.

On line B, enter one of the 14 principal agricultural activity codes listed in Part IV on page 2 of Schedule F. Select the code that best describes the source of most of your income.

Line C

If you use the **cash method,** check the box labeled "Cash." Generally, report income in the year in which you actually or constructively received it and deduct expenses in the year you paid them. Complete Parts I and II of Schedule F.

If you use the **accrual method,** check the box labeled "Accrual." Generally, report income in the year in which you earned it and deduct expenses in the year you incurred them, even if you did not pay them in that year. Complete Parts II, III, and line 11 of Schedule F.

Other rules apply that determine the timing of deductions based on economic performance. See **Pub. 538** for details.

Farming syndicates cannot use the cash method of accounting. A farming syndicate may be a partnership, any other noncorporate group, or an S corporation if:

- The interests in the business have ever been for sale in a way that would require registration with any Federal or state agency or
- More than 35% of the loss during any tax year is shared by limited partners or limited entrepreneurs. A **limited partner** is one who can lose only the amount invested or required to be invested in the partnership. A **limited entrepreneur** is a person who does not take any active part in managing the business.

Cat. No. 24333E

Line D

You need an employer identification number (EIN) only if you had a qualified retirement plan or were required to file an employment, excise, estate, trust, partnership, or alcohol, tobacco, and firearms tax return. If you need an EIN, file **Form SS-4.** If you do not have an EIN, leave line D blank. **Do not** enter your SSN.

Line E

Material Participation. For the definition of material participation for purposes of the passive activity rules, see the instructions for Schedule C, line G, on page C-2. If you meet any of the material participation tests described in those instructions, check the "Yes" box.

If you are a retired or disabled farmer, you are treated as materially participating in a farming business if you materially participated 5 of the 8 years preceding your retirement or disability. Also, a surviving spouse is treated as materially participating in a farming activity if the real property used for farming meets the estate tax rules for special valuation of farm property passed from a qualifying decedent, and the surviving spouse actively manages the farm.

Check the "No" box if you did not materially participate. If you checked "No" and you have a loss from this business, see **Limit on Losses** below. If you have a profit from this business activity but have current year losses from other passive activities or prior year unallowed passive activity losses, see the Instructions for Form 8582.

Limit on Losses. If you checked the "No" box on line E and you have a loss from this business, you may have to use Form 8582 to figure your allowable loss, if any, to enter on Schedule F, line 36. Generally, you can deduct losses from passive activities only to the extent of income from passive activities. For details, see **Pub. 925.**

Part I. Farm Income–Cash Method

In Part I, show income received for items listed on lines 1 through 10. Generally, count both the cash actually or constructively received and the fair market value of goods or other property received for these items. Income is constructively received when it is credited to your account or set aside for you to use. However, farm production flexibility contract payments received under the Federal Agriculture Improvement and Reform Act of 1996 are required to be included in income only in the year of actual receipt.

If you ran the farm yourself and received rents based on crop shares or farm production, report these rents as income on line 4.

Sales of Livestock Because of Weather-Related Conditions

If you sold livestock because of drought, flood, or other weather-related conditions, you can elect to report the income from the sale in the year after the year of sale if **all** three of the following apply.

1. Your main business is farming.

2. You can show that you sold the livestock only because of weather-related conditions.

3. Your area qualified for Federal aid.

Forms 1099 or CCC-1099-G

If you received Forms 1099 or CCC-1099-G showing amounts paid to you, first determine if the amounts are to be included with farm income. Then, use the following chart to determine where to report the income on Schedule F. Include the Form 1099 or CCC-1099-G amounts in the total amount reported on that line.

Form	Where to report
1099-PATR	Line 5a
1099-A	Line 7b
1099-MISC (for crop insurance)	Line 8a
1099-G or CCC-1099-G (for disaster payments)	Line 8a
1099-G or CCC-1099-G (for other agricultural program payments)	Line 6a

You may also receive **Form 1099-MISC** for other types of income. In this case, report it on whichever line best describes the income. For example, if you received a Form 1099-MISC for custom farming work, include this amount on line 9, "Custom hire (machine work) income."

Lines 1 and 2

On line 1, show amounts received from sales of livestock and other items bought for resale. On line 2, show the cost or other basis of the livestock and other items you actually sold.

Line 4

Show amounts received from sales of livestock, produce, grains, and other products you raised.

Lines 5a and 5b

If you received distributions from a cooperative in 2001, you should receive **Form 1099-PATR.** On line 5a, show your total distributions from cooperatives. This includes patronage dividends, nonpatronage distributions, per-unit retain allocations, and redemption of nonqualified notices and per-unit retain allocations.

Show patronage dividends (distributions) received in cash, and the dollar amount of qualified written notices of allocation. If you received property as patronage dividends, report the fair market value of the property as income. Include cash advances received from a marketing cooperative. If you received per-unit retains in cash, show the amount of cash. If you received qualified per-unit retain certificates, show the stated dollar amount of the certificate.

Do not include as income on line 5b patronage dividends from buying personal or family items, capital assets, or depreciable assets. Enter these amounts on line 5a only. If you do not report patronage dividends from these items as income, you must subtract the amount of the dividend from the cost or other basis of these items.

Lines 6a and 6b

Enter on line 6a the **total** of the following amounts.

- Price support payments.
- Market gain from the repayment of a secured Commodity Credit Corporation (CCC) loan for less than the original loan amount.
- Diversion payments.
- Cost-share payments (sight drafts).
- Payments in the form of materials (such as fertilizer or lime) or services (such as grading or building dams).

These amounts are government payments you received, usually reported to you on **Form 1099-G.** You may also receive **Form CCC-1099-G** from the Department of Ag-

riculture showing the amounts and types of payments made to you.

On line 6b, report only the taxable amount. For example, do not report the market gain shown on Form CCC-1099-G on line 6b if you elected to report CCC loan proceeds as income in the year received (see **Lines 7a Through 7c** below). No gain results from redemption of the commodity because you previously reported the CCC loan proceeds as income. You are treated as repurchasing the commodity for the amount of the loan repayment. However, if you did not report the CCC loan proceeds under the election, you must report the market gain on line 6b.

Lines 7a Through 7c

Commodity Credit Corporation Loans. Generally, you do not report CCC loan proceeds as income. However, if you pledge part or all of your production to secure a CCC loan, you may elect to report the loan proceeds as income in the year you receive them, instead of the year you sell the crop. If you make this election (or made the election in a prior year), report loan proceeds you received in 2001 on line 7a. Attach a statement to your return showing the details of the loan(s).

Forfeited CCC Loans. Include the full amount forfeited on line 7b, even if you reported the loan proceeds as income.

If you **did not** elect to report the loan proceeds as income, also include the forfeited amount on line 7c.

If you did elect to report the loan proceeds as income, you generally will not have an entry on line 7c. But if the amount forfeited is different from your basis in the commodity, you may have an entry on line 7c.

See **Pub. 225** for details on the tax consequences of electing to report CCC loan proceeds as income or forfeiting CCC loans.

Lines 8a Through 8d

In general, you must report crop insurance proceeds in the year you receive them. Federal crop disaster payments are treated as crop insurance proceeds. However, if 2001 was the year of damage, you may elect to include certain proceeds in income for 2002. To make this election, check the box on line 8c and attach a statement to your return. See **Pub. 225** for a description of the proceeds for which an election may be made and for what you must include in your statement.

Generally, if you elect to defer any eligible crop insurance proceeds, you must defer all such crop insurance proceeds (including Federal disaster payments).

Enter on line 8a the **total** crop insurance proceeds you received in 2001, even if you elect to include them in income for 2002.

Enter on line 8b the taxable amount of the proceeds you received in 2001. Do not include proceeds you elect to include in income for 2002.

Enter on line 8d the amount, if any, of crop insurance proceeds you received in 2000 and elected to include in income for 2001.

Line 10

Use this line to report income not shown on lines 1 through 9, such as the following.

- Illegal Federal irrigation subsidies. See **Pub. 225.**
- Bartering income.
- Income from discharge of indebtedness. Generally, if a debt is canceled or forgiven, you must include the canceled amount in income. If a Federal agency, financial institution, or credit union canceled or forgave a debt you owed of $600 or more, it should send you a **Form 1099-C,** or similar statement, by January 31, 2002, showing the amount of debt canceled in 2001. However, certain solvent farmers may exclude discharged qualified farm indebtedness from income. To find out if you must include any discharge of indebtedness in income, see Pub. 225.
- State gasoline or fuel tax refund you received in 2001.
- The amount of credit for Federal tax paid on fuels claimed on your 2000 Form 1040.
- The amount of credit for alcohol used as a fuel that was entered on **Form 6478.**
- Any recapture of excess depreciation, including any section 179 expense deduction, if the business use percentage of any listed property decreased to 50% or less in 2001. Use **Form 4797** to figure the recapture. See the instructions for Schedule C, line 13, on page C-3 for the definition of listed property.
- The inclusion amount on leased listed property (other than vehicles) when the business use percentage drops to 50% or less. See **Pub. 946** to figure the amount.
- Any recapture of the deduction for clean-fuel vehicles used in your business and clean-fuel vehicle refueling property. For details on how to figure recapture, see **Pub. 535.**
- The gain or loss on the sale of commodity futures contracts if the contracts were made to protect you from price changes. These are a form of business insurance and are considered hedges. If you had a loss in a closed futures contract, enclose it in parentheses.

For property acquired and hedging positions established, you must clearly identify on your books and records both the hedging transaction and the item(s) or aggregate risk that is being hedged.

Purchase or sales contracts are not true hedges if they offset losses that already occurred. If you bought or sold commodity futures with the hope of making a profit due to favorable price changes, report the profit or loss on **Form 6781** instead of this line.

Part II. Farm Expenses

Do not deduct the following.

- Personal or living expenses (such as taxes, insurance, or repairs on your home) that do not produce farm income.
- Expenses of raising anything you or your family used.
- The value of animals you raised that died.
- Inventory losses.
- Personal losses.

If you were repaid for any part of an expense, you must subtract the amount you were repaid from the deduction.

Capitalizing Costs of Property. If you produced real or tangible personal property or acquired property for resale, certain expenses must be included in inventory costs or capitalized. These expenses include the direct costs of the property and the share of any indirect costs allocable to that property. However, these rules generally do not apply to:

1. Expenses of producing any plant that has a preproductive period of 2 years or less,

2. Expenses of raising animals, or

3. Expenses of replanting certain crops if they were lost or damaged by reason of freezing temperatures, disease, drought, pests, or casualty.

Note. Exceptions **1** and **2** above do not apply to tax shelters, farm syndicates, or partnerships required to use the accrual method of accounting under Internal Revenue Code section 447 or 448.

But you may be able to deduct rather than capitalize the expenses of producing a plant with a preproductive period of more than 2 years. See **Election To Deduct Certain Preproductive Period Expenses** on page F-4.

Do not reduce your deductions on lines 12 through 34e by the preproductive period expenses you are required to capitalize. Instead, enter the total amount capitalized in parentheses on line 34f. See **Preproductive Period Expenses** on page F-6 for details.

If you revoked an election made before 1989 to deduct preproductive period expenses for animals, you must continue to apply the alternative depreciation rules to property placed in service while your election was in effect. Also, the expenses you previously chose to deduct will have to be recaptured as ordinary income when you dispose of the animals.

Election To Deduct Certain Preproductive Period Expenses. If the preproductive period of any plant you produce is more than 2 years, you may choose to currently deduct the expenses rather than capitalize them. But you may not make this election for the costs of planting or growing citrus or almond groves that are incurred before the end of the 4th tax year beginning with the tax year you planted them in their permanent grove. By deducting the preproductive period expenses for which you may make this election, you are treated as having made the election.

Note. In the case of a partnership or S corporation, the election must be made by the partner or shareholder. This election may not be made by tax shelters, farm syndicates, or partners in partnerships required to use the accrual method of accounting under Internal Revenue Code section 447 or 448.

If you make the election to deduct preproductive expenses for plants, any gain you realize when disposing of the plants is ordinary income up to the amount of the preproductive expenses you deducted. Also, the alternative depreciation rules apply to property placed in service in any tax year your election is in effect. Unless you obtain IRS consent, you must make this election for the first tax year in which you engage in a farming business involving the production of property subject to the capitalization rules. You may not revoke this election without IRS consent.

For details, see **Pub. 225.**

Prepaid Farm Supplies. Generally, if you use the cash method of accounting and your prepaid farm supplies are more than 50% of your other deductible farm expenses, your deduction for those supplies may be limited. Prepaid farm supplies include expenses for feed, seed, fertilizer, and similar farm supplies not used or consumed during the year. They also include the cost of poultry that would be allowable as a deduction in a later tax year if you were to **(a)** capitalize the cost of poultry bought for use in your farm business and deduct it ratably over the lesser of 12 months or the useful life of the poultry and **(b)** deduct the cost of poultry bought for resale in the year you sell or otherwise dispose of it.

If the limit applies, you can deduct prepaid farm supplies that do not exceed 50% of your other deductible farm expenses in the year of payment. You can deduct the excess only in the year you use or consume the supplies (other than poultry, which is deductible as explained above). For details and exceptions to these rules, see Pub. 225.

Line 12

You can deduct the actual expenses of running your car or truck or take the standard mileage rate. You **must** use actual expenses if you used your vehicle for hire or you used more than one vehicle simultaneously in your business (such as in fleet operations). You cannot use actual expenses for a leased vehicle if you previously used the standard mileage rate for that vehicle.

You can take the standard mileage rate for 2001 **only** if:

- You owned the vehicle and use the standard mileage rate for the first year you placed the vehicle in service or
- You leased the vehicle and are using the standard mileage rate for the entire lease period (except the period, if any, before 1998).

If you deduct actual expenses:

- Include on line 12 the business portion of expenses for gasoline, oil, repairs, insurance, tires, license plates, etc., and
- Show depreciation on line 16 and rent or lease payments on line 26a.

If you take the standard mileage rate, multiply the number of business miles by 34.5 cents. Add to this amount your parking fees and tolls, and enter the total on line 12. **Do not** deduct depreciation, rent or lease payments, or your actual operating expenses.

If you claim any car or truck expenses (actual or the standard mileage rate), you must provide the information requested in Part V of **Form 4562.** Be sure to attach Form 4562 to your return.

For details, see **Pub. 463.**

Line 14

Deductible soil and water conservation expenses generally are those that are paid to conserve soil and water or to prevent erosion of land used for farming. These expenses include (but are not limited to) the cost of leveling, grading and terracing, contour furrowing, the construction, control, and protection of diversion channels, drainage ditches, earthen dams, watercourses, outlets and ponds, the eradication of brush, and the planting of windbreaks.

These expenses can be deducted only if they are consistent with a conservation plan approved by the Natural Resources Conservation Service (NRCS) of the Department of Agriculture for the area in which your land is located. If no plan exists, the expenses must be consistent with a plan of a comparable state agency. You cannot deduct the expenses if they were paid or incurred for land used in farming in a foreign country.

Do not deduct expenses you paid or incurred to drain or fill wetlands, to prepare land for center pivot irrigation systems, or to clear land.

Your deduction may not exceed 25% of your gross income from farming (excluding certain gains from selling assets such as farm machinery and land). If your conservation expenses are more than the limit, the excess may be carried forward and deducted in later tax years. However, the amount deductible for any 1 year may not exceed the 25% gross income limit for that year.

For details, see **Pub. 225.**

Line 15

Enter amounts paid for custom hire or machine work (the machine operator furnished the equipment).

Do not include amounts paid for rental or lease of equipment that you operated yourself. Instead, report those amounts on line 26a.

Line 16

You can deduct depreciation of buildings, improvements, cars and trucks, machinery, and other farm equipment of a permanent nature.

Do not deduct depreciation on your home, furniture or other personal items, land, livestock you bought or raised for resale, or other property in your inventory.

You may also elect under Internal Revenue Code section 179 to expense a portion of the cost of certain tangible property you bought in 2001 for use in your business.

For details, including when you must complete and attach **Form 4562,** see the instructions for Schedule C, line 13, on page C-3.

Line 17

Deduct contributions to employee benefit programs that are not an incidental part of a pension or profit-sharing plan included on line 25. Examples are accident and health plans, group-term life insurance, and dependent care assistance programs.

Do not include on line 17 any contributions you made on your behalf as a self-employed person to an accident and health plan or for group-term life insurance. You may be able to deduct on Form 1040, line 28, part of the amount you paid for health insurance on behalf of yourself, your spouse, and dependents even if you do not itemize your deductions. See the instructions for Form 1040, line 28, for details.

Line 18

Generally, you cannot currently deduct expenses for feed to be consumed by your livestock in a later tax year. See **Prepaid Farm Supplies** on page F-4.

Line 20

Do not include the cost of transportation incurred in purchasing livestock held for resale as freight paid. Instead, add these costs to the cost of the livestock, and deduct them when the livestock is sold.

Line 22

Deduct on this line premiums paid for farm business insurance. Deduct on line 17 amounts paid for employee accident and health insurance. Amounts credited to a reserve for self-insurance or premiums paid for a policy that pays for your lost earnings due to sickness or disability are not deductible.

Lines 23a and 23b

Interest Allocation Rules. The tax treatment of interest expense differs depending on its type. For example, home mortgage interest and investment interest are treated differently. "Interest allocation" rules require you to allocate (classify) your interest expense so it is deducted on the correct line of your return and receives the right tax treatment. These rules could affect how much interest you are allowed to deduct on Schedule F.

Generally, you allocate interest expense by tracing how the proceeds of the loan are used. See **Pub. 535** for details.

If you paid interest on a debt secured by your main home and any of the proceeds from that debt were used in your farming business, see Pub. 535 to figure the amount to include on lines 23a and 23b.

How To Report. If you have a mortgage on real property used in your farming business (other than your main home), enter on line 23a the interest you paid for 2001 to banks or other financial institutions for which you received a **Form 1098** (or similar statements). If you did not receive a Form 1098, enter the interest on line 23b.

If you paid more mortgage interest than is shown on Form 1098, see Pub. 535 to find out if you can deduct the additional interest. If you can, include the amount on line 23a. Attach a statement to your return explaining the difference and enter "See attached" in the margin next to line 23a.

If you and at least one other person (other than your spouse if you file a joint return) were liable for and paid interest on the mortgage and the other person received the Form 1098, include your share of the interest on line 23b. Attach a statement to your return showing the name and address of the person who received the Form 1098. In the margin next to line 23b, enter "See attached."

Do not deduct interest you prepaid in 2001 for later years; include only the part that applies to 2001.

Line 24

Enter the amounts you paid for farm labor. Do not include amounts paid to yourself. Reduce your deduction by the current year credits claimed on:

- **Form 5884,** Work Opportunity Credit,
- **Form 8844,** Empowerment Zone Employment Credit,
- **Form 8845,** Indian Employment Credit, and
- **Form 8861,** Welfare-to-Work Credit.

Count the cost of boarding farm labor but not the value of any products they used from the farm. Count only what you paid household help to care for farm laborers.

If you provided taxable fringe benefits to your employees, such as personal use of a car, do not include in farm labor the amounts you depreciated or deducted elsewhere.

Line 25

Enter your deduction for contributions to employee pension, profit-sharing, or annuity plans. If the plan included you as a self-employed person, see the instructions for Schedule C, line 19, on page C-4.

Lines 26a and 26b

If you rented or leased vehicles, machinery, or equipment, enter on line 26a the business portion of your rental cost. But if you leased a vehicle for a term of 30 days or more, you may have to reduce your deduction by an **inclusion amount.** For details, see the instructions for Schedule C, lines 20a and 20b, on page C-4.

Enter on line 26b amounts paid to rent or lease other property such as pasture or farm land.

Line 27

Enter amounts you paid for repairs and maintenance of farm buildings, machinery, and equipment. You can also include what you paid for tools of short life or minimal cost, such as shovels and rakes.

Do not deduct repairs or maintenance on your home.

Line 31

You can deduct the following taxes on this line.

- Real estate and personal property taxes on farm business assets.
- Social security and Medicare taxes you paid to match what you are required to withhold from farm employees' wages and any Federal unemployment tax paid.
- Federal highway use tax.

Do not deduct the following taxes on this line.

- Federal income taxes, including your self-employment tax. However, you may deduct one-half of your self-employment tax on Form 1040, line 27.
- Estate and gift taxes.
- Taxes assessed for improvements, such as paving and sewers.
- Taxes on your home or personal use property.
- State and local sales taxes on property purchased for use in your farm business. Instead, treat these taxes as part of the cost of the property.
- Other taxes not related to your farm business.

Line 32

Enter amounts you paid for gas, electricity, water, etc., for business use on the farm. Do not include personal utilities. You cannot deduct the base rate (including taxes) of the first telephone line into your residence, even if you use it for business. See the instructions for Schedule C, line 25, on page C-5.

Lines 34a Through 34f

Include all ordinary and necessary farm expenses not deducted elsewhere on Schedule F, such as advertising, office supplies, etc. **Do not** include fines or penalties paid to a government for violating any law.

Amortization. You can amortize qualifying forestation and reforestation costs over 84 months. You can also amortize certain business startup costs over a period of at least 60 months. For details, see **Pub. 535.** For amortization that begins in 2001, you must complete and attach **Form 4562.**

At-Risk Loss Deduction. Any loss from this activity that was not allowed as a deduction last year because of the at-risk rules is treated as a deduction allocable to this activity in 2001.

Bad Debts. See the instructions for Schedule C, line 9, on page C-3.

Business Use of Your Home. You may be able to deduct certain expenses for business use of your home, subject to limitations. Use the worksheet in **Pub. 587** to figure your allowable deduction. **Do not** use **Form 8829.**

Deduction for Clean-Fuel Vehicles and Clean-Fuel Vehicle Refueling Property. You may deduct part of the cost of qualified clean-fuel vehicle property used in your business and qualified clean-fuel vehicle refueling property. See Pub. 535 for details.

Legal and Professional Fees. You can deduct on this line fees for tax advice related to your farm business and for preparation of the tax forms related to your farm business.

Travel, Meals, and Entertainment. Generally, you can deduct expenses for farm business travel and 50% of your business meals and entertainment. But there are exceptions and limitations. See the instructions for Schedule C, lines 24a through 24c, on page C-5.

Preproductive Period Expenses. If you had preproductive period expenses in 2001 and you decided to capitalize them, you **must** enter the total of these expenses in parentheses on line 34f and enter "263A" in the space to the left of the total.

If you entered an amount in parentheses on line 34f because you have preproductive period expenses you are capitalizing, subtract the amount on line 34f from the total of lines 12 through 34e. Enter the result on line 35.

For details, see **Capitalizing Costs of Property** on page F-3 and **Pub. 225.**

Line 36

If you have a loss, the amount of loss you can deduct this year may be limited. Go on to line 37 before entering your loss on line 36. If you checked the "No" box on line E on Schedule F, also see the Instructions for Form 8582. Enter the net profit or **deductible** loss here and on Form 1040, line 18, and Schedule SE, line 1. Estates and trusts should enter the net profit or deductible loss here and on **Form 1041,** line 6. Partnerships should stop here and enter the profit or loss on this line and on **Form 1065,** line 5 (or **Form 1065-B,** line 7).

If you have a net profit on line 36, this amount is earned income and may qualify you for the earned income credit if you meet certain conditions. See the instructions for Form 1040, lines 61a and 61b, for details.

Line 37

At-Risk Rules. Generally, if you have **(a)** a loss from a farming activity and **(b)** amounts in the activity for which you are **not at risk,** you will have to complete **Form 6198** to figure your allowable loss. The at-risk rules generally limit the amount of loss (including loss on the disposition of assets) you can claim to the amount you could actually lose in the activity.

Check **box 37b** if you have amounts for which you are not at risk in this activity, such as the following.

- Nonrecourse loans used to finance the activity, to acquire property used in the activity, or to acquire the activity that are not secured by your own property (other than property used in the activity). However, there is an exception for certain nonrecourse financing borrowed by you in connection with holding real property.
- Cash, property, or borrowed amounts used in the activity (or contributed to the activity, or used to acquire the activity) that are protected against loss by a guarantee, stop-loss agreement, or other similar arrangement (excluding casualty insurance and insurance against tort liability).
- Amounts borrowed for use in the activity from a person who has an interest in the activity, other than as a creditor, or who is related under Internal Revenue Code section 465(b)(3) to a person (other than you) having such an interest.

If all amounts are at risk in this business, check **box 37a** and enter your loss on line 36. But if you checked the "No" box on line E, you may need to complete **Form 8582** to figure your allowable loss to enter on line 36. See the Instructions for Form 8582.

If you checked **box 37b,** see Form 6198 to determine the amount of your deductible loss and enter that amount on line 36. But if you checked the "No" box on line E, your loss may be further limited. See the Instructions for Form 8582. If your at-risk amount is zero or less, enter zero on line 36. Be sure to attach Form 6198 to your return. If you checked box 37b and you do not attach Form 6198, the processing of your tax return may be delayed.

Any loss from this activity not allowed for 2001 because of the at-risk rules is treated as a deduction allocable to the activity in 2002.

For details, see **Pub. 925** and the Instructions for Form 6198.

Part III. Farm Income– Accrual Method

If you use the accrual method, report farm income when you earn it, not when you receive it. Generally, you must include animals and crops in your inventory if you use this method. See **Pub. 538** for exceptions, inventory methods, how to change methods of accounting, and for rules that require certain costs to be capitalized or included in inventory.

Line 38

Enter the amount earned from the sale of livestock, produce, grains, and other products you raised.

Lines 39a Through 41c

See the instructions for lines 5a through 7c that begin on page F-2.

Line 44

See the instructions for line 10 on page F-3.

Department of the Treasury
Internal Revenue Service

2001 Instructions for Schedule R (Form 1040)

Credit for the Elderly or the Disabled

Use Schedule R to figure the credit for the elderly or the disabled.

Additional Information. See **Pub. 524** for more details.

Who Can Take the Credit

The credit is based on your filing status, age, and income. If you are married filing a joint return, it is also based on your spouse's age and income.

You may be able to take this credit if **either** of the following applies.

- You were **age 65 or older** at the end of 2001 **or**
- You were **under age 65** at the end of 2001 and you meet **all three** of the following.

1. You were **permanently and totally disabled** on the date you retired. If you retired before 1977, you must have been permanently and totally disabled on January 1, 1976, or January 1, 1977.

2. You received taxable disability income for 2001.

3. On January 1, 2001, you had not reached mandatory retirement age (the age when your employer's retirement program would have required you to retire).

For the definition of permanent and total disability, see **What Is Permanent and Total Disability?** on page R-2. Also, see the instructions for Part II.

Married Persons Filing Separate Returns

If your filing status is married filing separately and you lived with your spouse at any time during 2001, you **cannot** take the credit.

Nonresident Aliens

If you were a nonresident alien at any time during 2001, you may be able to take the credit only if your filing status is married filing a joint return.

Income Limits

See the chart below.

Want the IRS To Figure Your Credit?

If you can take the credit and you want us to figure it for you, check the box in Part I of Schedule R for your filing status and age. Fill in Part II and lines 11 and 13 of Part III if they apply to you. Then, enter "CFE" on the dotted line next to line 45 on Form 1040 and attach Schedule R to your return.

Income Limits for the Credit for the Elderly or the Disabled

	THEN you generally cannot take the credit if:	
IF you are . . .	**The amount on Form 1040, line 34, is . . .**	**Or you received . . .**
Single, head of household, or qualifying widow(er)	$17,500 or more	$5,000 or more of nontaxable social security or other nontaxable pensions
Married filing a joint return and only one spouse is eligible for the credit	$20,000 or more	$5,000 or more of nontaxable social security or other nontaxable pensions
Married filing a joint return and both spouses are eligible for the credit	$25,000 or more	$7,500 or more of nontaxable social security or other nontaxable pensions
Married filing a separate return and you lived apart from your spouse for all of 2001	$12,500 or more	$3,750 or more of nontaxable social security or other nontaxable pensions

Cat. No. 11357O

What Is Permanent and Total Disability?

A person is **permanently and totally disabled** if **both 1** and **2** below apply.

1. He or she cannot engage in any substantial gainful activity because of a physical or mental condition and

2. A physician determines that the condition has lasted or can be expected to last continuously for at least a year or can lead to death.

Examples 1 and 2 on this page show situations in which the individuals are considered engaged in a substantial gainful activity. Example 3 shows a person who might not be considered engaged in a substantial gainful activity. In each example, the person was under age 65 at the end of the year.

Example 1. Sue retired on disability as a sales clerk. She now works as a full-time babysitter at the minimum wage. Although she does different work, Sue babysits on ordinary terms for the minimum wage. She cannot take the credit because she is engaged in a substantial gainful activity.

Example 2. Mary, the president of XYZ Corporation, retired on disability because of her terminal illness. On her doctor's advice, she works part time as a manager and is paid more than the minimum wage. Her employer sets her days and hours. Although Mary's illness is terminal and she works part time, the work is done at her employer's convenience. Mary is considered engaged in a substantial gainful activity and cannot take the credit.

Example 3. John, who retired on disability, took a job with a former employer on a trial basis. The purpose of the job was to see if John could do the work. The trial period lasted for some time during which John was paid at a rate equal to the minimum wage. But because of John's disability, he was given only light duties of a nonproductive, make-work nature. Unless the activity is both substantial and gainful, John is not engaged in a substantial gainful activity. The activity was gainful because John was paid at a rate at or above the minimum wage. However, the activity was not substantial because the duties were of a nonproductive, make-work nature. More facts are needed to determine if John is able to engage in a substantial gainful activity.

Disability Income

Generally, disability income is the total amount you were paid under your employer's accident and health plan or pension plan that is included in your income as wages or payments instead of wages for the time you were absent from work because of permanent and total disability. However, any payment you received from a plan that does not provide for disability retirement is not disability income.

In figuring the credit, disability income **does not** include any amount you received from your employer's pension plan after you have reached mandatory retirement age.

For more details on disability income, see **Pub. 525.**

Part II. Statement of Permanent and Total Disability

If you checked box 2, 4, 5, 6, or 9 in Part I and you did not file a physician's statement for 1983 or an earlier year, or you filed or got a statement for tax years after 1983 and your physician signed on line A of the statement, you must have your physician complete a statement certifying that:

- You were permanently and totally disabled on the date you retired or
- If you retired before 1977, you were permanently and totally disabled on January 1, 1976, or January 1, 1977.

You do not have to file this statement with your Form 1040. But you **must** keep it for your records. You may use the physician's statement on page R-4 for this purpose. Your physician should show on the statement if the disability has lasted or can be expected to last continuously for at least a year, or if there is no reasonable probability that the disabled condition will ever improve. If you file a joint return and you checked box 5 in Part I, you and your spouse must each get a statement.

If you filed a physician's statement for 1983 or an earlier year, or you filed or got a statement for tax years after 1983 and your physician signed on line B of the statement, you do not have to get another statement for 2001. But you must check the box on line 2 in Part II to certify **all three** of the following:

1. You filed or got a physician's statement in an earlier year.

2. You were permanently and totally disabled during 2001.

3. You were unable to engage in any substantial gainful activity during 2001 because of your physical or mental condition.

If you checked box 4, 5, or 6 in Part I, enter in the space above the box on line 2 in Part II the first name(s) of the spouse(s) for whom the box is checked.

If the Department of Veterans Affairs (VA) certifies that you are permanently and totally disabled, you can use **VA Form 21-0172** instead of the physician's statement. VA Form 21-0172 must be signed by a person authorized by the VA to do so. You can get this form from your local VA regional office.

Part III. Figure Your Credit

Line 11

If you checked box 2, 4, 5, 6, or 9 in Part I, use the following chart to complete line 11.

IF you checked . . .	THEN enter on line 11. . .
Box 6	The total of $5,000 plus the disability income you reported on Form 1040 for the spouse who was under age 65.
Box 2, 4, or 9	The total amount of disability income you reported on Form 1040.
Box 5	The total amount of disability income you reported on Form 1040 for both you and your spouse.

Example 1. Bill, age 63, retired on permanent and total disability in 2001. He received $4,000 of taxable disability income that he reported on Form 1040, line 7. He filed a joint return with his wife who was age 67 in 2001. On line 11, Bill enters $9,000 ($5,000 plus the $4,000 of disability income reported on Form 1040).

Example 2. John checked box 2 in Part I and enters $5,000 on line 10. He received $3,000 of taxable disability income, which he enters on line 11. John also enters $3,000 on line 12 (the smaller of line 10 or line 11). The largest amount he can use to figure the credit is $3,000.

Lines 13a Through 18

The amount on which you figure your credit may be reduced if you received certain types of nontaxable pensions and annuities. The amount may also be reduced if your adjusted gross income is over a certain amount, depending on which box you checked in Part I.

Line 13a. Enter any social security benefits (before deduction of Medicare premiums) you (and your spouse if filing a joint return) received for 2001 that are not taxable. Also, enter any tier 1 railroad retirement benefits treated as social security that are not taxable.

If any of your social security or equivalent railroad retirement benefits are taxable, the amount to enter on this line is generally the difference between the amounts entered on Form 1040, line 20a and line 20b.

Note. If your social security or equivalent railroad retirement benefits are reduced because of workers' compensation benefits, treat the workers' compensation benefits as social security benefits when completing Schedule R, line 13a.

Line 13b. Enter the total of the following types of income that you (and your spouse if filing a joint return) received for 2001.

- Veterans' pensions (but not military disability pensions).
- Any other pension, annuity, or disability benefit that is excluded from income under any provision of Federal law other than the Internal Revenue Code. **Do not** include amounts that are treated as a return of your cost of a pension or annuity.

Do not include on line 13b any pension, annuity, or similar allowance for personal injuries or sickness resulting from active service in the armed forces of any country, or in the National Oceanic and Atmospheric Administration or the Public Health Service. Also, do not include a disability annuity payable under section 808 of the Foreign Service Act of 1980.

Line 20

Use the worksheet below to figure the credit you may take if **either 1** or **2** below apply.

1. The amount on line 20 is more than the amount on Form 1040, line 42, minus any amount on Form 1040, line 43, **or**

2. You are claiming the credit for child and dependent care expenses on Form 1040, line 44.

If **neither 1** nor **2** above apply to you, enter on Form 1040, line 45, the amount from Schedule R, line 20.

Credit Limit Worksheet—Line 20 *Keep for Your Records*

1.	Enter the amount from Form 1040, line 42	**1.** _____
2.	Enter the total, if any, of the amounts on lines 43 and 44 of Form 1040 . . .	**2.** _____
3.	Subtract line 2 from line 1	**3.** _____
4.	Enter the credit you first figured on Schedule R, line 20	**4.** _____
5.	Enter the **smaller** of line 3 or line 4 here and on Form 1040, line 45. If line 3 is the smaller amount, also replace the amount on Schedule R, line 20, with that amount	**5.** _____

Instructions for Physician's Statement

Taxpayer

If you retired after 1976, enter the date you retired in the space provided on the statement below.

Physician

A person is permanently and totally disabled if **both** of the following apply:

1. He or she cannot engage in any substantial gainful activity because of a physical or mental condition and

2. A physician determines that the disability has lasted or can be expected to last continuously for at least a year or can lead to death.

Physician's Statement

Keep for Your Records

I certify that _____

Name of disabled person

was permanently and totally disabled on January 1, 1976, or January 1, 1977, **or** was permanently and totally disabled on the date he or she retired. If retired after 1976, enter the date retired. ► _____

Physician: Sign your name on **either** line A or B below.

A The disability has lasted or can be expected to last continuously for at least a year . . . . _____

Physician's signature Date

B There is no reasonable probability that the disabled condition will ever improve . . . . _____

Physician's signature Date

Physician's name	Physician's address

2001 Instructions for Schedule SE, Self-Employment Tax

Use Schedule SE (Form 1040) to figure the tax due on net earnings from self-employment. The Social Security Administration uses the information from Schedule SE to figure your benefits under the social security program. This tax applies no matter how old you are and even if you are already getting social security or Medicare benefits.

Additional Information. See **Pub. 533.**

General Instructions

A Change To Note

For 2001, the maximum amount of self-employment income subject to social security tax is $80,400.

Who Must File Schedule SE

You must file Schedule SE if:

1. Your net earnings from self-employment (see page SE-2) from other than church employee income were $400 or more or

2. You had church employee income of $108.28 or more—see **Employees of Churches and Church Organizations** below.

Who Must Pay Self-Employment (SE) Tax?

Self-Employed Persons

You must pay SE tax if you had net earnings of $400 or more as a self-employed person. If you are in business for yourself or you are a farmer, you are self-employed.

You must also pay SE tax on your share of certain partnership income and your guaranteed payments. See **Partnership Income or Loss** on page SE-2.

Employees of Churches and Church Organizations

If you had church employee income of $108.28 or more, you must pay SE tax. **Church employee income** is wages you received as an employee (other than as a minister or member of a religious order) from a church or qualified church-controlled organization that has a certificate in effect electing an exemption from employer social security and Medicare taxes.

Ministers and Members of Religious Orders

In most cases, you must pay SE tax on salaries and other income for services you performed as a minister, a member of a religious order who has not taken a vow of poverty, or a Christian Science practitioner. But if you filed **Form 4361** and received IRS approval, you will be exempt from paying SE tax on those net earnings. If you had no other income subject to SE tax, write "Exempt–Form 4361" on line 53 of Form 1040. However, if you had other earnings of $400 or more subject to SE tax, see line A at the top of Long Schedule SE.

Revocation of Election. If you previously filed Form 4361 and received IRS approval, you can revoke that election to be exempt from SE tax. To do so, you must file **Form 2031** by the due date (including extensions) of your 2001 tax return. See Form 2031 for details.

Note. Once you file Form 2031 to elect social security coverage on your earnings as a minister you cannot revoke that election.

If you must pay SE tax, include this income on line 2 of either Short or Long Schedule SE. But do not report it on line 5a of Long Schedule SE; it is not considered church employee income. Also, include on line 2:

- The rental value of a home or an allowance for a home furnished to you (including payments for utilities) and
- The value of meals and lodging provided to you, your spouse, and your dependents for your employer's convenience.

However, **do not** include on line 2:

- Retirement benefits you received from a church plan after retirement or
- The rental value of a home or an allowance for a home furnished to you (including payments for utilities) after retirement.

If you were a duly ordained minister who was an employee of a church and you must pay SE tax, the unreimbursed business expenses that you incurred as a church employee are allowed only as an itemized deduction for income tax purposes. Subtract the allowable amount from your SE earnings when figuring your SE tax.

If you were a U.S. citizen or resident alien serving outside the United States as a minister or member of a religious order and you must pay SE tax, you may not reduce your net earnings by the foreign housing exclusion or deduction.

See **Pub. 517** for details.

Members of Certain Religious Sects

If you have conscientious objections to social security insurance because of your membership in and belief in the teachings of a religious sect recognized as being in existence at all times since December 31, 1950, and which has provided a reasonable level of living for its dependent members, you are exempt from SE tax if you received IRS approval by filing **Form 4029.** In this case, do not file Schedule SE. Instead, write "Exempt–Form 4029" on Form 1040, line 53. See Pub. 517 for details.

U.S. Citizens Employed by Foreign Governments or International Organizations

You must pay SE tax on income you earned as a U.S. citizen employed by a foreign government (or, in certain cases, by a wholly owned instrumentality of a foreign government or an international organization under the International Organizations Immunities Act) for services performed in the United States, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), or the Virgin Islands. Report income from this employment on Schedule SE (Section A or B), line 2. If you performed services elsewhere as an employee of a foreign government or an international organization, those earnings are exempt from SE tax.

U.S. Citizens or Resident Aliens Living Outside the United States

If you are a self-employed U.S. citizen or resident alien living outside the United States, in most cases you must pay SE tax. You may not reduce your foreign earnings from self-employment by your foreign earned income exclusion.

Cat. No. 24334P

Exception. The United States has social security agreements with many countries to eliminate dual taxes under two social security systems. Under these agreements, you must generally pay social security and Medicare taxes to only the country you live in.

The United States now has social security agreements with the following countries: Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, South Korea, Spain, Sweden, Switzerland, and the United Kingdom. Additional agreements are expected in the future. If you have questions about international social security agreements, you can:

- Visit the Social Security Administration (SSA) Web Site at www.ssa.gov/international,
- Call the SSA Office of International Programs at (410) 965-3548 or (410) 965-3554, or
- Write to Social Security Administration, Office of International Programs, P.O. Box 17741, Baltimore, MD 21235-7741.

More Than One Business

If you were a farmer and had at least one other business or you had two or more businesses, your net earnings from self-employment are the combined net earnings from all of your businesses. If you had a loss in one business, it reduces the income from another. Figure the combined SE tax on one Schedule SE.

Joint Returns

Show the name of the spouse with SE income on Schedule SE. If both spouses have SE income, each must file a separate Schedule SE. However, if one spouse qualifies to use Short Schedule SE and the other has to use Long Schedule SE, both can use the **same** form. One spouse should complete the front and the other the back.

Include the total profits or losses from all businesses on Form 1040, as appropriate. Enter the combined SE tax on Form 1040, line 53.

Community Income

In most cases, if any of the income from a business (including farming) is community income, all of the income from that business is SE earnings of the spouse who carried on the business. The facts in each case will determine which spouse carried on the business. If you and your spouse are partners in a partnership, see **Partnership Income or Loss** below.

If you and your spouse had community income and file separate returns, attach Schedule SE to the return of the spouse with the SE income. Also, attach Schedule(s) C, C-EZ, or F to the return of each spouse.

If you are the spouse who carried on the business, you must include on line 3, Schedule SE, the net profit or (loss) reported on the other spouse's Schedule C, C-EZ, or F (except income not included in net earnings from self-employment as explained on page SE-3). Enter on the dotted line to the left of line 3, Schedule SE, "Community Income Taxed to Spouse" and the amount of any net profit or (loss) allocated to your spouse as community income. Combine that amount with the total of lines 1 and 2 and enter the result on line 3.

If you are not the spouse who carried on the business and you had no other income subject to SE tax, enter "Exempt Community Income" on Form 1040, line 53; **do not** file Schedule SE. However, if you had other earnings subject to SE tax of $400 or more, enter on the dotted line to the left of line 3, Schedule SE, "Exempt Community Income" and the amount of the net profit or (loss) from Schedule C, C-EZ, or F allocated to you as community income. If that amount is a net profit, subtract it from the total of lines 1 and 2, and enter the result on line 3. If that amount is a loss, treat it as a positive amount, add it to the total of lines 1 and 2, and enter the result on line 3.

Community income included on Schedule(s) C, C-EZ, or F must be divided for income tax purposes on the basis of the community property laws.

Fiscal Year Filers

If your tax year is a fiscal year, use the tax rate and earnings base that apply at the time the fiscal year begins. Do not prorate the tax or earnings base for a fiscal year that overlaps the date of a rate or earnings base change.

Specific Instructions

Read the chart on page 1 of Schedule SE to see if you can use **Section A,** Short Schedule SE, or if you must use **Section B,** Long Schedule SE. For either section, you need to know what to include as net earnings from self-employment. Read the following instructions to see what to include as net earnings and how to fill in lines 1 and 2 of either Short or Long Schedule SE. Enter all negative amounts in parentheses.

Net Earnings From Self-Employment

What Is Included in Net SE Earnings?

In most cases, net earnings include your net profit from a farm or nonfarm business. If you were a partner in a partnership, see the following instructions.

Partnership Income or Loss

If you were a general or limited partner in a partnership, include on line 1 or line 2, whichever applies, the amount from line 15a of Schedule K-1 (Form 1065) or the amount identified as net earnings from self-employment in box 9 of Schedule K-1 (Form 1065-B). General partners should reduce this amount before entering it on Schedule SE by any section 179 expense deduction claimed, unreimbursed partnership expenses claimed, and depletion claimed on oil and gas properties. If you reduce the amount you enter on Schedule SE, attach an explanation.

If a partner died and the partnership continued, include in SE income the deceased's distributive share of the partnership's ordinary income or loss through the end of the month in which he or she died. See Internal Revenue Code section 1402(f).

If you were married and both you and your spouse were partners in a partnership, each of you must pay SE tax on your own share of the partnership income. Each of you must file a Schedule SE and report the partnership income or loss on **Schedule E** (Form 1040), Part II, for income tax purposes.

SE income belongs to the person who is the member of the partnership and cannot be treated as SE income by the nonmember spouse even in community property states.

Share Farming

You are considered self-employed if you produced crops or livestock on someone else's land for a share of the crops or livestock produced (or a share of the proceeds from the sale of them). This applies even if you paid another person (an agent) to do the actual work or management for you. Report your net earnings for income tax purposes on **Schedule F** (Form 1040) and for SE tax purposes on Schedule SE. See **Pub. 225** for details.

Other Income and Losses Included in Net Earnings From Self-Employment

- Rental income from a farm if, as landlord, you materially participated in the production or management of the production of farm products on this land. This income is

farm earnings. To determine whether you materially participated in farm management or production, do not consider the activities of any agent who acted for you. The material participation tests are explained in Pub. 225.

- Cash or a payment-in-kind from the Department of Agriculture for participating in a land diversion program.
- Payments for the use of rooms or other space when you also provided substantial services. Examples are hotel rooms, boarding houses, tourist camps or homes, parking lots, warehouses, and storage garages.
- Income from the retail sale of newspapers and magazines if you were age 18 or older and kept the profits.
- Amounts received by current or former self-employed insurance agents and salespersons that are:

1. Paid after retirement but figured as a percentage of commissions received from the paying company before retirement,

2. Renewal commissions, or

3. Deferred commissions paid after retirement for sales made before retirement.

However, certain termination payments received by former insurance salespersons are not included in net earnings from self-employment (as explained below under **Income and Losses Not Included in Net Earnings From Self-Employment**).

- Income of certain crew members of fishing vessels with crews of normally fewer than 10 people. See **Pub. 595** for details.
- Fees as a state or local government employee if you were paid only on a fee basis and the job was not covered under a Federal-state social security coverage agreement.
- Interest received in the course of any trade or business, such as interest on notes or accounts receivable.
- Fees and other payments received by you for services as a director of a corporation.
- Recapture amounts under sections 179 and 280F that you included in gross income because the business use of the property dropped to 50% or less. Do not include amounts you recaptured on the disposition of property. See **Form 4797.**
- Fees you received as a professional fiduciary. This may also apply to fees paid to you as a nonprofessional fiduciary if the fees relate to active participation in the operation of the estate's business, or the management of an estate that required extensive management activities over a long period of time.
- Gain or loss from section 1256 contracts or related property by an options or commodities dealer in the normal course of dealing in or trading section 1256 contracts.

Income and Losses Not Included in Net Earnings From Self-Employment

- Salaries, fees, etc., subject to social security or Medicare tax that you received for performing services as an employee, including services performed as a public official (except as a fee basis government employee as explained earlier under **Other Income and Losses Included in Net Earnings From Self-Employment**) or as an employee or employee representative under the railroad retirement system.
- Fees received for services performed as a notary public. If you had no other income subject to SE tax, enter "Exempt-Notary" on Form 1040, line 53. However, if you had other earnings of $400 or more subject to SE tax, enter "Exempt-Notary" and the amount of your net profit as a notary public from Schedule C or Schedule C-EZ on the dotted line to the left of line 3, Schedule SE. Subtract that amount from the total of lines 1 and 2 and enter the result on line 3.
- Income you received as a retired partner under a written partnership plan that provides for lifelong periodic retirement payments if you had no other interest in the partnership and did not perform services for it during the year.
- Income from real estate rentals if you did not receive the income in the course of a trade or business as a real estate dealer. Report this income on Schedule E.
- Income from farm rentals (including rentals paid in crop shares) if, as landlord, you did not materially participate in the production or management of the production of farm products on the land. See Pub. 225 for details.
- Dividends on shares of stock and interest on bonds, notes, etc., if you did not receive the income in the course of your trade or business as a dealer in stocks or securities.
- Gain or loss from:

1. The sale or exchange of a capital asset;

2. The sale, exchange, involuntary conversion, or other disposition of property unless the property is stock in trade or other property that would be includible in inventory, or held primarily for sale to customers in the ordinary course of the business; or

3. Certain transactions in timber, coal, or domestic iron ore.

- Net operating losses from other years.
- Termination payments you received as a former insurance salesperson if **all** of the following conditions are met.

1. The payment was received from an insurance company because of services you performed as an insurance salesperson for the company.

2. The payment was received after termination of your agreement to perform services for the company.

3. You did not perform any services for the company after termination and before the end of the year in which you received the payment.

4. You entered into a covenant not to compete against the company for at least a 1-year period beginning on the date of termination.

5. The amount of the payment depended primarily on policies sold by or credited to your account during the last year of the agreement, or the extent to which those policies remain in force for some period after termination, or both.

6. The amount of the payment did not depend to any extent on length of service or overall earnings from services performed for the company (regardless of whether eligibility for the payment depended on length of service).

Statutory Employee Income

If you were required to check the box on line 1 of Schedule C or C-EZ because you were a statutory employee, **do not** include the net profit or (loss) from line 31 of that Schedule C (or the net profit from line 3 of Schedule C-EZ) on line 2 of Short or Long Schedule SE. But if you file Long Schedule SE, be sure to include statutory employee social security wages and tips from Form W-2 on line 8a.

Optional Methods

How Can the Optional Methods Help You?

Social Security Coverage. The optional methods may give you credit toward your social security coverage even though you have a loss or a small amount of income from self-employment.

Earned Income Credit. Using the optional methods may qualify you to claim the earned income credit or give you a larger credit if your net SE earnings (determined without using the optional methods) are less than $1,600. Figure the earned income credit with and without using the optional methods to see if the optional methods will benefit you.

Additional Child Tax Credit. Using the optional methods may qualify you to claim the additional child tax credit or give you a larger credit if your net SE earnings (determined without using the optional methods) are less than $1,600. Figure the additional child tax credit with and without using the optional methods to see if the optional methods will benefit you.

Child and Dependent Care Credit. The optional methods may also help you qualify for this credit or give you a larger credit if your net SE earnings (determined without using the optional methods) are less than $1,600. Figure this credit with and without using the optional methods to see if the optional methods will benefit you.

Note. Using the optional methods may give you the benefits described above but they may also increase your SE tax.

Farm Optional Method

You may use this method to figure your net earnings from farm self-employment if your gross farm income was $2,400 or less **or** your net farm profits (defined below) were less than $1,733. There is no limit on how many years you can use this method.

Under this method, you report on line 15, Part II, two-thirds of your gross farm income, up to $1,600, as your net earnings. This method can increase or decrease your net SE farm earnings even if the farming business had a loss.

You may change the method after you file your return. That is, you can change from the regular to the optional method or from the optional to the regular method. To do this, file **Form 1040X.**

For a farm partnership, figure your share of gross income based on the partnership agreement. With guaranteed payments, your share of the partnership's gross income is your guaranteed payments plus your share of the gross income after it is reduced by all guaranteed payments made by the partnership. If you were a limited partner, include only guaranteed payments for services you actually rendered to or on behalf of the partnership.

Net farm profits is the total of the amounts from Schedule F (Form 1040), line 36, and Schedule K-1 (Form 1065), line 15a, from farm partnerships.

Nonfarm Optional Method

You may be able to use this method to figure your net earnings from nonfarm self-employment if your net nonfarm profits (defined below) were less than $1,733 and also less than 72.189% of your gross nonfarm income. To use this method, you also must be regularly self-employed. You meet this requirement if your actual net earnings from self-employment were $400 or more in 2 of the 3 years preceding the year you use the nonfarm method. The net earnings of $400 or more could be from either farm or nonfarm earnings or both. The net earnings include your distributive share of partnership income or loss subject to SE tax. Use of the nonfarm optional method from nonfarm self-employment is limited to 5 years. The 5 years do not have to be consecutive.

Under this method, you report on line 17, Part II, two-thirds of your gross nonfarm income, up to $1,600, as your net earnings. But **you may not report less than your actual net earnings** from nonfarm self-employment.

You may change the method after you file your return. That is, you can change from the regular to the optional method or from the optional to the regular method. To do so, file Form 1040X.

Figure your share of gross income from a nonfarm partnership in the same manner as a farm partnership. See **Farm Optional Method** on this page for details.

Net nonfarm profits is the total of the amounts from Schedule C (Form 1040), line 31 (or Schedule C-EZ (Form 1040), line 3), Schedule K-1 (Form 1065), line 15a (from other than farm partnerships), and Schedule K-1 (Form 1065-B), box 9.

Using Both Optional Methods

If you can use both methods, you may report less than your total actual net earnings from farm and nonfarm self-employment, but you **cannot** report less than your actual net earnings from nonfarm self-employment alone.

If you use both methods to figure net earnings, you **cannot** report more than $1,600 of net SE earnings.

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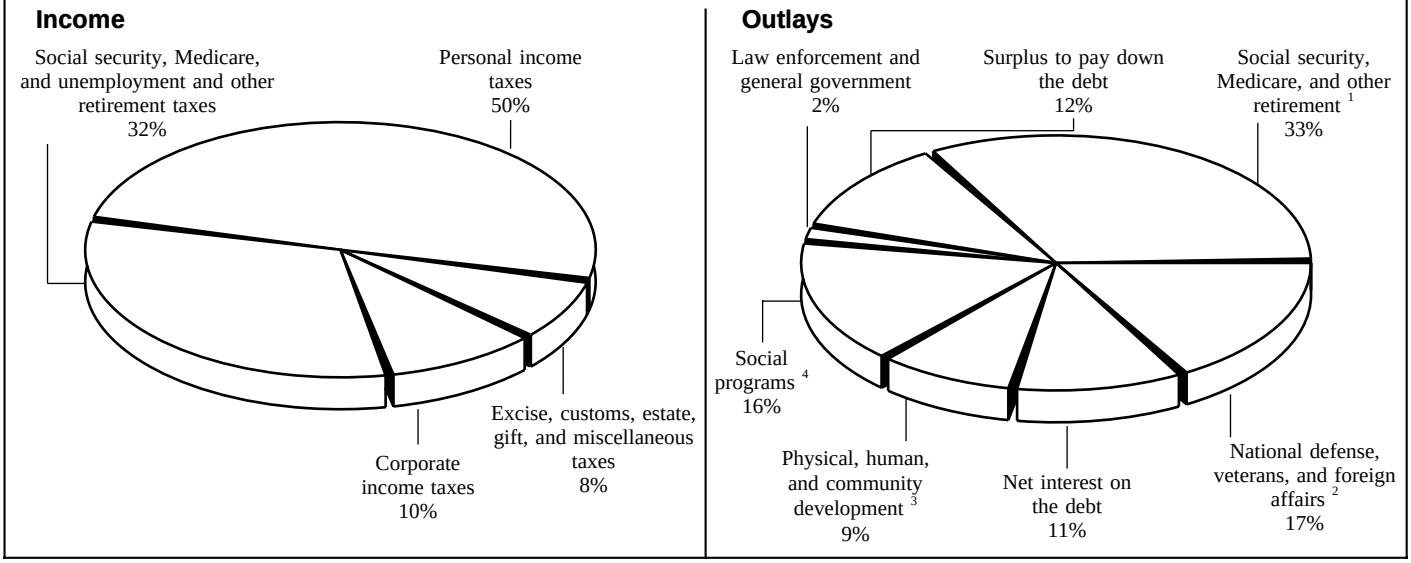
* These items may not be included in this package. To reduce printing costs, we have sent you only the forms you may need based on what you filed last year.

Major Categories of Federal Income and Outlays for Fiscal Year 2000

Income and Outlays. These pie charts show the relative sizes of the major categories of Federal income and outlays for fiscal year 2000.



On or before the first Monday in February of each year, the President is required by law to submit to the Congress a budget proposal for the fiscal year that begins the following October. The budget plan sets forth the President's proposed receipts, spending, and the surplus or deficit for the Federal Government. The plan includes recommendations for new legislation as well as recommendations to change, eliminate, and add programs. After receiving the President's proposal, the Congress reviews it and makes changes. It first passes a budget resolution setting its own targets for receipts, outlays, and the surplus or deficit. Next, individual spending and revenue bills that are consistent with the goals of the budget resolution are enacted.

In fiscal year 2000 (which began on October 1, 1999, and ended on September 30, 2000), Federal income was $2,025 billion and outlays were $1,789 billion, leaving a surplus of $236 billion.

Footnotes for Certain Federal Outlays

1. Social security, Medicare, and other retirement: These programs provide income support for the retired and disabled and medical care for the elderly.

2. National defense, veterans, and foreign affairs: About 14% of outlays were to equip, modernize, and pay our armed forces and to fund other national defense activities; about 2% were for veterans benefits and services; and about 1% were for international activities, including military and economic assistance to foreign countries and the maintenance of U.S. embassies abroad.

3. Physical, human, and community development: These outlays were for agriculture; natural resources; environment; transportation; aid for elementary and secondary education and direct assistance to college students; job training; deposit insurance, commerce and housing credit, and community development; and space, energy, and general science programs.

4. Social programs: About 11% of total outlays were for Medicaid, food stamps, temporary assistance for needy families, supplemental security income, and related programs; and 5% for health research and public health programs, unemployment compensation, assisted housing, and social services.

Note. The percentages on this page exclude undistributed offsetting receipts, which were $43 billion in fiscal year 2000. In the budget, these receipts are offset against spending in figuring the outlay totals shown above. These receipts are for the U.S. Government's share of its employee retirement programs, rents and royalties on the Outer Continental Shelf, and proceeds from the sale of assets.

Where Do You File?

If an envelope addressed to "Internal Revenue Service Center" came with this booklet, please use it. If you do not have one or if you moved during the year, mail your return to the Internal Revenue Service Center shown that applies to you.

TIP Envelopes without enough postage will be returned to you by the post office. Your envelope may need additional postage if it contains more than five pages or is oversized (for example, it is over ¼" thick). Also, include your complete return address.

IF you live in...	THEN use this address if you:	
	Are not enclosing a check or money order...	**Are enclosing a check or money order...**
Florida, Georgia, North Carolina, South Carolina, West Virginia	Internal Revenue Service Center Atlanta, GA 39901-0002	Internal Revenue Service Center Atlanta, GA 39901-0102
New Jersey, New York *(New York City and counties of Nassau, Rockland, Suffolk, and Westchester)*	Internal Revenue Service Center Holtsville, NY 00501-0002	Internal Revenue Service Center Holtsville, NY 00501-0102
New York *(all other counties)*, Massachusetts, Michigan, Rhode Island	Internal Revenue Service Center Andover, MA 05501-0002	Internal Revenue Service Center Andover, MA 05501-0102
Illinois, Iowa, Kansas, Minnesota, Missouri, Oklahoma, Utah, Wisconsin	Internal Revenue Service Center Kansas City, MO 64999-0002	Internal Revenue Service Center Kansas City, MO 64999-0102
Connecticut, Delaware, District of Columbia, Indiana, Maine, Maryland, New Hampshire, Pennsylvania, Vermont	Internal Revenue Service Center Philadelphia, PA 19255-0002	Internal Revenue Service Center Philadelphia, PA 19255-0102
Ohio	Internal Revenue Service Center Cincinnati, OH 45999-0002	Internal Revenue Service Center Cincinnati, OH 45999-0102
Arizona, Colorado, Idaho, Montana, New Mexico, Texas, Wyoming	Internal Revenue Service Center Austin, TX 73301-0002	Internal Revenue Service Center Austin, TX 73301-0102
Nebraska, North Dakota, South Dakota, Washington	Internal Revenue Service Center Ogden, UT 84201-0002	Internal Revenue Service Center Ogden, UT 84201-0102
Alaska, California, Hawaii, Nevada, Oregon	Internal Revenue Service Center Fresno, CA 93888-0002	Internal Revenue Service Center Fresno, CA 93888-0102
Alabama, Arkansas, Kentucky, Louisiana, Mississippi, Tennessee, Virginia	Internal Revenue Service Center Memphis, TN 37501-0002	Internal Revenue Service Center Memphis, TN 37501-0102
All APO and FPO addresses, American Samoa, nonpermanent residents of Guam or the Virgin Islands*, Puerto Rico *(or if excluding income under Internal Revenue Code section 933)*, a foreign country: U.S. citizens and those filing Form 2555, 2555-EZ, or 4563	Internal Revenue Service Center Philadelphia, PA 19255-0215 USA	Internal Revenue Service Center Philadelphia, PA 19255-0215 USA

* Permanent residents of Guam should use: Department of Revenue and Taxation, Government of Guam, P.O. Box 23607, GMF, GU 96921; permanent residents of the Virgin Islands should use: V.I. Bureau of Internal Revenue, 9601 Estate Thomas, Charlotte Amalie, St. Thomas, VI 00802.

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collection home search

Sec. 3504. - Authority and functions of Director

(a)

(1)

The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including burden reduction and service delivery to the public. In performing such oversight, the Director shall -

(A)

develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

(B)

provide direction and oversee -

(i)

the review and approval of the collection of information and the reduction of the information collection burden;

(ii)

agency dissemination of and public access to information;

(iii)

statistical activities;

(iv)

records management activities;

(v)

privacy, confidentiality, security, disclosure, and sharing of information; and

(vi)

the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.

(2)

The authority of the Director under this chapter shall be exercised consistent with applicable law.

(b)

With respect to general information resources

management policy, the Director shall -

(1)

develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

(2)

foster greater sharing, dissemination, and access to public information, including through -

(A)

the use of the Government Information Locator Service; and

(B)

the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

(3)

initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

(4)

oversee the development and implementation of best practices in

information resources management, including training; and

(5)

oversee agency integration of program and management functions with information resources management functions.

(c)

With respect to the collection of information and the control of paperwork, the Director shall -

(1)

review and approve proposed agency collections of information;

(2)

coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement, acquisition and payment, and to reduce information collection burdens on the public;

(3)

minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

(4)

maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

(5)

establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

(d)

With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to -

(1)

apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

(2)

promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

(e)

With respect to statistical policy and coordination, the Director shall -

(1)

coordinate the activities of the Federal statistical system to ensure -

(A)

the efficiency and effectiveness of the system; and

(B)

the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

(2)

ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

(3)

develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning -

(A)

statistical collection procedures and methods;

(B)

statistical data classification;

(C)

statistical information presentation and dissemination;

(D)

timely release of statistical data; and

(E)

such statistical data sources as may be required for the administration of Federal programs;

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Notes
Updates
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(4)

evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

(5)

promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

(6)

coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

(7)

appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

(8)

establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall -

(A)

be headed by the chief statistician; and

(B)

consist of -

(i)

the heads of the major statistical programs; and

(ii)

representatives of other statistical agencies under rotating membership; and

(9)

provide opportunities for training in statistical policy functions to employees of the Federal Government under which -

(A)

each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

(B)

all costs of the training shall be paid by the agency requesting training.

(f)

With respect to records management, the Director shall -

(1)

provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

(2)

review compliance by agencies with -

(A)

the requirements of chapters 29, 31, and 33 of this title; and

(B)

regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

(3)

oversee the application of records management policies, principles, standards,

and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

(g)

With respect to privacy and security, the Director shall -

(1)

develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

(2)

oversee and coordinate compliance with sections 552 and 552a of title 5, sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4), section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note), [1] and related information management laws; and

(3)

require Federal agencies, consistent with the standards and guidelines promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note), [1] to identify and afford

security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

(h)

With respect to Federal information technology, the Director shall -

(1)

in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services -

(A)

develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

(B)

oversee the development and implementation of standards under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

(2)

monitor the effectiveness of, and compliance with, directives issued under

division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.) and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757);

(3)

coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

(4)

ensure, through the review of agency budget proposals, information resources management plans and other means -

(A)

agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

(B)

the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

(5)

promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of

Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public

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[1] See References in Text note below.

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TITLE 44. PUBLIC PRINTING AND DOCUMENTS

CHAPTER 35--COORDINATION OF FEDERAL INFORMATION POLICY

SUBCHAPTER I--FEDERAL INFORMATION POLICY

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Current through P.L. 107-11, approved 5-28-01

§ 3504. Authority and functions of Director

(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including burden reduction and service delivery to the public. In performing such oversight, the Director shall--

(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

(B) provide direction and oversee--

(i) the review and approval of the collection of information and the reduction of the information collection burden;

(ii) agency dissemination of and public access to information;

(iii) statistical activities;

(iv) records management activities;

(v) privacy, confidentiality, security, disclosure, and sharing of information; and

(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.

(2) The authority of the Director under this subchapter shall be exercised consistent with applicable law.

(b) With respect to general information resources management policy, the Director shall--

(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

(2) foster greater sharing, dissemination, and access to public information, including through--

(A) the use of the Government Information Locator Service; and

(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

(4) oversee the development and implementation of best practices in information resources management, including training; and

(5) oversee agency integration of program and management functions with information resources management functions.

(c) With respect to the collection of information and the control of paperwork, the Director shall--

(1) review and approve proposed agency collections of information;

(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal

Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement, acquisition and payment, and to reduce information collection burdens on the public;

(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to--

(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

(2) promote public access to public information and fulfill the purposes of this subchapter, including through the effective use of information technology.

(e) With respect to statistical policy and coordination, the Director shall--

(1) coordinate the activities of the Federal statistical system to ensure--

(A) the efficiency and effectiveness of the system; and

(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning--

(A) statistical collection procedures and methods;

(B) statistical data classification;

(C) statistical information presentation and dissemination;

(D) timely release of statistical data; and

(E) such statistical data sources as may be required for the administration of Federal programs;

(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall--

(A) be headed by the chief statistician; and

(B) consist of--

(i) the heads of the major statistical programs; and

(ii) representatives of other statistical agencies under rotating membership; and

(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which--

(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

(B) all costs of the training shall be paid by the agency requesting training.

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(f) With respect to records management, the Director shall--

(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this subchapter;

(2) review compliance by agencies with--

(A) the requirements of chapters 29, 31, and 33 of this title; and

(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

(g) With respect to privacy and security, the Director shall--

(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

(2) oversee and coordinate compliance with sections 552 and 552a of title 5, sections 20 and 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3 and 278g-4), section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

(3) require Federal agencies, consistent with the standards and guidelines promulgated under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

(h) With respect to Federal information technology, the Director shall--

(1) in consultation with the Director of the National Institute of Standards and Technology and

the Administrator of General Services--

(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

(B) oversee the development and implementation of standards under section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441);

(2) monitor the effectiveness of, and compliance with, directives issued under division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.) and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757);

(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

(4) ensure, through the review of agency budget proposals, information resources management plans and other means--

(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

CREDIT(S)

2001 Electronic Update

(Added Pub.L. 104-13, § 2, May 22, 1995, 109 Stat. 167, and amended Pub.L. 104- 106, Div. E, Title LI, § 5131(e)(1), Title LVI, § 5605(b), (c), Feb. 10, 1996, 110 Stat. 688, 700; Pub.L. 104-208, Div. A, Title I, § 101(f) [Title VIII, § 808(c)], Sept. 30, 1996, 110 Stat. 3009-394; Pub.L. 105-85, Div. A, Title X, § 1073(h)(5)(B), (C), Nov. 18, 1997, 111 Stat. 1907; Pub.L. 105-277, Div. C, Title XVII, § 1702, Oct. 21, 1998, 112 Stat. 2681-750; Pub.L. 106-398, § 1

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[Div. A, Title X, § 1064(b)], Oct. 30, 2000, 114 Stat. 1654, 1654-___.)

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U.S. Code as of: 01/02/01

Section 552a. Records maintained on individuals

Related Resources

Administrative Law Guide

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Administrative Law Articles and Documents

(a) Definitions. - For purposes of this section -
(1) the term ''agency'' means agency as defined in section 552(e) (FOOTNOTE 1) of this title;
(FOOTNOTE 1) See References in Text note below.
(2) the term ''individual'' means a citizen of the United States or an alien lawfully admitted for permanent residence;
(3) the term ''maintain'' includes maintain, collect, use, or disseminate;
(4) the term ''record'' means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;
(5) the term ''system of records'' means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;
(6) the term ''statistical record'' means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as

provided by section 8 of title 13;
(7) the term ''routine use'' means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected;
(8) the term ''matching program'' -
(A) means any computerized comparison of -
(i) two or more automated systems of records or a system of records with non-Federal records for the purpose of -
(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or
(II) recouping payments or delinquent debts under such Federal benefit programs, or
(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,
(B) but does not include -
(i) matches performed to produce aggregate statistical data without any personal identifiers;
(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;
(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;
(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 404(e), 464, or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;
(v) matches -
(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or
(II) conducted by an agency using only records from systems of records maintained by that agency;
if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel;
(vi) matches performed for foreign counterintelligence

purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel;

(vii) matches performed incident to a levy described in section 6103(k)(8) of the Internal Revenue Code of 1986; or

(viii) matches performed pursuant to section 202(x)(3) or 1611(e)(1) of the Social Security Act (42 U.S.C. 402(x)(3), 1382(e)(1));

(9) the term ''recipient agency'' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

(10) the term ''non-Federal agency'' means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

(11) the term ''source agency'' means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a matching program;

(12) the term ''Federal benefit program'' means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

(13) the term ''Federal personnel'' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).

(b) Conditions of Disclosure. - No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be -

(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2) required under section 552 of this title;

(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) to the National Archives and Records Administration as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States or the designee of the Archivist to determine whether the record has such value;

(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the

United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(11) pursuant to the order of a court of competent jurisdiction; or

(12) to a consumer reporting agency in accordance with section 3711(e) of title 31.

(c) Accounting of Certain Disclosures. - Each agency, with respect to each system of records under its control, shall -

(1) except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of -

(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

(B) the name and address of the person or agency to whom the disclosure is made;

(2) retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3) except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) Access to Records. - Each agency that maintains a system of records shall -

(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence;

(2) permit the individual to request amendment of a record pertaining to him and -

(A) not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(B) promptly, either -

(i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii) inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

(3) permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the head of the agency extends such 30-day period; and if, after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection (g)(1)(A) of this section;

(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

(5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(e) Agency Requirements. - Each agency that maintains a system of records shall -

(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(3) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual -

(A) the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(B) the principal purpose or purposes for which the information is intended to be used;

(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

(D) the effects on him, if any, of not providing all or any part of the requested information;

(4) subject to the provisions of paragraph (11) of this

subsection, publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include -

(A) the name and location of the system;

(B) the categories of individuals on whom records are maintained in the system;

(C) the categories of records maintained in the system;

(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(F) the title and business address of the agency official who is responsible for the system of records;

(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and

(I) the categories of sources of records in the system;

(5) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(8) make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(9) establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

(10) establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained;

(11) at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency; and

(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.

(f) Agency Rules. - In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall -

(1) establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records, pertaining to him;

(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall biennially compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

(g)(1) Civil Remedies. - Whenever any agency

(A) makes a determination under subsection (d)(3) of this section not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;

(B) refuses to comply with an individual request under subsection (d)(1) of this section;

(C) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(D) fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual,

the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such

other way as the court may direct. In such a case the court shall determine the matter de novo.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(3)(A) In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(4) In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of -

(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of $1,000; and

(B) the costs of the action together with reasonable attorney fees as determined by the court.

(5) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

(h) Rights of Legal Guardians. - For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(i)(1) Criminal Penalties. - Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be

guilty of a misdemeanor and fined not more than $5,000.

(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

(j) General Exemptions. - The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is -

(1) maintained by the Central Intelligence Agency; or

(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(k) Specific Exemptions. - The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of this section if the system of records is -

(1) subject to the provisions of section 552(b)(1) of this title;

(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: Provided, however, That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity

of the source would be held in confidence;

(3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18;

(4) required by statute to be maintained and used solely as statistical records;

(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(l)(1) Archival Records. - Each agency record which is accepted by the Archivist of the United States for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Archivist of the United States shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e)(4)(A) through (G) of this section) shall be published in the Federal Register.

(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the

National Archives and shall be exempt from the requirements of this section except subsections (e)(4)(A) through (G) and (e)(9) of this section.

(m)(1) Government Contractors. - When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

(2) A consumer reporting agency to which a record is disclosed under section 3711(e) of title 31 shall not be considered a contractor for the purposes of this section.

(n) Mailing Lists. - An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(o) Matching Agreements. - (1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying -

(A) the purpose and legal authority for conducting the program;

(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

(D) procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to -

(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

(ii) applicants for and holders of positions as Federal personnel,

that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

(E) procedures for verifying information produced in such matching program as required by subsection (p);

(F) procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

(I) procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a

source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall -

(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

(ii) be available upon request to the public.

(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if -

(i) such program will be conducted without any change; and

(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

(p) Verification and Opportunity to Contest Findings. - (1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until -

(A)(i) the agency has independently verified the information; or

(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that -

(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

(ii) in the case of a program for which no such period is

established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of -

(A) the amount of any asset or income involved;

(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

(C) the period or periods when the individual actually had such asset or income.

(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.

(q) Sanctions. - (1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

(2) No source agency may renew a matching agreement unless -

(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

(B) the source agency has no reason to believe that the certification is inaccurate.

(r) Report on New Systems and Matching Programs. - Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.

(s) Biennial Report. - The President shall biennially submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report -

(1) describing the actions of the Director of the Office of Management and Budget pursuant to section 6 of the Privacy Act of 1974 during the preceding 2 years;

(2) describing the exercise of individual rights of access and amendment under this section during such years;

(3) identifying changes in or additions to systems of records;

(4) containing such other information concerning administration of this section as may be necessary or useful to the Congress in reviewing the effectiveness of this section in carrying out the purposes of the Privacy Act of 1974.

(t)(1) Effect of Other Laws. - No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section.

(2) No agency shall rely on any exemption in this section to withhold from an individual any record which is otherwise

accessible to such individual under the provisions of section 552 of this title.

(u) Data Integrity Boards. - (1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

(3) Each Data Integrity Board -

(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including -

(i) matching programs in which the agency has participated as a source agency or recipient agency;

(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

(iii) any changes in membership or structure of the Board in the preceding year;

(iv) the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

(vi) any other information required by the Director of the Office of Management and Budget to be included in such report;

(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

(H) may review and report on any agency matching activities that are not matching programs.

(4)(A) Except as provided in subparagraphs (B) and (C), a Data Integrity Board shall not approve any written agreement for a

matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective. (FOOTNOTE 2)

(FOOTNOTE 2) So in original. Probably should be ''cost-effective.''

(B) The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

(C) A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that -

(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

(ii) there is adequate evidence that the matching agreement will be cost-effective; and

(iii) the matching program is in the public interest.

(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

(6) In the reports required by paragraph (3)(D), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations.

(v) Office of Management and Budget Responsibilities. - The Director of the Office of Management and Budget shall -

(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

(2) provide continuing assistance to and oversight of the implementation of this section by agencies.

Previous **[Notes]** **Next**

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Form **1040** Department of the Treasury—Internal Revenue Service **U.S. Individual Income Tax Return** **2001** (99) IRS Use Only—Do not write or staple in this space.

OMB No. 1545-0074

Label

(See instructions on page 19.)

Use the IRS label. Otherwise, please print or type.

LABEL HERE

For the year Jan. 1–Dec. 31, 2001, or other tax year beginning , 2001, ending , 20

Your first name and initial	Last name	**Your social security number**
If a joint return, spouse's first name and initial	Last name	**Spouse's social security number**
Home address (number and street). If you have a P.O. box, see page 19.	Apt. no.	
City, town or post office, state, and ZIP code. If you have a foreign address, see page 19.		

Important! You **must** enter your SSN(s) above.

Presidential Election Campaign (See page 19.)

Note. Checking "Yes" will not change your tax or reduce your refund.
Do you, or your spouse if filing a joint return, want $3 to go to this fund? . . . ▶ **You** ☐ **Yes** ☐ **No** **Spouse** ☐ **Yes** ☐ **No**

Filing Status

Check only one box.

1 ☐ Single
2 ☐ Married filing joint return (even if only one had income)
3 ☐ Married filing separate return. Enter spouse's social security no. above and full name here. ▶
4 ☐ Head of household (with qualifying person). (See page 19.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
5 ☐ Qualifying widow(er) with dependent child (year spouse died ▶). (See page 19.)

Exemptions

6a ☐ **Yourself.** If your parent (or someone else) can claim you as a dependent on his or her tax return, **do not** check box 6a . . . . . .
b ☐ **Spouse** . . . . . .

No. of boxes checked on 6a and 6b

c **Dependents:**

(1) First name / Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) ✓ if qualifying child for child tax credit (see page 20)
			☐
			☐
			☐
			☐
			☐
			☐

If more than six dependents, see page 20.

No. of your children on 6c who:
- **lived with you**
- **did not live with you due to divorce or separation (see page 20)**

Dependents on 6c not entered above

Add numbers entered on lines above ▶

d Total number of exemptions claimed . . . . . .

Income

Attach Forms W-2 and W-2G here. Also attach Form(s) 1099-R if tax was withheld.

If you did not get a W-2, see page 21.

Enclose, but do not attach, any payment. Also, please use **Form 1040-V.**

7	Wages, salaries, tips, etc. Attach Form(s) W-2		7
8a	**Taxable** interest. Attach Schedule B if required		8a
b	**Tax-exempt** interest. **Do not** include on line 8a . . . **8b**		
9	Ordinary dividends. Attach Schedule B if required		9
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 22) . .		10
11	Alimony received		11
12	Business income or (loss). Attach Schedule C or C-EZ		12
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐		13
14	Other gains or (losses). Attach Form 4797		14
15a	Total IRA distributions . **15a** b Taxable amount (see page 23)		15b
16a	Total pensions and annuities **16a** b Taxable amount (see page 23)		16b
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E		17
18	Farm income or (loss). Attach Schedule F		18
19	Unemployment compensation		19
20a	Social security benefits . **20a** b Taxable amount (see page 25)		20b
21	Other income. List type and amount (see page 27)		21
22	Add the amounts in the far right column for lines 7 through 21. This is your **total income** ▶		22

Adjusted Gross Income

23	IRA deduction (see page 27)	23	
24	Student loan interest deduction (see page 28)	24	
25	Archer MSA deduction. Attach Form 8853	25	
26	Moving expenses. Attach Form 3903	26	
27	One-half of self-employment tax. Attach Schedule SE .	27	
28	Self-employed health insurance deduction (see page 30)	28	
29	Self-employed SEP, SIMPLE, and qualified plans . .	29	
30	Penalty on early withdrawal of savings	30	
31a	Alimony paid b Recipient's SSN ▶	31a	
32	Add lines 23 through 31a		32
33	Subtract line 32 from line 22. This is your **adjusted gross income** . . . . . ▶		33

Tax and Credits

Standard Deduction for—

- People who checked any box on line 35a or 35b **or** who can be claimed as a dependent, see page 31.
- All others:

Single, $4,550

Head of household, $6,650

Married filing jointly or Qualifying widow(er), $7,600

Married filing separately, $3,800

34	Amount from line 33 (adjusted gross income)			34
35a	Check if: ☐ **You** were 65 or older, ☐ Blind; ☐ **Spouse** was 65 or older, ☐ Blind. Add the number of boxes checked above and enter the total here ▶ 35a			
b	If you are married filing separately and your spouse itemizes deductions, or you were a dual-status alien, see page 31 and check here ▶ 35b ☐			
36	**Itemized deductions** (from Schedule A) **or** your **standard deduction** (see left margin)			36
37	Subtract line 36 from line 34			37
38	If line 34 is $99,725 or less, multiply $2,900 by the total number of exemptions claimed on line 6d. If line 34 is over $99,725, see the worksheet on page 32			38
39	**Taxable income.** Subtract line 38 from line 37. If line 38 is more than line 37, enter -0-			39
40	**Tax** (see page 33). Check if any tax is from **a** ☐ Form(s) 8814 **b** ☐ Form 4972			40
41	**Alternative minimum tax** (see page 34). Attach Form 6251			41
42	Add lines 40 and 41 ▶			42
43	Foreign tax credit. Attach Form 1116 if required	43		
44	Credit for child and dependent care expenses. Attach Form 2441	44		
45	Credit for the elderly or the disabled. Attach Schedule R	45		
46	Education credits. Attach Form 8863	46		
47	Rate reduction credit. See the worksheet on page 36	47		
48	Child tax credit (see page 37)	48		
49	Adoption credit. Attach Form 8839	49		
50	Other credits from: **a** ☐ Form 3800 **b** ☐ Form 8396 **c** ☐ Form 8801 **d** ☐ Form (specify) _____	50		
51	Add lines 43 through 50. These are your **total credits**			51
52	Subtract line 51 from line 42. If line 51 is more than line 42, enter -0- ▶			52

Other Taxes

53	Self-employment tax. Attach Schedule SE			53
54	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137			54
55	Tax on qualified plans, including IRAs, and other tax-favored accounts. Attach Form 5329 if required			55
56	Advance earned income credit payments from Form(s) W-2			56
57	Household employment taxes. Attach Schedule H			57
58	Add lines 52 through 57. This is your **total tax** ▶			58

Payments

If you have a qualifying child, attach Schedule EIC.

59	Federal income tax withheld from Forms W-2 and 1099	59		
60	2001 estimated tax payments and amount applied from 2000 return	60		
61a	**Earned income credit (EIC)**	61a		
b	Nontaxable earned income **61b**			
62	Excess social security and RRTA tax withheld (see page 51)	62		
63	Additional child tax credit. Attach Form 8812	63		
64	Amount paid with request for extension to file (see page 51)	64		
65	Other payments. Check if from **a** ☐ Form 2439 **b** ☐ Form 4136	65		
66	Add lines 59, 60, 61a, and 62 through 65. These are your **total payments** ▶			66

Refund

Direct deposit? See page 51 and fill in 68b, 68c, and 68d.

67	If line 66 is more than line 58, subtract line 58 from line 66. This is the amount you **overpaid**			67
68a	Amount of line 67 you want **refunded to you** ▶			68a
▶ b	Routing number ▶ **c** Type: ☐ Checking ☐ Savings			
▶ d	Account number			
69	Amount of line 67 you want **applied to your 2002 estimated tax** ▶	69		

Amount You Owe

70	**Amount you owe.** Subtract line 66 from line 58. For details on how to pay, see page 52 ▶			70
71	Estimated tax penalty. Also include on line 70	71		

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 53)? ☐ **Yes.** Complete the following. ☐ **No**

Designee's name ▶ Phone no. ▶ ( ) Personal identification number (PIN) ▶

Sign Here

Joint return? See page 19.

Keep a copy for your records.

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

Your signature	Date	Your occupation	Daytime phone number
			( )
Spouse's signature. If a joint return, **both** must sign.	Date	Spouse's occupation	

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code		EIN	
		Phone no. ( )	

Date of Download: Dec 26, 2001

26 C.F.R. § 602.101

§ 602.101 OMB Control numbers.

(a) Purpose. This part collects and displays the control numbers assigned to collections of information in Internal Revenue Service regulations by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. The Internal Revenue Service intends that this part comply with the requirements of §§ 1320.7(f), 1320.12, 1320.13, and 1320.14 of 5 CFR Part 1320 (OMB regulations implementing the Paperwork Reduction Act), for the display of control numbers assigned by OMB to collections of information in Internal Revenue Service regulations. This part does not display control numbers assigned by the Office of Management and Budget to collections of information of the Bureau of Alcohol, Tobacco, and Firearms.

(b) Display.

CFR part or section where identified and described	Current OMB control No.
1.1(h)-1(e)	1545-1654
1.23-5	1545-0074
1.25-1T	1545-0922 1545-0930
1.25-2T	1545-0922

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Sec. 6001. - Notice or regulations requiring records, statements, and special returns

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a)

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Sec. 6011. - General requirement of return, statement, or list

(a) General rule

When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

(b) Identification of taxpayer

The Secretary is authorized to require such information with respect to persons subject to the taxes imposed by chapter 21 or chapter 24 as is necessary or helpful in securing proper identification of such persons.

(c) Returns, etc., of DISCS and former DISCS and FSC's and former FSC's

(1) Records and information

A DISC or former DISC or a FSC or former FSC shall for the taxable year -

(A)

furnish such information to persons who were shareholders at any time during such taxable year, and to the Secretary, and

(B)

keep such records, as may be required by regulations prescribed by the Secretary.

(2) Returns

A DISC shall file for the taxable year such returns as may be prescribed by the Secretary by forms or regulations.

(d) Authority to require information concerning section 912 allowances

The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate.

(e) Regulations requiring returns on magnetic media, etc.

(1) In general

The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The

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Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary.

(2) Requirements of regulations

In prescribing regulations under paragraph (1), the Secretary -

(A)

shall not require any person to file returns on magnetic media unless such person is required to file at least 250 returns during the calendar year, and

(B)

shall take into account (among other relevant factors) the ability of the taxpayer to comply at reasonable cost with the requirements of such regulations.

Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.

(f) Promotion of electronic filing

(1) In general

The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration programs, as they become available, through the use of mass communications and other means.

(2) Incentives

The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns.

(g)

Income, estate, and gift taxes

For requirement that returns of income, estate, and gift taxes be made whether or not there is tax liability, see subparts B and C

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Sec. 6012. - Persons required to make returns of income

(a) General rule

Returns with respect to income taxes under subtitle A shall be made by the following:

(1)

(A)

Every individual having for the taxable year gross income which equals or exceeds the exemption amount, except that a return shall not be required of an individual -

(i)

who is not married (determined by applying section 7703), is not a surviving spouse (as defined in section 2(a)), is not a head of a household (as defined in section 2(b)), and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

(ii)

who is a head of a household (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

(iii)

who is a surviving spouse (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual, or

(iv)

who is entitled to make a joint return and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than the sum of twice the exemption amount plus the basic standard deduction applicable to a joint return, but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (iv) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(c).

(B)

The amount specified in clause (i), (ii), or (iii) of subparagraph (A) shall be increased by the amount of 1 additional standard deduction (within the meaning of section 63(c)(3)) in the case of an individual entitled to such deduction by reason of section 63(f)(1)(A) (relating to individuals age 65 or more), and the amount specified in clause (iv) of subparagraph (A) shall be increased by the amount of the additional standard deduction for each additional standard deduction to which the individual or his spouse is entitled by reason of section 63(f)(1).

(C)

The exception under subparagraph (A) shall not apply to any individual -

(i)

who is described in section 63(c)(5) and who has -

(I)

income (other than earned income) in excess of the sum of the amount in effect under section 63(c)(5)(A) plus the additional standard deduction (if any) to which the individual is entitled, or

(II)

total gross income in excess of the standard deduction, or

(ii)

for whom the standard deduction is zero under section 63(c)(6).

(D)

For purposes of this subsection -

(i)

The terms ''standard deduction'', ''basic standard deduction'' and ''additional standard deduction'' have the respective meanings given such terms by section 63(c).

(ii)

The term ''exemption amount'' has the meaning given such term by section 151(d). In the case of an individual described in section 151(d)(2), the exemption amount shall be zero.

(2)

Every corporation subject to taxation under subtitle A;

(3)

Every estate the gross income of which for the taxable year is $600 or more;

(4)

Every trust having for the taxable year any taxable income, or having gross income of $600 or over, regardless of the amount of

taxable income;

(5)

Every estate or trust of which any beneficiary is a nonresident alien;

(6)

Every political organization (within the meaning of section 527(e)(1)), and every fund treated under section 527(g) as if it constituted a political organization, which has political organization taxable income (within the meaning of section 527(c)(1)) for the taxable year or which has gross receipts of $25,000 or more for the taxable year (other than an organization to which section 527 applies solely by reason of subsection (f)(1) of such section); and [1]
(FOOTNOTE 1) So in original.

(7)

Every homeowners association (within the meaning of section 528(c)(1)) which has homeowners association taxable income (within the meaning of section 528(d)) for the taxable year.

(8)

Every individual who receives payments during the calendar year in which the taxable year begins under section 3507 (relating to advance payment of earned income credit). (FOOTNOTE 1)

(9)

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Every estate of an individual under chapter 7 or 11 of title 11 of the United States Code (relating to bankruptcy) the gross income of which for the taxable year is not less than the sum of the exemption amount plus the basic standard deduction under section 63(c)(2)(D). [1] except that subject to such conditions, limitations, and exceptions and under such regulations as may be prescribed by the Secretary, nonresident alien individuals subject to the tax imposed by section 871 and foreign corporations subject to the tax imposed by section 881 may be exempted from the requirement of making returns under this section.

(b) Returns made by fiduciaries and receivers

(1) Returns of decedents

If an individual is deceased, the return of such individual required under subsection (a) shall be made by his executor, administrator, or other person charged with the property of such decedent.

(2) Persons under a disability

If an individual is unable to make a return required under subsection (a), the return of such individual shall be made by a duly authorized agent, his committee, guardian, fiduciary or other person charged with the care of the person or property of such individual. The preceding sentence shall not apply in the case of a receiver appointed by authority of law in possession of only a part of the property of an individual.

(3) Receivers, trustees and assignees for

corporations

In a case where a receiver, trustee in a case under title 11 of the United States Code, or assignee, by order of a court of competent jurisdiction, by operation of law or otherwise, has possession of or holds title to all or substantially all the property or business of a corporation, whether or not such property or business is being operated, such receiver, trustee, or assignee shall make the return of income for such corporation in the same manner and form as corporations are required to make such returns.

(4) Returns of estates and trusts

Returns of an estate, a trust, or an estate of an individual under chapter 7 or 11 of title 11 of the United States Code shall be made by the fiduciary thereof.

(5) Joint fiduciaries

Under such regulations as the Secretary may prescribe, a return made by one of two or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this paragraph shall contain a statement that the fiduciary has sufficient knowledge of the affairs of the person for whom the return is made to enable him to make the return, and that the return is, to the best of his knowledge and belief, true and correct.

(6) IRA share of partnership income

In the case of a trust which is exempt from

taxation under section 408(e), for purposes of this section, the trust's distributive share of items of gross income and gain of any partnership to which subchapter C or D of chapter 63 applies shall be treated as equal to the trust's distributive share of the taxable income of such partnership.

(c) Certain income earned abroad or from sale of residence

For purposes of this section, gross income shall be computed without regard to the exclusion provided for in section 121 (relating to gain from sale of principal residence) and without regard to the exclusion provided for in section 911 (relating to citizens or residents of the United States living abroad).

(d) Tax-exempt interest required to be shown on return

Every person required to file a return under this section for the taxable year shall include on such return the amount of interest received or accrued during the taxable year which is exempt from the tax imposed by chapter 1.

(e)

Consolidated returns

For provisions relating to consolidated returns by affiliated corporations, see chapter 6

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Sec. 6001. - Notice or regulations requiring records, statements, and special returns

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a)

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Sec. 6011. - General requirement of return, statement, or list

(a) General rule

When required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title, or with respect to the collection thereof, shall make a return or statement according to the forms and regulations prescribed by the Secretary. Every person required to make a return or statement shall include therein the information required by such forms or regulations.

(b) Identification of taxpayer

The Secretary is authorized to require such information with respect to persons subject to the taxes imposed by chapter 21 or chapter 24 as is necessary or helpful in securing proper identification of such persons.

(c) Returns, etc., of DISCS and former DISCS and FSC's and former FSC's

(1) Records and information

A DISC or former DISC or a FSC or former FSC shall for the taxable year -

(A)

furnish such information to persons who were shareholders at any time during such taxable year, and to the Secretary, and

(B)

keep such records, as may be required by regulations prescribed by the Secretary.

(2) Returns

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A DISC shall file for the taxable year such returns as may be prescribed by the Secretary by forms or regulations.

(d) Authority to require information concerning section 912 allowances

The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate.

(e) Regulations requiring returns on magnetic media, etc.

(1) In general

The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary.

(2) Requirements of regulations

In prescribing regulations under paragraph (1), the Secretary -

(A)

shall not require any person to file returns on magnetic media unless such person is required to file at least 250 returns during the calendar year, and

(B)

shall take into account (among other relevant factors) the ability of the taxpayer to comply at reasonable cost with the requirements of such regulations.

Notwithstanding the preceding sentence, the Secretary shall require partnerships having more than 100 partners to file returns on magnetic media.

(f) Promotion of electronic filing

(1) In general

The Secretary is authorized to promote the benefits of and encourage the use of electronic tax administration

programs, as they become available, through the use of mass communications and other means.

(2) Incentives

The Secretary may implement procedures to provide for the payment of appropriate incentives for electronically filed returns.

(g)

Income, estate, and gift taxes

For requirement that returns of income, estate, and gift taxes be made whether or not there is tax liability, see subparts B and C

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Sec. 6017. - Self-employment tax returns

Every individual (other than a nonresident alien individual) having net earnings from self-employment of $400 or more for the taxable year shall make a return with respect to the self-employment tax imposed by chapter 2. In the case of a husband and wife filing a joint return under section 6013, the tax imposed by chapter 2 shall not be computed on the aggregate income but shall be the sum of the taxes computed under such chapter on the separate self-employment income of each spouse

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Sec. 5005. - Persons liable for tax

(a) General

The distiller or importer of distilled spirits shall be liable for the taxes imposed thereon by section 5001(a)(1).

(b) Domestic distilled spirits

(1) Liability of persons interested in distilling

Every proprietor or possessor of, and every person in any manner interested in the use of, any still, distilling apparatus, or distillery, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom.

(2) Exception

A person owning or having the right of control of not more than 10 percent of any class of stock of a corporate proprietor of a distilled spirits plant shall not be deemed to be a person liable for the tax for which such proprietor is liable under the provisions of paragraph (1). This exception shall not apply to an officer or director of such corporate proprietor.

(c) Proprietors of distilled spirits plants

(1) Bonded storage

Every person operating bonded premises of a distilled spirits plant shall be liable for the internal revenue tax on all distilled spirits while the distilled spirits are stored on such premises, and on all distilled spirits which are in transit to such premises (from the time of removal from the transferor's bonded premises) pursuant to application made by him. Such liability for the tax on distilled spirits shall continue until the distilled spirits are transferred or withdrawn from bonded premises as authorized by law, or until such liability for tax is relieved by reason of the provisions of section 5008(a). Nothing in this paragraph shall relieve any person from any liability imposed by subsection (a) or (b).

(2) Transfers in bond

When distilled spirits are transferred in bond in accordance with the provisions of section 5212, persons liable for the tax on such spirits under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability, if proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and all persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, have divested themselves of all interest in the spirits so transferred. Such relief from

liability shall be effective from the time of removal from the transferor's bonded premises, or from the time of divestment of interest, whichever is later.

(d) Withdrawals free of tax

All persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability as to distilled spirits withdrawn free of tax under the provisions of section 5214(a)(1), (2), (3), (11), or (12), or under section 7510, at the time such spirits are so withdrawn from bonded premises.

(e) Withdrawals without payment of tax

(1) Liability for tax

Any person who withdraws distilled spirits from the bonded premises of a distilled spirits plant without payment of tax, as provided in section 5214(a)(4), (5), (6), (7), (8), (9), (10), or (13), shall be liable for the internal revenue tax on such distilled spirits, from the time of such withdrawal; and all persons liable for the tax on such distilled spirits under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall, at the time of such withdrawal, be relieved of any such liability on the distilled spirits so withdrawn if the person withdrawing such spirits and the person, or persons, liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and all persons

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liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, have divested themselves of all interest in the spirits so withdrawn.

(2) Relief from liability

All persons liable for the tax on distilled spirits under paragraph (1) of this subsection, or under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of any such liability at the time, as the case may be, the distilled spirits are exported, deposited in a foreign-trade zone, used in the production of wine, used in the production of nonbeverage wine or wine products, deposited in customs bonded warehouses, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, or used in certain research, development, or testing, as provided by law.

(f)

Cross references

(1)

For provisions requiring bond covering operations at, and withdrawals from, distilled spirits plants, see section 5173.

(2)

For provisions relating to transfer of tax liability to redistiller in case of redistillation, see section 5223.

(3)

For liability for tax on denatured distilled spirits, articles, and volatile fruit-flavor concentrates, see section 5001(a)(5) and (6).

(4)

For liability for tax on distilled spirits withdrawn free of tax, see section 5001(a)(4).

(5)

For liability of wine producer for unlawfully using wine spirits withdrawn for the production of wine, see section 5391.

(6)

For provisions relating to transfer of tax liability for wine, see section 5043(a)(1)(A)

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Sec. 5001. - Imposition, rate, and attachment of tax

(a) Rate of tax

(1) General

There is hereby imposed on all distilled spirits produced in or imported into the United States a tax at the rate of $13.50 on each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

(2) Products containing distilled spirits

All products of distillation, by whatever name known, which contain distilled spirits, on which the tax imposed by law has not been paid, and any alcoholic ingredient added to such products, shall be considered and taxed as distilled spirits.

(3) Wines containing more than 24 percent alcohol by volume

Wines containing more than 24 percent of alcohol by volume shall be taxed as distilled spirits.

(4) Distilled spirits withdrawn free of tax

Any person who removes, sells, transports, or uses distilled spirits, withdrawn free of tax under section 5214(a) or section 7510, in violation of laws or regulations now or hereafter in force pertaining thereto, and all such distilled spirits shall be subject to all provisions of law relating to distilled spirits subject to tax, including those requiring payment of the tax thereon; and the person so removing, selling, transporting, or using the distilled spirits shall be required to pay such tax.

(5) Denatured distilled spirits or articles

Any person who produces, withdraws, sells, transports, or uses denatured distilled spirits or articles in violation of laws or regulations now or hereafter in force pertaining thereto, and all such denatured distilled spirits or articles shall be subject to all provisions of law pertaining to distilled spirits that are not denatured, including those requiring the payment of tax thereon; and the person so producing, withdrawing, selling, transporting, or using the denatured distilled spirits or articles shall be required to pay such tax.

(6) Fruit-flavor concentrates

If any volatile fruit-flavor concentrate (or any fruit mash or juice from which such concentrate is produced) containing one-half of 1 percent or more of alcohol by volume, which is manufactured free from tax under section 5511, is sold, transported, or used by any person in violation of the provisions

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of this chapter or regulations promulgated thereunder, such person and such concentrate, mash, or juice shall be subject to all provisions of this chapter pertaining to distilled spirits and wines, including those requiring the payment of tax thereon; and the person so selling, transporting, or using such concentrate, mash, or juice shall be required to pay such tax.

(7) Imported liqueurs and cordials

Imported liqueurs and cordials, or similar compounds, containing distilled spirits, shall be taxed as distilled spirits.

(8) Imported distilled spirits withdrawn for beverage purposes

There is hereby imposed on all imported distilled spirits withdrawn from customs custody under section 5232 without payment of the internal revenue tax, and thereafter withdrawn from bonded premises for beverage purposes, an additional tax equal to the duty which would have been paid had such spirits been imported for beverage purposes, less the duty previously paid thereon.

(9) Alcoholic compounds from Puerto Rico

Except as provided in section 5314, upon bay rum, or any article containing distilled spirits, brought from Puerto Rico into the United States for consumption or sale there is hereby imposed a tax on the spirits contained therein at the rate imposed on distilled spirits produced in the United States.

(b) Time of attachment on distilled spirits

The tax shall attach to distilled spirits as soon as this substance is in existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.

(c)

Cross reference

For provisions relating to the tax on shipments to the United States of taxable articles from Puerto Rico and the Virgin Islands, see section 7652

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Sec. 5005. - Persons liable for tax

(a) General

The distiller or importer of distilled spirits shall be liable for the taxes imposed thereon by section 5001(a)(1).

(b) Domestic distilled spirits

(1) Liability of persons interested in distilling

Every proprietor or possessor of, and every person in any manner interested in the use of, any still, distilling apparatus, or distillery, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom.

(2) Exception

A person owning or having the right of control of not more than 10 percent of any class of stock of a corporate proprietor of a distilled spirits plant shall not be deemed to be a person liable for the tax for which such proprietor is liable under the provisions of paragraph (1). This exception shall not apply to an officer or director of such corporate proprietor.

(c) Proprietors of distilled spirits plants

(1) Bonded storage

Every person operating bonded premises of a distilled spirits plant shall be liable for the internal revenue tax on all distilled spirits while the distilled spirits are stored on such premises, and on all distilled spirits which are in transit to such premises (from the time of removal from the transferor's bonded premises) pursuant to application made by him. Such liability for the tax on distilled spirits shall continue until the distilled spirits are transferred or withdrawn from bonded premises as authorized by law, or

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until such liability for tax is relieved by reason of the provisions of section 5008(a). Nothing in this paragraph shall relieve any person from any liability imposed by subsection (a) or (b).

(2) Transfers in bond

When distilled spirits are transferred in bond in accordance with the provisions of section 5212, persons liable for the tax on such spirits under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability, if proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and all persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, have divested themselves of all interest in the spirits so transferred. Such relief from liability shall be effective from the time of removal from the transferor's bonded premises, or from the time of divestment of interest, whichever is later.

(d) Withdrawals free of tax

All persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability as to distilled spirits withdrawn free of tax under the provisions of section 5214 (a)(1), (2), (3), (11), or (12), or under section 7510, at the time such spirits are so withdrawn from bonded premises.

(e) Withdrawals without payment of tax

(1) Liability for tax

Any person who withdraws distilled spirits from the bonded premises of a distilled spirits plant without payment of tax, as provided in section 5214(a)(4), (5), (6), (7), (8), (9), (10), or (13), shall be liable for the internal revenue tax on such distilled spirits, from the time of such withdrawal; and all persons liable for the tax on such distilled spirits under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall, at the time of such withdrawal, be relieved of any such liability on the distilled spirits so withdrawn if the person withdrawing such spirits and the person, or persons, liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and all persons liable for the tax under subsection (a) or (b), or under any similar prior

provisions of internal revenue law, have divested themselves of all interest in the spirits so withdrawn.

(2) Relief from liability

All persons liable for the tax on distilled spirits under paragraph (1) of this subsection, or under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of any such liability at the time, as the case may be, the distilled spirits are exported, deposited in a foreign-trade zone, used in the production of wine, used in the production of nonbeverage wine or wine products, deposited in customs bonded warehouses, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, or used in certain research, development, or testing, as provided by law.

(f)

Cross references

(1)

For provisions requiring bond covering operations at, and withdrawals from, distilled spirits plants, see section 5173.

(2)

For provisions relating to transfer of tax liability to redistiller in case of redistillation, see section 5223.

(3)

For liability for tax on denatured distilled spirits, articles, and volatile fruit-flavor concentrates, see section 5001(a)(5) and (6).

(4)

For liability for tax on distilled spirits withdrawn free of tax, see section 5001(a)(4).

(5)

For liability of wine producer for unlawfully using wine spirits withdrawn for the production of wine, see section 5391.

(6)

For provisions relating to transfer of tax liability for wine, see section 5043(a)(1)(A)

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Sec. 5703. - Liability for tax and method of payment

(a) Liability for tax

(1) Original liability

The manufacturer or importer of tobacco products and cigarette papers and tubes shall be liable for the taxes imposed thereon by section 5701.

(2) Transfer of liability

When tobacco products and cigarette papers and tubes are transferred, without payment of tax, pursuant to section 5704, the liability for tax shall be transferred in accordance with the provisions of this paragraph. When tobacco products and cigarette papers and tubes are transferred between the bonded premises of manufacturers and export warehouse proprietors, the transferee shall become liable for the tax upon receipt by him of such articles, and the transferor shall thereupon be relieved of his liability for such tax. When tobacco products and cigarette papers and tubes are released in bond from customs custody for transfer to the bonded premises of a manufacturer of tobacco products or cigarette papers and tubes, the

transferee shall become liable for the tax on such articles upon release from customs custody, and the importer shall thereupon be relieved of his liability for such tax. All provisions of this chapter applicable to tobacco products and cigarette papers and tubes in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose.

(b) Method of payment of tax

(1) In general

The taxes imposed by section 5701 shall be determined at the time of removal of the tobacco products and cigarette papers and tubes. Such taxes shall be paid on the basis of return. The Secretary shall, by regulations, prescribe the period or the event for which such return shall be made and the information to be furnished on such return. Any postponement under this subsection of the payment of taxes determined at the time of removal shall be conditioned upon the filing of such additional bonds, and upon compliance with such requirements, as the Secretary may prescribe for the protection of the revenue. The Secretary may, by regulations, require payment of tax on the basis of a return prior to removal of the tobacco products and cigarette papers and tubes where a person defaults in the postponed payment of tax on the basis of a return under this subsection or regulations prescribed thereunder. All administrative and penalty provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5701.

(2) Time for payment of taxes

(A) In general

Except as otherwise provided in this paragraph, in the case of taxes on tobacco products and cigarette papers and tubes removed during any semimonthly period under bond for deferred payment of tax, the last day for payment of such taxes shall be the 14th day after the last day of such semimonthly period.

(B) Imported articles

In the case of tobacco products and cigarette papers and tubes which are imported into the United States -

(i) In general

The last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is entered into the customs territory of the United States.

(ii) Special rule for entry for warehousing

Except as provided in clause (iv), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the last day of the semimonthly period during which the article is removed from the 1st such warehouse.

(iii) Foreign trade zones

Except as provided in clause (iv) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

(iv) Exception for articles destined for export

Clauses (ii) and (iii) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

(C) Tobacco products and cigarette papers and tubes brought into the United States from Puerto Rico

In the case of tobacco products and cigarette papers and tubes which are brought into the United States from Puerto Rico, the last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is brought into the United States.

(D) Special rule for tax due in September

(i) In general

Notwithstanding the preceding provisions of this paragraph, the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 16 and ending on September 26 shall be paid not later

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than September 29.

(ii) Safe harbor

The requirement of clause (i) shall be treated as met if the amount paid not later than September 29 is not less than 11/15 of the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 1 and ending on September 15.

(iii) Taxpayers not required to use electronic funds transfer

In the case of payments not required to be made by electronic funds transfer, clauses (i) and (ii) shall be applied by substituting ''September 25'' for ''September 26'', ''September 28'' for ''September 29'', and '' 2/3'' for '' 11/15''.

(E) Special rule where due date falls on Saturday, Sunday, or holiday

Notwithstanding section 7503, if, but for this subparagraph, the due date under this paragraph would fall on a Saturday, Sunday, or a legal holiday (as defined in section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday (or the immediately following day where the due date described in subparagraph (D) falls on a Sunday).

(3) Payment by electronic fund transfer

Any person who in any 12-month period, ending December 31, was liable for a gross amount equal to or exceeding $5,000,000 in taxes imposed on tobacco products and cigarette papers and tubes by section 5701 (or 7652) shall pay such taxes during the succeeding calendar year by electronic fund transfer (as defined in section 5061(e)(2)) to a Federal Reserve Bank. Rules similar to the rules of section 5061(e)(3) shall apply to the $5,000,000 amount specified in the preceding sentence.

(c) Use of government depositaries

The Secretary may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed by this chapter, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, time, and condition under which the receipt of such tax by such banks and trust companies is to be treated as payment for tax purposes.

(d) Assessment

Whenever any tax required to be paid by this chapter is not paid in full at the time required for such payment, it shall be the duty of the Secretary, subject to the limitations prescribed in section 6501, on proof satisfactory to him, to determine the amount of tax which has been omitted to be paid, and to make an assessment therefor against the person liable for the tax. The tax so assessed shall be in addition to the penalties imposed by law for failure to pay such tax when required. Except

in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error, no such assessment shall be made until and after the person liable for the tax has been afforded reasonable notice and opportunity to show cause, in writing, against such assessment

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Sec. 5703. - Liability for tax and method of payment

(a) Liability for tax

(1) Original liability

The manufacturer or importer of tobacco products and cigarette papers and tubes shall be liable for the taxes imposed thereon by section 5701.

(2) Transfer of liability

When tobacco products and cigarette papers and tubes are transferred, without payment of tax, pursuant to section 5704, the liability for tax shall be transferred in accordance with the provisions of this paragraph. When tobacco products and cigarette papers and tubes are transferred between the bonded premises of manufacturers and export warehouse proprietors, the transferee shall become liable for the tax upon receipt by him of such articles, and the transferor shall thereupon be relieved of his liability for such tax. When tobacco products and cigarette papers and tubes are released in bond from customs custody for transfer to the bonded premises of a manufacturer of tobacco products or cigarette papers and tubes, the transferee shall become liable for the tax on such articles upon release from customs custody, and the importer shall thereupon be relieved of his liability for such tax. All provisions of this chapter applicable to tobacco products and cigarette papers and tubes in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose.

(b) Method of payment of tax

(1) In general

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The taxes imposed by section 5701 shall be determined at the time of removal of the tobacco products and cigarette papers and tubes. Such taxes shall be paid on the basis of return. The Secretary shall, by regulations, prescribe the period or the event for which such return shall be made and the information to be furnished on such return. Any postponement under this subsection of the payment of taxes determined at the time of removal shall be conditioned upon the filing of such additional bonds, and upon compliance with such requirements, as the Secretary may prescribe for the protection of the revenue. The Secretary may, by regulations, require payment of tax on the basis of a return prior to removal of the tobacco products and cigarette papers and tubes where a person defaults in the postponed payment of tax on the basis of a return under this subsection or regulations prescribed thereunder. All administrative and penalty provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5701.

(2) Time for payment of taxes

(A) In general

Except as otherwise provided in this paragraph, in the case of taxes on tobacco products and cigarette papers and tubes removed during any semimonthly period under bond for deferred payment of tax, the last day for payment of such taxes shall be the 14th day after the last day of such semimonthly period.

(B) Imported articles

In the case of tobacco products and cigarette papers and tubes which are imported into the United States -

(i) In general

The last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is entered into the customs territory of the United States.

(ii) Special rule for entry for warehousing

Except as provided in clause (iv), in the case of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the last day of the semimonthly period during which the article is removed from the 1st such warehouse.

(iii) Foreign trade zones

Except as provided in clause (iv) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

(iv) Exception for articles destined for export

Clauses (ii) and (iii) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

(C) Tobacco products and cigarette papers and tubes brought into the United States from Puerto Rico

In the case of tobacco products and cigarette papers and tubes which are brought into the United States from Puerto Rico, the last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is brought into the United States.

(D) Special rule for tax due in September

(i) In general

Notwithstanding the preceding provisions of this paragraph, the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

(ii) Safe harbor

The requirement of clause (i) shall be treated as met if the amount paid not later than September 29 is not less than 11/15 of the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 1 and ending on September 15.

(iii) Taxpayers not required to use electronic funds transfer

In the case of payments not required to be made by electronic funds transfer, clauses (i) and (ii) shall be applied by substituting ''September 25'' for ''September 26'', ''September 28'' for ''September 29'', and '' 2/3'' for '' 11/15''.

(E) Special rule where due date falls on Saturday,

Sunday, or holiday

Notwithstanding section 7503, if, but for this subparagraph, the due date under this paragraph would fall on a Saturday, Sunday, or a legal holiday (as defined in section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday (or the immediately following day where the due date described in subparagraph (D) falls on a Sunday).

(3) Payment by electronic fund transfer

Any person who in any 12-month period, ending December 31, was liable for a gross amount equal to or exceeding $5,000,000 in taxes imposed on tobacco products and cigarette papers and tubes by section 5701 (or 7652) shall pay such taxes during the succeeding calendar year by electronic fund transfer (as defined in section 5061(e)(2)) to a Federal Reserve Bank. Rules similar to the rules of section 5061(e)(3) shall apply to the $5,000,000 amount specified in the preceding sentence.

(c) Use of government depositaries

The Secretary may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed by this chapter, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, time, and condition under which the receipt of such tax by such banks and trust companies is to be treated as payment for tax purposes.

(d) Assessment

Whenever any tax required to be paid by this chapter is not paid in full at the time required for such payment, it shall be the duty of the Secretary, subject to the limitations prescribed in section 6501, on proof satisfactory to him, to determine the amount of tax which has been omitted to be paid, and to make an assessment therefor against the person liable for the tax. The tax so assessed shall be in addition to the penalties imposed by law for failure to pay such tax when required. Except in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error, no such assessment shall be made until and after the person liable for the tax has been afforded reasonable notice and opportunity to show cause, in writing, against such assessment

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Sec. 5701. - Rate of tax

(a) Cigars

On cigars, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) Small cigars

On cigars, weighing not more than 3 pounds per thousand, $1.828 cents per thousand ($1.594 cents per thousand on cigars removed during 2000 or 2001);

(2) Large cigars

On cigars weighing more than 3 pounds per thousand, a tax equal to 20.719 percent (18.063 percent on cigars removed during 2000 or 2001) of the price for which sold but not more than $48.75 per thousand ($42.50 per thousand on cigars removed during 2000 or 2001).

Cigars not exempt from tax under this chapter which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale.

(b) Cigarettes

On cigarettes, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) Small cigarettes

On cigarettes, weighing not more than 3 pounds per thousand, $19.50 per thousand ($17 per thousand on cigarettes removed during 2000 or 2001);

(2) Large cigarettes

On cigarettes, weighing more than 3 pounds per thousand, $40.95 per thousand ($35.70 per thousand on cigarettes removed during 2000 or 2001); except that, if more than 6 1/2 inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette.

(c) Cigarette papers

On cigarette papers, manufactured in or imported into the United States, there shall be imposed a tax of 1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001) for each 50 papers or fractional part thereof; except that, if cigarette papers measure more than 6 1/2 inches in length, they shall be taxable at the rate prescribed, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette paper.

(d) Cigarette tubes

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On cigarette tubes, manufactured in or imported into the United States, there shall be imposed a tax of 2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001) for each 50 tubes or fractional part thereof, except that if cigarette tubes measure more than 6 1/2 inches in length, they shall be taxable at the rate prescribed, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette tube.

(e) Smokeless tobacco

On smokeless tobacco, manufacturered [1] in or imported into the United States, there shall be imposed the following taxes: ''manufactured''.

(1) Snuff

On snuff, 58.5 cents (51 cents on snuff removed during 2000 or 2001) per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(2) Chewing tobacco

On chewing tobacco, 19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001) per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(f) Pipe tobacco

On pipe tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001) per pound (and a proportionate tax at the like rate

on all fractional parts of a pound).

(g) Roll-your-own tobacco

On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001) per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

(h) Imported tobacco products and cigarette papers and tubes

The taxes imposed by this section on tobacco products and cigarette papers and tubes imported into the United States shall be in addition to any import duties imposed on such articles, unless such import duties are imposed in lieu of internal revenue tax

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[1] So in original. Probably should be

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UNITED STATES CODE ANNOTATED

TITLE 26. INTERNAL REVENUE CODE

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CHAPTER 51--DISTILLED SPIRITS, WINES, AND BEER

SUBCHAPTER A--GALLONAGE AND OCCUPATIONAL TAXES

PART I--GALLONAGE TAXES

SUBPART A--DISTILLED SPIRITS

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Current through P.L. 107-11, approved 5-28-01

§ 5005. Persons liable for tax

(a) General.--The distiller or importer of distilled spirits shall be liable for the taxes imposed thereon by section 5001(a)(1).

(b) Domestic distilled spirits.--

(1) Liability of persons interested in distilling.--Every proprietor or possessor of, and every person in any manner interested in the use of, any still, distilling apparatus, or distillery, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced

therefrom.

(2) Exception.--A person owning or having the right of control of not more than 10 percent of any class of stock of a corporate proprietor of a distilled spirits plant shall not be deemed to be a person liable for the tax for which such proprietor is liable under the provisions of paragraph (1). This exception shall not apply to an officer or director of such corporate proprietor.

(c) Proprietors of distilled spirits plants.--

(1) Bonded storage.--Every person operating bonded premises of a distilled spirits plant shall be liable for the internal revenue tax on all distilled spirits while the distilled spirits are stored on such premises, and on all distilled spirits which are in transit to such premises (from the time of removal from the transferor's bonded premises) pursuant to application made by him. Such liability for the tax on distilled spirits shall continue until the distilled spirits are transferred or withdrawn from bonded premises as authorized by law, or until such liability for tax is relieved by reason of the provisions of section 5008(a). Nothing in this paragraph shall relieve any person from any liability imposed by subsection (a) or (b).

(2) Transfers in bond.--When distilled spirits are transferred in bond in accordance with the provisions of section 5212, persons liable for the tax on such spirits under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability, if proprietors of transferring and receiving premises are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and all persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, have divested themselves of all interest in the spirits so transferred. Such relief from liability shall be effective from the time of removal from the transferor's bonded premises, or from the time of divestment of interest, whichever is later.

(d) Withdrawals free of tax.--All persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of such liability as to distilled spirits withdrawn free of tax under the provisions of section 5214(a)(1), (2), (3), (11), or (12), or under section 7510, at the time such spirits are so withdrawn from bonded premises.

(e) Withdrawals without payment of tax.--

(1) Liability for tax.--Any person who withdraws distilled spirits from the bonded premises of a distilled spirits plant without payment of tax, as provided in section 5214(a)(4), (5), (6), (7), (8), (9), (10), or (13), shall be liable for the internal revenue tax on such distilled spirits, from the time of such withdrawal; and all persons liable for the tax on such distilled spirits

under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall, at the time of such withdrawal, be relieved of any such liability on the distilled spirits so withdrawn if the person withdrawing such spirits and the person, or persons, liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, are independent of each other and neither has a proprietary interest, directly or indirectly, in the business of the other, and all persons liable for the tax under subsection (a) or (b), or under any similar prior provisions of internal revenue law, have divested themselves of all interest in the spirits so withdrawn.

(2) Relief from liability.--All persons liable for the tax on distilled spirits under paragraph (1) of this subsection, or under subsection (a) or (b), or under any similar prior provisions of internal revenue law, shall be relieved of any such liability at the time, as the case may be, the distilled spirits are exported, deposited in a foreign-trade zone, used in the production of wine, used in the production of nonbeverage wine or wine products, deposited in customs bonded warehouses, laden as supplies upon, or used in the maintenance or repair of, certain vessels or aircraft, or used in certain research, development, or testing, as provided by law.

(f) Cross references.--

(1) For provisions requiring bond covering operations at, and withdrawals from, distilled spirits plants, see section 5173.

(2) For provisions relating to transfer of tax liability to redistiller in case of redistillation, see section 5223.

(3) For liability for tax on denatured distilled spirits, articles, and volatile fruit-flavor concentrates, see section 5001(a)(5) and (6).

(4) For liability for tax on distilled spirits withdrawn free of tax, see section 5001(a)(4).

(5) For liability of wine producer for unlawfully using wine spirits withdrawn for the production of wine, see section 5391.

(6) For provisions relating to transfer of tax liability for wine, see section 5043(a)(1)(A).

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(Added Pub.L. 85-859, Title II, § 201, Sept. 2, 1958, 72 Stat. 1318, and amended Pub.L. 94-

455, Title XIX, § 1905(a)(1), Oct. 4, 1976, 90 Stat. 1818; Pub.L. 95-176, § 4(b), (d), Nov. 14, 1977, 91 Stat. 1366; Pub.L. 96-39, Title VIII, § 807(a)(3), July 26, 1979, 93 Stat. 280; Pub.L. 96-223, Title II, § 232(e)(2)(D), Apr. 2, 1980, 94 Stat. 280; Pub.L. 98-369, Div. A, Title IV, § 455(b), July 18, 1984, 98 Stat. 823; Pub.L. 103-465, Title I, § 136(c)(2), Dec. 8, 1994, 108 Stat. 4841.)

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26 U.S.C.A. § 5703 I.R.C. § 5703

UNITED STATES CODE ANNOTATED

TITLE 26. INTERNAL REVENUE CODE

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AND REFUND AND DRAWBACK OF TAX

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Current through P.L. 107-11, approved 5-28-01

§ 5703. Liability for tax and method of payment

(a) Liability for tax.--

(1) Original liability.--The manufacturer or importer of tobacco products and cigarette papers and tubes shall be liable for the taxes imposed thereon by section 5701.

(2) Transfer of liability.--When tobacco products and cigarette papers and tubes are transferred, without payment of tax, pursuant to section 5704, the liability for tax shall be transferred in accordance with the provisions of this paragraph. When tobacco products and cigarette papers and tubes are transferred between the bonded premises of manufacturers and

export warehouse proprietors, the transferee shall become liable for the tax upon receipt by him of such articles, and the transferor shall thereupon be relieved of his liability for such tax. When tobacco products and cigarette papers and tubes are released in bond from customs custody for transfer to the bonded premises of a manufacturer of tobacco products or cigarette papers and tubes, the transferee shall become liable for the tax on such articles upon release from customs custody, and the importer shall thereupon be relieved of his liability for such tax. All provisions of this chapter applicable to tobacco products and cigarette papers and tubes in bond shall be applicable to such articles returned to bond upon withdrawal from the market or returned to bond after previous removal for a tax-exempt purpose.

(b) Method of payment of tax.--

(1) In general.--The taxes imposed by section 5701 shall be determined at the time of removal of the tobacco products and cigarette papers and tubes. Such taxes shall be paid on the basis of return. The Secretary shall, by regulations, prescribe the period or the event for which such return shall be made and the information to be furnished on such return. Any postponement under this subsection of the payment of taxes determined at the time of removal shall be conditioned upon the filing of such additional bonds, and upon compliance with such requirements, as the Secretary may prescribe for the protection of the revenue. The Secretary may, by regulations, require payment of tax on the basis of a return prior to removal of the tobacco products and cigarette papers and tubes where a person defaults in the postponed payment of tax on the basis of a return under this subsection or regulations prescribed thereunder. All administrative and penalty provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5701.

(2) Time for payment of taxes.--

(A) In general.--Except as otherwise provided in this paragraph, in the case of taxes on tobacco products and cigarette papers and tubes removed during any semimonthly period under bond for deferred payment of tax, the last day for payment of such taxes shall be the 14th day after the last day of such semimonthly period.

(B) Imported articles.--In the case of tobacco products and cigarette papers and tubes which are imported into the United States--

(i) In general.--The last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is entered into the customs territory of the United States.

(ii) Special rule for entry for warehousing.--Except as provided in clause (iv), in the case

of an entry for warehousing, the last day for payment of tax shall not be later than the 14th day after the last day of the semimonthly period during which the article is removed from the 1st such warehouse.

(iii) Foreign trade zones.--Except as provided in clause (iv) and in regulations prescribed by the Secretary, articles brought into a foreign trade zone shall, notwithstanding any other provision of law, be treated for purposes of this subsection as if such zone were a single customs warehouse.

(iv) Exception for articles destined for export.--Clauses (ii) and (iii) shall not apply to any article which is shown to the satisfaction of the Secretary to be destined for export.

(C) Tobacco products and cigarette papers and tubes brought into the United States from Puerto Rico.**--In the case of tobacco products and cigarette** papers and tubes which are brought into the United States from Puerto Rico, the last day for payment of tax shall be the 14th day after the last day of the semimonthly period during which the article is brought into the United States.

(D) Special rule for tax due in September.--

(i) In general.--Notwithstanding the preceding provisions of this paragraph, the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 16 and ending on September 26 shall be paid not later than September 29.

(ii) Safe harbor.--The requirement of clause (i) shall be treated as met if the amount paid not later than September 29 is not less than 11/15 of the taxes on tobacco products and cigarette papers and tubes for the period beginning on September 1 and ending on September 15.

(iii) Taxpayers not required to use electronic funds transfer.--In the case of payments not required to be made by electronic funds transfer, clauses (i) and (ii) shall be applied by substituting "September 25" for "September 26", "September 28" for "September 29", and " 2/3 " for " 11/15 ".

(E) Special rule where due date falls on Saturday, Sunday, or holiday.-- Notwithstanding section 7503, if, but for this subparagraph, the due date under this paragraph would fall on a Saturday, Sunday, or a legal holiday (as defined in section 7503), such due date shall be the immediately preceding day which is not a Saturday, Sunday, or such a holiday (or the immediately following day where the due date described in subparagraph (D) falls on a Sunday).

(3) Payment by electronic fund transfer.--Any person who in any 12-month period, ending December 31, was liable for a gross amount equal to or exceeding $5,000,000 in taxes imposed on tobacco products and cigarette papers and tubes by section 5701 (or 7652) shall pay such taxes during the succeeding calendar year by electronic fund transfer (as defined in section 5061(e)(2)) to a Federal Reserve Bank. Rules similar to the rules of section 5061(e)(3) shall apply to the $5,000,000 amount specified in the preceding sentence.

(c) Use of government depositaries.--The Secretary may authorize Federal Reserve banks, and incorporated banks or trust companies which are depositaries or financial agents of the United States, to receive any tax imposed by this chapter, in such manner, at such times, and under such conditions as he may prescribe; and he shall prescribe the manner, time, and condition under which the receipt of such tax by such banks and trust companies is to be treated as payment for tax purposes.

(d) Assessment.--Whenever any tax required to be paid by this chapter is not paid in full at the time required for such payment, it shall be the duty of the Secretary, subject to the limitations prescribed in section 6501, on proof satisfactory to him, to determine the amount of tax which has been omitted to be paid, and to make an assessment therefor against the person liable for the tax. The tax so assessed shall be in addition to the penalties imposed by law for failure to pay such tax when required. Except in cases where delay may jeopardize collection of the tax, or where the amount is nominal or the result of an evident mathematical error, no such assessment shall be made until and after the person liable for the tax has been afforded reasonable notice and opportunity to show cause, in writing, against such assessment.

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(Aug. 16, 1954, c. 736, 68A Stat. 707; Sept. 2, 1958, Pub.L. 85-859, Title II, § 202, 72 Stat. 1417; Oct. 4, 1976, Pub.L. 94-455, Title XIX, §§ 1905(a)(25), 1906(b)(13)(A), 90 Stat. 1821, 1834; Jan. 12, 1983, Pub.L. 97-448, Title III, § 308(a), 96 Stat. 2407; July 18, 1984, Pub.L. 98-369, Div. A, Title I, § 27(c)(2), 98 Stat. 509; Oct. 21, 1986, Pub.L. 99-509, Title VIII, § 8011(a)(1), 100 Stat. 1951; Oct. 22, 1986, Pub.L. 99-514, Title XVIII, § 1801(c)(2), 100 Stat. 2786; Nov. 10, 1988, Pub.L. 100-647, Title II, § 2003(b)(1)(C), (D), 102 Stat. 3598; Dec. 8, 1994, Pub.L. 103-465, Title VII, § 712(c), 108 Stat. 5000.)

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TITLE 26. INTERNAL REVENUE CODE

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CHAPTER 51--DISTILLED SPIRITS, WINES, AND BEER

SUBCHAPTER A--GALLONAGE AND OCCUPATIONAL TAXES

PART I--GALLONAGE TAXES

SUBPART A--DISTILLED SPIRITS

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Current through P.L. 107-11, approved 5-28-01

§ 5001. Imposition, rate, and attachment of tax

(a) Rate of tax.--

(1) General.--There is hereby imposed on all distilled spirits produced in or imported into the United States a tax at the rate of $13.50 on each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

(2) Products containing distilled spirits.--All products of distillation, by whatever name known, which contain distilled spirits, on which the tax imposed by law has not been paid, and

any alcoholic ingredient added to such products, shall be considered and taxed as distilled spirits.

(3) Wines containing more than 24 percent alcohol by volume.--Wines containing more than 24 percent of alcohol by volume shall be taxed as distilled spirits.

(4) Distilled spirits withdrawn free of tax.--Any person who removes, sells, transports, or uses distilled spirits, withdrawn free of tax under section 5214(a) or section 7510, in violation of laws or regulations now or hereafter in force pertaining thereto, and all such distilled spirits shall be subject to all provisions of law relating to distilled spirits subject to tax, including those requiring payment of the tax thereon; and the person so removing, selling, transporting, or using the distilled spirits shall be required to pay such tax.

(5) Denatured distilled spirits or articles.--Any person who produces, withdraws, sells, transports, or uses denatured distilled spirits or articles in violation of laws or regulations now or hereafter in force pertaining thereto, and all such denatured distilled spirits or articles shall be subject to all provisions of law pertaining to distilled spirits that are not denatured, including those requiring the payment of tax thereon; and the person so producing, withdrawing, selling, transporting, or using the denatured distilled spirits or articles shall be required to pay such tax.

(6) Fruit-flavor concentrates.--If any volatile fruit-flavor concentrate (or any fruit mash or juice from which such concentrate is produced) containing one-half of 1 percent or more of alcohol by volume, which is manufactured free from tax under section 5511, is sold, transported, or used by any person in violation of the provisions of this chapter or regulations promulgated thereunder, such person and such concentrate, mash, or juice shall be subject to all provisions of this chapter pertaining to distilled spirits and wines, including those requiring the payment of tax thereon; and the person so selling, transporting, or using such concentrate, mash, or juice shall be required to pay such tax.

(7) Imported liqueurs and cordials.--Imported liqueurs and cordials, or similar compounds, containing distilled spirits, shall be taxed as distilled spirits.

(8) Imported distilled spirits withdrawn for beverage purposes.--There is hereby imposed on all imported distilled spirits withdrawn from customs custody under section 5232 without payment of the internal revenue tax, and thereafter withdrawn from bonded premises for beverage purposes, an additional tax equal to the duty which would have been paid had such spirits been imported for beverage purposes, less the duty previously paid thereon.

(9) Alcoholic compounds from Puerto Rico.--Except as provided in section 5314, upon bay

rum, or any article containing distilled spirits, brought from Puerto Rico into the United States for consumption or sale there is hereby imposed a tax on the spirits contained therein at the rate imposed on distilled spirits produced in the United States.

[(10) Redesignated (9)]

(b) Time of attachment on distilled spirits.--The tax shall attach to distilled spirits as soon as this substance is in existence as such, whether it be subsequently separated as pure or impure spirits, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.

(c) Cross reference.--

For provisions relating to the tax on shipments to the United States of taxable articles from Puerto Rico and the Virgin Islands, see section 7652.

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(Added Pub.L. 85-859, Title II, § 201, Sept. 2, 1958, 72 Stat. 1313, and amended Pub.L. 86-75, § 3(a)(2), (3), June 30, 1959, 73 Stat. 157; Pub.L. 86- 564, Title II, § 202(a)(4), (5), June 30, 1960, 74 Stat. 290; Pub.L. 87-72, § 3(a)(4), (5), June 30, 1961, 75 Stat. 193; Pub.L. 87-508, § 3(a)(3), (4), June 28, 1962, 76 Stat. 114; Pub.L. 88-52, § 3(a)(4), (5), June 29, 1963, 77 Stat. 72; Pub.L. 88-348, § 2(a)(4), (5), June 30, 1964, 78 Stat. 237; Pub.L. 89-44, Title V, § 501(a), June 21, 1965, 79 Stat. 150; Pub.L. 96-39, Title VIII, §§ 802, 805(d), July 26, 1979, 93 Stat. 273, 278; Pub.L. 98-369, Div. A, Title I, § 27(a)(1), July 18, 1984, 98 Stat. 507; Pub.L. 101-508, Title XI, § 11201(a)(1), Nov. 5, 1990, 104 Stat. 1388-415; Pub.L. 103-465, Title I, § 136(a), Dec. 8, 1994, 108 Stat. 4841.)

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TITLE 26. INTERNAL REVENUE CODE

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SUBCHAPTER A--DEFINITIONS; RATE AND PAYMENT OF TAX; EXEMPTION FROM TAX;

AND REFUND AND DRAWBACK OF TAX

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Current through P.L. 107-11, approved 5-28-01

§ 5701. Rate of tax

(a) Cigars.--On cigars, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) Small cigars.--On cigars, weighing not more than 3 pounds per thousand, $1.828 cents per thousand ($1.594 cents per thousand on cigars removed during 2000 or 2001);

(2) Large cigars.--On cigars weighing more than 3 pounds per thousand, a tax equal to 20.719 percent (18.063 percent on cigars removed during 2000 or 2001) of the price for which sold but not more than $48.75 per thousand ($42.50 per thousand on cigars removed during

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2000 or 2001).

Cigars not exempt from tax under this chapter which are removed but not intended for sale shall be taxed at the same rate as similar cigars removed for sale.

(b) Cigarettes.--On cigarettes, manufactured in or imported into the United States, there shall be imposed the following taxes:

(1) Small cigarettes.--On cigarettes, weighing not more than 3 pounds per thousand, $19.50 per thousand ($17 per thousand on cigarettes removed during 2000 or 2001);

(2) Large cigarettes.--On cigarettes, weighing more than 3 pounds per thousand, $40.95 per thousand ($35.70 per thousand on cigarettes removed during 2000 or 2001); except that, if more than 6 1/2 inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette.

(c) Cigarette papers.--On cigarette papers, manufactured in or imported into the United States, there shall be imposed a tax of 1.22 cents (1.06 cent on cigarette papers removed during 2000 or 2001) for each 50 papers or fractional part thereof; except that, if cigarette papers measure more than 6 1/2 inches in length, they shall be taxable at the rate prescribed, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette paper.

(d) Cigarette tubes.--On cigarette tubes, manufactured in or imported into the United States, there shall be imposed a tax of 2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001) for each 50 tubes or fractional part thereof, except that if cigarette tubes measure more than 6 1/2 inches in length, they shall be taxable at the rate prescribed, counting each 2 3/4 inches, or fraction thereof, of the length of each as one cigarette tube.

(e) Smokeless tobacco.--On smokeless tobacco, manufacturered [FN1] in or imported into the United States, there shall be imposed the following taxes:

(1) Snuff.--On snuff, 58.5 cents (51 cents on snuff removed during 2000 or 2001) per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(2) Chewing tobacco.--On chewing tobacco, 19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001) per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(f) Pipe tobacco.--On pipe tobacco, manufactured in or imported into the United States, there

shall be imposed a tax of 1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001) per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

(g) Roll-your-own tobacco.--On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of $1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001) per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

(h) Imported tobacco products and cigarette papers and tubes.--The taxes imposed by this section on tobacco products and cigarette papers and tubes imported into the United States shall be in addition to any import duties imposed on such articles, unless such import duties are imposed in lieu of internal revenue tax.

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(Aug. 16, 1954, c. 736, 68A Stat. 705; Mar. 30, 1955, c. 18, § 3(a)(9), 69 Stat. 14; Mar. 29, 1956, c. 115, § 3(a)(9), 70 Stat. 66; Mar. 29, 1957, Pub.L. 85-12, § 3(a)(7), 71 Stat. 9; June 30, 1958, Pub.L. 85-475, § 3(a)(7), 72 Stat. 259; Sept. 2, 1958, Pub.L. 85-859, Title II, § 202, 72 Stat. 1414; June 30, 1959, Pub.L. 86-75, § 3(a)(7), 73 Stat. 157; June 30, 1960, Pub.L. 86-564, Title II, § 202(a)(9), 74 Stat. 290; Sept. 14, 1960, Pub.L. 86-779, § 1, 74 Stat. 998; June 30, 1961, Pub.L. 87-72, § 3(a)(9), 75 Stat. 193; June 28, 1962, Pub.L. 87-508, § 3(a)(8), 76 Stat. 114; June 29, 1963, Pub.L. 88-52, § 3(a)(9), 77 Stat. 72; June 30, 1964, Pub.L. 88-348, § 2(a)(9), 78 Stat. 237; June 21, 1965, Pub.L. 89-44, Title V, §§ 501(f), 502(a), 79 Stat. 150; Jan. 2, 1968, Pub.L. 90-240, § 4(a), 81 Stat. 776; Oct. 4, 1976, Pub.L. 94- 455, Title XIX, § 1905(a)(24), Title XXI, § 2128(a), 90 Stat. 1821, 1921; Sept. 3, 1982, Pub.L. 97-248, Title II, § 283(a), 96 Stat. 568; Apr. 7, 1986, Pub.L. 99-272, Title XIII, § 13202(a), 100 Stat. 311; Nov. 10, 1988, Pub.L. 100-647, Title V, § 5061(a), 102 Stat. 3679; Nov. 5, 1990, Pub.L. 101-508, Title XI, § 11202(a) to (f), 104 Stat. 1388-419; Aug. 5, 1997, Pub.L. 105-33, Title IX, § 9302(a) to (g)(1), (h)(3), 111 Stat. 671, 672, 674.)

[FN1] So in original. Probably should be "manufactured".

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26 U.S.C.A. § 6001 I.R.C. § 6001

UNITED STATES CODE ANNOTATED

TITLE 26. INTERNAL REVENUE CODE

SUBTITLE F--PROCEDURE AND ADMINISTRATION

CHAPTER 61--INFORMATION AND RETURNS

SUBCHAPTER A--RETURNS AND RECORDS

PART I--RECORDS, STATEMENTS, AND SPECIAL RETURNS

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Current through P.L. 107-11, approved 5-28-01

§ 6001. Notice or regulations requiring records, statements, and special returns

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts, records necessary to comply with section 6053(c), and copies of statements furnished by employees under section 6053(a).

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(Aug. 16, 1954, c. 736, 68A Stat. 731; Oct. 4, 1976, Pub.L. 94-455, Title XIX, § 1906(b)(13)(A), 90 Stat. 1834; Nov. 6, 1978, Pub.L. 95-600, Title V, § 501(a), 92 Stat. 2878; Sept. 3, 1982, Pub.L. 97-248, Title III, § 314(d), 96 Stat. 605.)

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Sec. 1461. - Liability for withheld tax

Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this chapter

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26 U.S.C.A. § 1461 I.R.C. § 1461

UNITED STATES CODE ANNOTATED

TITLE 26. INTERNAL REVENUE CODE

SUBTITLE A--INCOME TAXES

CHAPTER 3--WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS

SUBCHAPTER B--APPLICATION OF WITHHOLDING PROVISIONS

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Current through P.L. 107-11, approved 5-28-01

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Every person required to deduct and withhold any tax under this chapter is hereby made liable for such tax and is hereby indemnified against the claims and demands of any person for the amount of any payments made in accordance with the provisions of this chapter.

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1988 Main Volume

(Aug. 16, 1954, c. 736, 68A Stat. 360; Nov. 13, 1966, Pub.L. 89-809, Title I, § 103(i), 80 Stat. 1554.)

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25, 27; Anderson v. Biesman & Carrick Co., 287 Ill.App. 507, 4 N.E.2d 639, 640, 641.

Express authority. Authority delegated to agent by words which expressly authorize him to do a delegable act. Authority which is directly granted to or conferred upon agent in express terms. That authority which principal intentionally confers upon his agent by manifestations to him. Epstein v. Corporacion Peruana de Vapores, D.C.N.Y., 325 F.Supp. 535, 537.

That which confers power to do a particular identical thing set forth and declared exactly, plainly, and directly with well-defined limits. An authority given in direct terms, definitely and explicitly, and not left to inference or implication, as distinguished from authority which is general, implied, or not directly stated or given.

Express color. In old English law, an evasive form of special pleading in a case where the defendant ought to plead the general issue. Abolished by the common-law procedure act, 1852, 15 & 16 Vict., c. 76, § 64.

Express common-law dedication. *See* Dedication.

Express company. A firm or corporation engaged in the business of transporting parcels or other movable property, in the capacity of common carriers, and especially undertaking the safe carriage and speedy delivery of small but valuable packages of goods and money.

Express conditions. *See* Condition.

Express contract. *See* Contract.

Express dissatisfaction. Where will declares that any one expressing dissatisfaction with its provisions should forfeit his interest, "dissatisfaction" is legally "expressed" when beneficiary contests or objects in legal proceeding to enforcement of any provision of will.

Expressed. Means stated or declared in direct terms; set forth in words; not left to inference or implication. Anderson v. Board of Ed. of School Dist. No. 91, 390 Ill. 412, 61 N.E.2d 562, 567. *See* Express.

Expressio eorum quæ tacite insunt nihil operatur /əksprésh(iy)ow iyórəm kwiy tæsətiy ínsənt náy(h)əl òpəréytər/. The expression or express mention of those things which are tacitly implied avails nothing. A man's own words are void, when the law speaks as much. Words used to express what the law will imply without them are mere words of abundance.

Expression, freedom of. One of the basic freedoms guaranteed by the First Amendment of U.S.Const. and by most state constitutions. Such is equivalent to freedom of speech, press, or assembly.

Expressio unius est exclusio alterius /əksprésh(iy)ow yənáyəs èst əksklúwz(h)(i)yow òltəráyəs/. A maxim of statutory interpretation meaning that the expression of one thing is the exclusion of another. Burgin v. Forbes, 293 Ky. 456, 169 S.W.2d 321, 325; Newblock v. Bowles, 170 Okl. 487, 40 P.2d 1097, 1100. Mention of one thing implies exclusion of another. When certain persons or things are specified in a law, contract, or will, an intention to exclude all others from its operation may be inferred. Under this maxim, if statute specifies one exception to a general rule or assumes to specify the effects of a certain provision, other exceptions or effects are excluded.

Expressio unius personæ est exclusio alterius /əksprésh(iy)ow yənáyəs pərsówniy èst əksklúwz(h)(i)yow òltəráyəs/. The mention of one person is the exclusion of another.

Expressly. In an express manner, in direct or unmistakable terms; explicitly; definitely; directly. St. Louis Union Trust Co. v. Hill, 336 Mo. 17, 76 S.W.2d 685, 689. The opposite of impliedly. Bolles v. Toledo Trust Co., 144 Ohio St. 195, 58 N.E.2d 381, 396.

Express malice. Express malice for purposes of first degree murder includes malice, formed design or intention to kill or to do great bodily harm, and sedate and deliberate mind of which that intention is the product. State v. Gardner, 7 Storey 588, 203 A.2d 77, 80. As used with respect to libel, means publication of defamatory material in bad faith, without belief in the truth of the matter published, or with reckless disregard of the truth or falsity of the matter. Barlow v. International Harvester Co., 95 Idaho 881, 522 P.2d 1102, 1113. *See also* Malice.

Express permission. Within statute respecting automobile owner's liability, includes prior knowledge of intended use and affirmative and active consent thereto.

Express private trust. *See* Trust.

Express repeal. Abrogation or annulment of previously existing law by enactment of subsequent statute declaring that former law shall be revoked or abrogated.

Express republication. Occurs with respect to will when testator repeats ceremonies essential to valid execution, with avowed intention of republishing will.

Express request. That which occurs when one person commands or asks another to do or give something, or answers affirmatively when asked whether another shall do a certain thing.

Express terms. Within provision that qualified acceptance, in "express terms," varies effect of draft, "express terms" means clear, unambiguous, definite, certain, and unequivocal terms.

Express trust. *See* Trust.

Expressum facit cessare tacitum /əksprésəm féysət səsériy tæsətəm/. That which is expressed makes that which is implied to cease [that is, supersedes it, or controls its effect]. Thus, an implied covenant in a deed is in all cases controlled by an express covenant. Where a law sets down plainly its whole meaning the court is prevented from making it mean what the court pleases. Munro v. City of Albuquerque, 48 N.M. 306, 150 P.2d 733, 743.

Expressum servitium regat vel declaret tacitum /əksprésəm sərvísh(iy)əm ríygət vèl dèkləréərət tæsətəm/. Let service expressed rule or declare what is silent.

Express warranty. *See* Warranty.

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 the information; what major purposes we have in asking for it and how it will be used; what could happen if we do not receive it; and whether your response is voluntary, required to obtain a benefit, or mandatory under the law.

For the Internal Revenue Service, the laws include tax returns and any papers filed with them and any questions we need to ask you so we can complete, correct, or process your return; figure your tax; and collect tax, interest, or penalties.

Our legal right to ask for information is Internal Revenue Code sections 6001 and 6011 and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Your response is mandatory under these sections. Code section 6109 and its regulations say that you must show your social security number on what you file. This is so we know who you are, and can process your return and papers. You must fill in all parts of the tax form that apply to you. But you do not have to check the boxes for the Presidential Election Campaign Fund.

We ask for tax return information to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax.

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 states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. And we may give it to foreign governments because of tax treaties they have with the United States.

If you do not file a return, do not provide the information we ask for, or provide fraudulent information, the law provides that you may be charged penalties and, in certain cases, you may be subject to criminal prosecution. We may also have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on the tax return. This could make the tax higher or delay any refund. Interest may also be charged.

Please keep this notice with your records. It may help you if we ask you for other information. If you have questions about the rules for filing and giving information, please call or visit any Internal Revenue Service office.

1985 Earned Income Credit Table

Caution: This is Not a Tax Table

To find your earned income credit: Read down the column titled "If line 3 or 4 of the worksheet is—" and find the appropriate amount from the Earned Income Credit Worksheet on page 16. Read across to the right and find the amount of the earned income credit. Enter that amount on line 5 or 6 of the worksheet, whichever applies.

If line 3 or 4 of the worksheet is—		Your earned income credit is—	If line 3 or 4 of the worksheet is—		Your earned income credit is—	If line 3 or 4 of the worksheet is—		Your earned income credit is—	If line 3 or 4 of the worksheet is—		Your earned income credit is—	If line 3 or 4 of the worksheet is—		Your earned income credit is—
Over	But not over		Over	But not over		Over	But not over		Over	But not over		Over	But not over	
$0	$50	$3	$2,000	$2,050	$223	$4,000	$4,050	$443	$7,450	$7,500	$431	$9,450	$9,500	$186
50	100	8	2,050	2,100	228	4,050	4,100	448	7,500	7,550	425	9,500	9,550	180
100	150	14	2,100	2,150	234	4,100	4,150	454	7,550	7,600	419	9,550	9,600	174
150	200	19	2,150	2,200	239	4,150	4,200	459	7,600	7,650	413	9,600	9,650	168
200	250	25	2,200	2,250	245	4,200	4,250	465	7,650	7,700	406	9,650	9,700	162
250	300	30	2,250	2,300	250	4,250	4,300	470	7,700	7,750	400	9,700	9,750	156
300	350	36	2,300	2,350	256	4,300	4,350	476	7,750	7,800	394	9,750	9,800	150
350	400	41	2,350	2,400	261	4,350	4,400	481	7,800	7,850	388	9,800	9,850	144
400	450	47	2,400	2,450	267	4,400	4,450	487	7,850	7,900	382	9,850	9,900	138
450	500	52	2,450	2,500	272	4,450	4,500	492	7,900	7,950	376	9,900	9,950	131
500	550	58	2,500	2,550	278	4,500	4,550	498	7,950	8,000	370	9,950	10,000	125
550	600	63	2,550	2,600	283	4,550	4,600	503	8,000	8,050	364	10,000	10,050	119
600	650	69	2,600	2,650	289	4,600	4,650	509	8,050	8,100	358	10,050	10,100	113
650	700	74	2,650	2,700	294	4,650	4,700	514	8,100	8,150	351	10,100	10,150	107
700	750	80	2,700	2,750	300	4,700	4,750	520	8,150	8,200	345	10,150	10,200	101
750	800	85	2,750	2,800	305	4,750	4,800	525	8,200	8,250	339	10,200	10,250	95
800	850	91	2,800	2,850	311	4,800	4,850	531	8,250	8,300	333	10,250	10,300	89
850	900	96	2,850	2,900	316	4,850	4,900	536	8,300	8,350	327	10,300	10,350	83
900	950	102	2,900	2,950	322	4,900	4,950	542	8,350	8,400	321	10,350	10,400	76
950	1,000	107	2,950	3,000	327	4,950	5,000	547	8,400	8,450	315	10,400	10,450	70
1,000	1,050	113	3,000	3,050	333	5,000	6,500	550	8,450	8,500	309	10,450	10,500	64
1,050	1,100	118	3,050	3,100	338	6,500	6,550	547	8,500	8,550	303	10,500	10,550	58
1,100	1,150	124	3,100	3,150	344	6,550	6,600	541	8,550	8,600	296	10,550	10,600	52
1,150	1,200	129	3,150	3,200	349	6,600	6,650	535	8,600	8,650	290	10,600	10,650	46
1,200	1,250	135	3,200	3,250	355	6,650	6,700	529	8,650	8,700	284	10,650	10,700	40
1,250	1,300	140	3,250	3,300	360	6,700	6,750	523	8,700	8,750	278	10,700	10,750	34
1,300	1,350	146	3,300	3,350	366	6,750	6,800	516	8,750	8,800	272	10,750	10,800	28
1,350	1,400	151	3,350	3,400	371	6,800	6,850	510	8,800	8,850	266	10,800	10,850	21
1,400	1,450	157	3,400	3,450	377	6,850	6,900	504	8,850	8,900	260	10,850	10,900	15
1,450	1,500	162	3,450	3,500	382	6,900	6,950	498	8,900	8,950	254	10,900	10,950	9
1,500	1,550	168	3,500	3,550	388	6,950	7,000	492	8,950	9,000	248	10,950	10,999	3
1,550	1,600	173	3,550	3,600	393	7,000	7,050	486	9,000	9,050	241			
1,600	1,650	179	3,600	3,650	399	7,050	7,100	480	9,050	9,100	235			
1,650	1,700	184	3,650	3,700	404	7,100	7,150	474	9,100	9,150	229	**$11,000 or more—you cannot take the credit**		
1,700	1,750	190	3,700	3,750	410	7,150	7,200	468	9,150	9,200	223			
1,750	1,800	195	3,750	3,800	415	7,200	7,250	461	9,200	9,250	217			
1,800	1,850	201	3,800	3,850	421	7,250	7,300	455	9,250	9,300	211			
1,850	1,900	206	3,850	3,900	426	7,300	7,350	449	9,300	9,350	205			
1,900	1,950	212	3,900	3,950	432	7,350	7,400	443	9,350	9,400	199			
1,950	2,000	217	3,950	4,000	437	7,400	7,450	437	9,400	9,450	193			

U.S. Supreme Court

COMMISSIONER OF INTERNAL REVENUE v. ACKER, 361 U.S. 87 (1959)

361 U.S. 87

COMMISSIONER OF INTERNAL REVENUE v. ACKER.
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.
No. 13.
Argued October 19, 1959.
Decided November 16, 1959.

Under the Internal Revenue Code of 1939, the failure of a taxpayer, without reasonable cause, to file a declaration of estimated income tax, as required by 58, subjects him to the addition to the tax prescribed by 294 (d) (1) (A) for failure to file the declaration; but it does not subject him also to the addition to the tax prescribed by 294 (d) (2) for the filing of a "substantial underestimate" of his tax. Pp. 87-94. 258 F.2d 568, affirmed.

Ralph S. Spritzer argued the cause for petitioner. With him on the brief were Solicitor General Rankin, Assistant Attorney General Rice and Robert N. Anderson.

Fred N. Acker, respondent, argued the cause and filed a brief pro se.

MR. JUSTICE WHITTAKER delivered the opinion of the Court.

This case presents the question whether, under the Internal Revenue Code of 1939, the failure of a taxpayer to file a declaration of estimated income tax, as required by 58, 1 not only subjects him to the addition to the tax [361 U.S. 87, 88] prescribed by 294 (d) (1) (A) for failure to file the declaration, but also subjects him to the further addition to the tax prescribed by 294 (d) (2) for the filing of a "substantial underestimate" of his tax.

Section 294 (d) (1) (A) provides, in substance, that if a taxpayer fails to make and file "a declaration of estimated tax," within the time prescribed, there shall be added to the tax an amount equal to 5% of each installment due and unpaid, plus 1% of such

unpaid installments for each month except the first, not exceeding an aggregate of 10% of such unpaid installments. 2

Section 294 (d) (2), in pertinent part, provides:

> "(2) Substantial underestimate of estimated tax.
>
> "If 80 per centum of the tax (determined without regard to the credits under sections 32 and 35) . . . exceeds the estimated tax (increased by such credits), there shall be added to the tax an amount equal to [361 U.S. 87, 89] such excess, or equal to 6 per centum of the amount by which such tax so determined exceeds the estimated tax so increased, whichever is the lesser. . . ." 26 U.S.C. (1952 ed.) 294 (d) (2).

Section 29.294-1 (b) (3) (A) of Treasury Regulation 111, promulgated under the Internal Revenue Code of 1939, contains the statement that:

> "In the event of a failure to file the required declaration, the amount of the estimated tax for the purposes of [294 (d) (2)] is zero."

Respondent, without reasonable cause, failed to file a declaration of his estimated income tax for any of the years 1947 through 1950. The Commissioner imposed an addition to the tax for each of those years under 294 (d) (1) (A) for failure to file the declaration, and also imposed a further addition to the tax for each of those years under 294 (d) (2) for a "substantial underestimate" of the tax. The Tax Court sustained the Commissioner's imposition of both additions. The Court of Appeals affirmed with respect to the addition imposed for failure to file the declaration, but reversed with respect to the addition imposed for substantial underestimation of the tax, holding that 294 (d) (2) does not authorize the treatment of a taxpayer's failure to file a declaration of estimated tax as the equivalent of a declaration estimating no tax, and that the regulation, which purports to do so, is not supported by the statute and is invalid. 258 F.2d 568. Because of a conflict among the circuits 3 we [361 U.S. 87, 90] granted the Commissioner's petition for certiorari. 358 U.S. 940 .

The first and primary question that we must decide is whether there is any expressed or necessarily implied provision or language in 294 (d) (2) which authorizes the [361 U.S. 87, 91] treatment of a taxpayer's failure to file a declaration of estimated tax as, or the equivalent of, a declaration estimating his tax to be zero.

We are here concerned with a taxing Act which imposes a penalty. 4 The law is settled that "penal statutes are to be construed strictly," Federal Communications Comm'n v. American Broadcasting Co., 347 U.S. 284, 296 , and that one "is not to be subjected to a penalty unless the words of the statute plainly impose it," Keppel v. Tiffin Savings Bank, 197 U.S. 356, 362 . See, e. g., Tiffany v. National Bank of Missouri, 18 Wall. 409, 410; Elliott v. Railroad Co., 99 U.S. 573, 576 .

Viewing 294 (d) (2) in the light of this rule, we fail to find any expressed or necessarily implied provision or language that purports to authorize the treatment of a taxpayer's failure to file a declaration of estimated tax as, or the equivalent of, a declaration estimating his tax to be zero. This section contains no words or language [361 U.S. 87, 92] to that effect, and its implications look the other way. By twice mentioning, and predicating its application upon, "the estimated tax" the section seems necessarily to contemplate, and to apply only to, cases in which a declaration of "the estimated tax" has been made and filed. The fact that the section contains no basis or means for the computation of any addition to the tax in a case where no declaration has been filed would seem to settle the point beyond all controversy. If the section had in any appropriate words conveyed the thought expressed by the regulation it would thereby have clearly authorized the Commissioner to treat the taxpayer's failure to file a declaration as the equivalent of a declaration estimating his tax at zero and, hence, as constituting a "substantial underestimate" of his tax. But the section contains nothing to that effect, and, therefore, to uphold this addition to the tax would be to hold that it may be imposed by regulation, which, of course, the law does not permit. United States v. Calamaro, 354 U.S. 351, 359 ; Koshland v. Helvering, 298 U.S. 441, 446 -447; Manhattan Co. v. Commissioner, 297 U.S. 129, 134 .

The Commissioner points to the fact that both the Senate Report 5 which accompanied the bill that became the Current Tax Payment Act of 1943, 6 and the Conference Report 7 relating to that bill, contained the statement which was later embodied in the regulation. He then argues that by reading 294 (d) (2) in connection with that statement in those reports it becomes evident

[361 U.S. 87, 93] that Congress intended by 294 (d) (2) to treat the failure to file a declaration as the equivalent of a declaration estimating no tax. He urges us to give effect to the congressional intention which he thinks is thus disclosed. However, these reports pertained to the forerunner of the section with which we are now confronted, and not to that section itself. Bearing in mind that we are here concerned with an attempt to justify the imposition of a second penalty for the same omission for which Congress has specifically provided a separate and very substantial penalty, we cannot say that the legislative history of the initial enactment is so persuasive as to overcome the language of 294 (d) (2) which seems clearly to contemplate the filing of an estimate before there can be an underestimate.

The Commissioner next argues that the fact that Congress, with knowledge of the regulation, several times amended the 1939 Code but left 294 (d) (2) unchanged, shows that Congress approved the regulation, and that we should accordingly hold it to be valid. This argument is not persuasive, for it must be presumed that Congress also knew that the courts, except the Tax Court, had almost uniformly held that 294 (d) (2) does not authorize an addition to the tax in a case where no declaration has been filed, and that the regulation is invalid. 8 But the point is immaterial, for Congress could not add to or expand this statute by impliedly approving the regulation.

These considerations compel us to conclude that 294 (d) (2) does not authorize the treatment of a taxpayer's failure to file a declaration of estimated tax as the equivalent of a declaration estimating his tax to be zero. The questioned regulation must therefore be regarded "as [361 U.S. 87, 94] no more than an attempted addition to the statute of something which is not there." United States v. Calamaro, supra, 354 U.S., at 359 .

Affirmed.

Footnotes

[Footnote 1] Section 58, as amended, provides, in pertinent part, that: "Every individual . . . shall, at the time prescribed in subsection (d), make a declaration of his estimated tax for the taxable year if [his gross income from wages or other sources can reasonably be expected to exceed stated sums, showing] the amount which he estimates as the amount of tax under this chapter for the taxable year, without regard to any credits under Sections 32 and 35 for taxes withheld at source . . .; the amount which he estimates as [361 U.S. 87, 88] [such] credits . . .; and [that] the excess of the [estimated tax] over the [estimated credits] shall be considered the estimated tax for the taxable year." 26 U.S.C. (1952 ed.) 58.

[Footnote 2] Section 294 (d) (1) (A), as amended, provides, in pertinent part, that: "(A) Failure to file declaration. "In the case of a failure to make and file a declaration of estimated tax within the time prescribed . . . there shall be added to the tax 5 per centum of each installment due but unpaid, and in addition, with respect to each such installment due but unpaid, 1 per centum of the unpaid amount thereof for each month (except the first) or fraction thereof during which such amount remains unpaid. In no event shall the aggregate addition to the tax under this subparagraph with respect to any installment due but unpaid, exceed 10 per centum of the unpaid portion of such installment. For the purposes of this subparagraph the amount and due date of each installment shall be the same as if a declaration had been filed within the time prescribed showing an estimated tax equal to the correct tax reduced by the credits under sections 32 and 35." 26 U.S.C. (1952 ed.) 294 (d) (1) (A).

[Footnote 3] After the Sixth Circuit had delivered its opinion in this case but before it had decided the Commissioner's petition for rehearing, the Third Circuit, in Abbott v. Commissioner, 258 F.2d 537, and the Fifth Circuit, in Patchen v. Commissioner, 258 F.2d 544, held that the failure of a taxpayer to file a declaration of estimated tax subjected him not only to the "addition to the tax" imposed by [361 U.S. 87, 90] 294 (d) (1) (A) for failure to file a declaration, but also to the "addition to the tax" imposed by 294 (d) (2) for a "substantial underestimate" of his tax. Less than two months earlier, the Ninth Circuit, too, had so held in Hansen v. Commissioner, 258 F.2d 585. From the beginning of litigation involving the question here presented, a large majority of the published opinions of the District Courts have held that 294 (d) (2) does not authorize the treatment of a taxpayer's failure to file any declaration at all as the equivalent of a declaration estimating his tax to be zero, and that the regulation attempts to amend and extend the statute and is therefore invalid. See, e. g., United States v. Ridley, 120 F. Supp. 530, 538; United States v. Ridley, 127 F. Supp. 3, 11; Owen v. United States, 134 F. Supp. 31, 39, modified on another point sub nom. Knop v. United States, 234 F.2d 760; Powell v. Granquist, 146 F. Supp. 308, 312, aff'd, 252 F.2d 56; Hodgkinson v. United States, 57-1 U.S. T. C. 9294; Jones v. Wood, 151 F. Supp. 678; Glass v. Dunn, 56-2 U.S. T. C. 9840; Stenzel v. United States, 150 F. Supp. 364; Todd v. United States, 57-2 U.S. T. C. 9768; Erwin v. Granquist, 57-2 U.S. T. C. 9732, aff'd, 253 F.2d 26; Barnwell v. United

States, 164 F. Supp. 430. Three District Court opinions have held the other way, Palmisano v. United States, 159 F. Supp. 98; Farrow v. United States, 150 F. Supp. 581; and Peterson v. United States, 141 F. Supp. 382; and the Tax Court has consistently so held. See, e. g., Buckley v. Commissioner, 29 T. C. 455; Garsaud v. Commissioner, 28 T. C. 1086, 1090. The 1954 Internal Revenue Code has eliminated the question here presented as respects taxable years beginning after January 1, 1955, by providing for a single addition to the tax of 6% of the amount of underpayment, whether for failure to file a declaration of estimated tax or timely to pay the quarterly installments or for a substantial underestimation of the tax. 26 U.S.C. (1952 ed., Supp. V) 6654. But the question is still a live one because of the pendency of a substantial number of cases which arose under and are governed by the 1939 Code.

[Footnote 4] Although the Commissioner concedes that the addition to the tax imposed by 294 (d) (1) (A) for failure to file a declaration of estimated tax is a penalty, he contends that the addition to the tax imposed by 294 (d) (2) for substantial underestimation of the tax may not be so regarded. He attempts to support a distinction upon the ground that the amount of the addition imposed by 294 (d) (1) (A) of 5%, plus 1% per month of unpaid installments, not exceeding an aggregate of 10% of such unpaid installments, does not represent a normal interest rate, whereas, he argues, the addition of the maximum of 6% that may be imposed under 294 (d) (2) is a normal interest rate and should not be regarded as a penalty but as interest to compensate the Government for delayed payment. We think this argument is unsound, for both of the additions are imposed for the breach of statutory duty, and both are characterized by the same language. Each is stated in the respective sections to be an "addition to the tax" itself; and, being such, it cannot be interest. Moreover, being "addition[s] to the tax," both additions are themselves as subject to statutory interest as the remainder of the tax. 26 U.S.C. (1952 ed.) 292 (a).

[Footnote 5] S. Rep. No. 221, 78th Cong., 1st Sess., p. 42; 1943 Cum. Bull. 1314, 1345.

[Footnote 6] Section 5 (b) of the Current Tax Payment Act of 1943, c. 120, 57 Stat. 126, introduced into the 1939 Code what, as amended, is now 294 (d) (2) of that Code.

[Footnote 7] H. R. Conf. Rep. No. 510, 78th Cong., 1st Sess., p. 56; 1943 Cum. Bull. 1351, 1372.

[Footnote 8] See Note 3.

MR. JUSTICE FRANKFURTER, whom MR. JUSTICE CLARK and MR. JUSTICE HARLAN join, dissenting.

English courts would decide the case as it is being decided here. They would do so because English courts do not recognize the relevance of legislative explanations of the meaning of a statute made in the course of its enactment. If Parliament desires to put a gloss on the meaning of ordinary language, it must incorporate it in the text of legislation. See Plucknett, A Concise History of the Common Law (5th ed.), 330-336; Amos, The Interpretation of Statutes, 5 Camb. L. J. 163; Davies, The Interpretation of Statutes, 35 Col. L. Rev. 519; Lord Haldane in Viscountess Rhondda's Claim, 1922. 2 A. C. 339, 383-384. Quite otherwise has been the process of statutory construction practiced by this Court over the decades in scores and scores of cases. Congress can be the glossator of the words it legislatively uses either by writing its desired meaning, however odd, into the text of its enactment, or by a contemporaneously authoritative explanation accompanying a statute. The most authoritative form of such explanation is a congressional report defining the scope and meaning of proposed legislation. The most authoritative report is a Conference Report acted upon by both Houses and therefore unequivocally representing the will of both Houses as the joint legislative body.

No doubt to find failure to file a declaration of estimated income to be a "substantial underestimate" would be to attribute to Congress a most unlikely meaning for that phrase in 294 (d) (2) simpliciter. But if Congress chooses by appropriate means for expressing its [361 U.S. 87, 95] purpose to use language with an unlikely and even odd meaning, it is not for this Court to frustrate its purpose. The Court's task is to construe not English but congressional English. Our problem is not what do ordinary English words mean, but what did Congress mean them to mean. "It is said that when the meaning of language is plain we are not to resort to evidence in order to raise doubts. That is rather an axiom of experience than a rule of law, and does not preclude consideration of persuasive evidence if it exists." Boston Sand & Gravel Co. v. United States, 278 U.S. 41, 48 .

Here we have the most persuasive kind of evidence that Congress did not mean the language in controversy, however plain it may be to the ordinary user of English, to have the ordinary meaning. These provisions were first enacted in the Current Tax Payment Act of 1943, c. 120, 57 Stat. 126, as additions to 294 (a) of the Internal Revenue Code of 1939. The Conference Report,

H. R. Conf. Rep. No. 510, p. 56, and the Senate Report, S. Rep. No. 221, p. 42, both gave the provision dealing with substantial underestimation of taxes the following gloss:

> "In the event of a failure to file any declaration where one is due, the amount of the estimated tax for the purposes of this provision will be zero."

The revision of the section eight months later by the Revenue Act of 1943, c. 63, 58 Stat. 21, did not affect its substance, and this provision, therefore, continued to carry the original gloss. While the Court adverts to this congressional definition, it disregards its controlling significance. * [361 U.S. 87, 96]

I agree with the construction placed upon the provision by the Third, Fifth, and Ninth Circuits. Abbott v. Commissioner, 258 F.2d 537 (C. A. 3d Cir. 1958); Patchen v. Commissioner, 258 F.2d 544 (C. A. 5th Cir. 1958); Hansen v. Commissioner, 258 F.2d 585 (C. A. 9th Cir. 1958).

[Footnote *] The essential reliance of the Court is on its characterization of 294 (d) (2) as a penalty. No adequate justification for this exists. Section 294 (d) (2) on its face indicates that it is in the nature of [361 U.S. 87, 96] an interest charge, designed to compensate the Treasury for delay in receipt of funds which a reasonably accurate estimate would have disclosed to be due and owing. Significantly, this charge is imposed regardless of fault, while 294 (d) (1) (A), a true penalty provision, authorizes no addition to tax when the failure to file is shown "to be due to reasonable cause and not to willful neglect." Had taxpayer here had reasonable cause for failure to file, the 10% addition under 294 (d) (1) (A) could not have been imposed. Yet taxes would have been withheld by him pending the filing of a final return for the year. Section 294 (d) (2) provides the Government a definite means for ascertaining the compensation for this loss of funds. [361 U.S. 87, 97]

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U.S. Supreme Court

UNITED STATES v. CALAMARO, 354 U.S. 351 (1957)

354 U.S. 351

UNITED STATES v. CALAMARO.
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT.
No. 304.
Argued March 4, 1957.
Decided June 17, 1957.

A so-called "pick-up man" in a type of lottery called the "numbers game," who has no proprietary interest in the enterprise and acts merely as a messenger transmitting records of wagers from the "writer" (an agent who accepts wagers from the bettors) to the "banker" (the principal for whom the wagers are accepted), is not "engaged in receiving wagers for or on behalf of any person" within the meaning of Subchapter B of Chapter 27 A of the Internal Revenue Code of 1939, 26 U.S.C. (1952 ed.) 3290, and, therefore, is not subject to the annual $50 special occupational tax imposed by that Subchapter. Pp. 351-360.

236 F.2d 182, affirmed.

Leonard B. Sand argued the cause for the United States. On the brief were Solicitor General Rankin, Assistant Attorney General Olney, Beatrice Rosenberg and Julia P. Cooper.

Raymond J. Bradley argued the cause for respondent. With him on the brief was Edwin P. Rome.

MR. JUSTICE HARLAN delivered the opinion of the Court.

The question before us is whether the respondent, a so-called "pick-up man" in a type of lottery called the "numbers game," is subject to the annual $50 special occupational tax enacted by Subchapter B of Chapter 27A (Wagering Taxes) of the Internal Revenue Code of 1939, 65 Stat. 530, 26 U.S.C. 3285 et seq. [354 U.S. 351, 352]

As will be seen from the statute, whose material parts are printed in the margin, 1 this Chapter of the 1939 Code enacts two kinds of wagering taxes: (1) An excise tax, imposed by 3285 (d) on persons "engaged in the business of accepting wagers," and (2) a special occupational tax, imposed by 3290 not only on persons who are subject [354 U.S. 351, 353] to the excise tax, being "engaged in the business," but also on those who are "engaged in receiving wagers" on behalf of one subject to the excise tax. By definition the "numbers game" is among the wagering transactions included in the statute.

At the outset we must understand some professional gambling terminology which has been given us by the parties. A numbers game involves three principal functional types of individuals: (1) the "banker," who deals in the numbers and against whom the player bets; (2) the "writer," who, for the banker, does the actual selling of the numbers to the public, and who records on triplicate slips the numbers sold to each player and the amount of his wager; and (3) the "pick-up man," who collects wagering slips 2 from the writer and delivers them to the banker. If there are winnings to be distributed, the banker delivers the required amount to the writer, who in turn pays off the successful players.

The respondent here was a pick-up man for a Philadelphia banker, receiving for his services a salary of $40 a week, but having no proprietary interest in this numbers [354 U.S. 351, 354] enterprise. He was convicted, after a jury trial in the United States District Court for the Eastern District of Pennsylvania, of failing to pay the 3290 occupational tax, and was fined $1,000. 3 The Court of Appeals reversed by a divided court, 236 F.2d 182, and upon the Government's petition we granted certiorari, 352 U.S. 864 , to resolve the conflict between the decision below and that of the Court of Appeals for the Fifth Circuit in Sagonias v. United States, 223 F.2d 146, as to the scope of 3290. For reasons given hereafter we consider that the Court of Appeals in this case took the correct view of this statute.

The nub of the Court of Appeals' holding was put in the following language, with which we agree:

> "In normal usage of familiar language, `receiving wagers' is what someone on the `banking' side of gambling does in dealing with a bettor. Placing and receiving a wager are opposite sides of a single coin. You can't have one without the other. [The court here referred to the definition of "wager" contained in 3285 (b) (1) (C); note 1, supra.] Before the pick-up man enters the picture, in such a case as we have here, the wager has been received physically by the writer and, in legal contemplation, by the writer's principal as well. The government recognizes - and in an appropriate case no doubt would insist - that what the writer does in relation to the bettor amounts to `receiving a wager.' Thus, the government has to argue that the wager is received a second time when the writer hands the yellow slip to the pick-up man. But we think this ignores the very real difference between a wager and a record of a wagering transaction. It is the banking record and [354 U.S. 351, 355] not the wager which the pick-up man receives from the writer and transmits to the bank. The pick-up man no more receives wagers than a messenger, who carries records of customer transactions from a branch bank to a central office, receives deposits." 236 F.2d ___, at 184-185.

We do not think that either the language or purpose of this statute, as revealed by its legislative history, supports the position of the Government. When the phrase "receiving wagers" is read in conjunction with 3285 (b) (1), which defines "wager" in terms of the "placing" of a bet in connection with any of the kinds of wagering transactions embraced in the statute, 4 it seems evident that the Court of Appeals was quite correct in regarding the "placing" and "receiving" of a wager as being "opposite sides of a single coin." 5 In other words, we think that as used in 3290 the term "receiving" a wager is synonymous with "accepting" a wager; 6 that it is the making of a gambling contract, not the transportation of a piece of paper, to which the statute refers; and hence that, in such a case as this, it is the writer and not the pick-up man who is "engaged in receiving wagers" within the meaning of 3290. [354 U.S. 351, 356]

We consider the legislative history of the statute, such as it is, to be fully consistent with this interpretation of 3290. In the Senate and House Reports on the bill, it is stated:

> ". . . A person is considered to be in the business of accepting wagers if he is engaged as a principal who, in accepting wagers, does so on his own account. The principals in such transactions are commonly referred to as `bookmakers,' although it is not intended that any technical definition of `bookmaker,' such as the maintenance of a handbook or other device for the recording of wagers, be required. It is intended that a wager be considered as `placed' with a principal when it has been placed with another person acting for him. Persons who receive bets for principals are sometimes known as `bookmakers' agents' or as `runners.' . . .

. . . . .

> "As in the case of bookmaking transactions, a wager will be considered as `placed' in a pool or in a lottery whether placed directly with the person who conducts the pool or lottery or with another person acting for such a person." H. R. Rep. No. 586, 82d Cong., 1st Sess. 56; S. Rep. No. 781, 82d Cong., 1st Sess. 114 (emphasis added).

Again, in the case of a numbers game, this indicates that Congress regarded the "placing" of a wager as being complemented by its "receipt" by the banker or by one acting for him in that transaction, that is, the writer and not the pick-up man.

Nor, contrary to what the Government contends, can we see anything in the registration provisions of 3291 which points to the pick-up man as being considered a "receiver" of wagers. Those provisions simply provide that one liable for any tax imposed by the statute must [354 U.S. 351, 357] register his name and address with the collector of the district, and require in addition, (a) as to those subject to the 3285 excise tax, the registration of the name and address "of each person who is engaged in receiving wagers for him or on his behalf," and (b) as to those subject to the 3290 occupational tax, the registration of the name and address of each person for whom they are "engaged in receiving wagers." 7 It is doubtless true that these provisions, as well as the occupational tax itself, 8 were designed at least in part to facilitate collection of the excise tax. It is likewise plausible to suppose, as the Government suggests, that the more participants in a gambling enterprise are swept within these provisions, the more likely it is that information making possible the collection of excise taxes will be secured. The fact remains, however, that Congress did not choose to subject all employees of gambling enterprises to the tax and reporting requirements, but was content to impose them on persons actually "engaged in receiving wagers." Neither we nor the Commissioner may rewrite the statute simply because we may feel that the scheme it creates could be improved upon. 9 [354 U.S. 351, 358]

We can give no weight to the Government's suggestion that holding the pick-up man to be not subject to this tax will defeat the policy of the statute because its enactment was "in part motivated by a congressional desire to suppress wagering." 10 The statute was passed, and its constitutionality was upheld, as a revenue measure, United States v. Kahriger, 345 U.S. 22 , and, apart from all else, in construing it we would not be justified in resorting to collateral motives or effects which, standing apart from the federal taxing power, might place the constitutionality of the statute in doubt. See id., at 31.

Finally, the Government points to the fact that the Treasury Regulations relating to the statute purport to include the pick-up man among those subject to the 3290 tax, 11 and argues (a) that this constitutes an administrative interpretation to which we should give weight in construing the statute, particularly because (b) section 3290 was carried over in haec verba into 4411 of the Internal Revenue Code of 1954. We find neither argument persuasive. In light of the above discussion, [354 U.S. 351, 359] we cannot but regard this Treasury Regulation as no more than an attempted addition to the statute of something which is not there. 12 As such the regulation can furnish no sustenance to the statute. Koshland v. Helvering, 298 U.S. 441, 446 -447. Nor is the Government helped by its argument as to the 1954 Code. The regulation had been in effect for only three years, 13 and there is nothing to indicate that it was ever called to the attention of Congress. The re-enactment of 3290 in the 1954 Code was not accompanied by any congressional discussion which throws light on its intended scope. In such circumstances we consider the 1954 re-enactment to be without significance. Commissioner v. Glenshaw Glass Co., 348 U.S. 426 ,431.

In conclusion, we cannot accept the alternative reasoning of the dissenting judge below who, relying on that part of the opinion in Daley v. United States, 231 F.2d 123, 128, relating to the trial court's charge to the jury in a prosecution for failing to pay the 3285 excise tax, 14 [354 U.S. 351, 360] regarded the respondent's conviction here as sustainable also on the theory that he was a person "engaged in the business of accepting wagers" within the meaning of 3285 (d). The Government disclaims this ground for upholding the respondent's conviction, as indeed it must, in light of the unambiguous legislative history showing that the excise tax applies only to one who is "engaged in the business of accepting wagers" as a "principal . . . on his own account." 15 In this instance, that means the banker, as the Government concedes.

We hold, therefore, that the occupational tax imposed by 3290 does not apply to this respondent as a pick-up man, and that the judgment below must accordingly be

Affirmed.

MR. JUSTICE WHITTAKER took no part in the consideration or decision of this case.

Footnotes

[Footnote 1] "SUBCHAPTER A - TAX ON WAGERS "SEC. 3285. TAX. "(a) WAGERS. - There shall be imposed on wagers, as defined in subsection (b), an excise tax equal to 10 per centum of the amount thereof. "(b) DEFINITIONS. - For the purposes of this chapter - "(1) The term `wager' means (A) any wager with respect to a sports event or a contest placed with a person engaged in the business of accepting such wagers, (B) any wager placed in a wagering pool with respect to a sports event or a contest, if such pool is conducted for profit, and (C) any wager placed in a lottery conducted for profit. "(2) The term `lottery' includes the numbers game . . . . . "(d) PERSONS LIABLE FOR TAX. - Each person who is engaged in the business of accepting wagers shall be liable for and shall pay the tax under this subchapter on all wagers placed with him. Each person who conducts any wagering pool or lottery shall be liable for and shall pay the tax under this subchapter on all wagers placed in such pool or lottery. . . . . "SUBCHAPTER B - OCCUPATIONAL TAX "SEC. 3290. TAX. "A special tax of $50 per year shall be paid by each person who is liable for tax under subchapter A or who is engaged in receiving wagers for or on behalf of any person so liable. "SEC. 3291. REGISTRATION. "(a) Each person required to pay a special tax under this subchapter shall register with the collector of the district - "(1) his name and place of residence; "(2) if he is liable for tax under subchapter A, each place of business where the activity which makes him so liable is carried on, [354 U.S. 351, 353] and the name and place of residence of each person who is engaged in receiving wagers for him or on his behalf; and "(3) if he is engaged in receiving wagers for or on behalf of any person liable for tax under subchapter A, the name and place of residence of each such person. . . . . "SEC. 3294. PENALTIES. "(a) FAILURE TO PAY TAX. - Any person who does any act which makes him liable for special tax under this subchapter, without having paid such tax, shall, besides being liable to the payment of the tax, be fined not less than $1,000 and not more than $5,000." 65 Stat. 530, 26 U.S.C. 3285-3294.

[Footnote 2] The pick-up man collects the "yellow" copy. The "tissue" copy is given to the player when he places his bet, and the "white" copy is retained by the writer.

[Footnote 3] 137 F. Supp. 816.

[Footnote 4] See note 1, supra.

[Footnote 5] That the "placing" and "receiving" of a wager should be regarded as simply complementing one another is recognized by Treasury Regulations 132, 325.24 (a) of which states: ". . . Any wager or contribution received by an agent or employee on behalf of such person [one in the business of accepting wagers or operating a wagering pool or lottery] shall be considered to have been accepted by and placed with such person." 26 CFR, 1957 Cum. Pocket Supp., 325.24 (a).

[Footnote 6] Indeed, the information filed against the respondent, which charged him with failing to pay the 3290 occupational tax, alleged that he "did accept," not that he "did receive," wagers. 137 F. Supp., at 817, n. 1.

[Footnote 7] See note 1, supra.

[Footnote 8] H. R. Rep. No. 586, 82d Cong., 1st Sess. 60; S. Rep. No. 781, 82d Cong., 1st Sess. 118 (1951).

[Footnote 9] We do not consider as illuminating, on the issue before us, the statement in the House and Senate Reports cited in note 8, supra, to the effect that "Enforcement of a tax on wagers frequently will necessitate the tracing of transactions through complex business relationships, thus requiring the identification of the various steps involved." This general statement, not necessarily referring to the numbers game or to mere delivery systems, as distinguished from arrangements for the "lay-off" of bets by gambling principals, is not helpful in interpreting 3290 in relation to the numbers game and "pick-up men." Cf. Federal Communications Commission v. Columbia Broadcasting System of Calif., Inc., 311 U.S. 132, 136 . We think the same is true of the statements of Representative Reed, 97 [354 U.S. 351, 358] Cong. Rec. 6896, and of Senator Kefauver, 97 Cong. Rec. 12231-12232, relied on by the Government. The significance of Senator Kefauver's statement is further limited by the fact that he was an opponent of the bill. See Mastro Plastics Corp. v. Labor Board, 350 U.S. 270, 288 .

[Footnote 10] See 97 Cong. Rec. 6892, 12236, referred to in United States v. Kahriger, 345 U.S. 22, 27 , n. 3.

[Footnote 11] Treas. Reg. 132, 325.41, Example 2 (26 CFR, 1957 Cum. Pocket Supp.), which was issued on November 1, 1951 (16 Fed. Reg. 11211, 11222), provides as follows: "B operates a numbers game. He has an arrangement with ten persons, who are employed in various capacities, such as bootblacks, elevator operators, news dealers, etc., to receive wagers from the public on his behalf. B also employs a person to collect from his agents the wagers received on his behalf. "B, his ten agents, and the employee who collects the wagers received on his behalf are each liable for the special tax."

[Footnote 12] Apart from this, the force of this Treasury Regulation as an aid to the interpretation of the statute is impaired by its own internal inconsistency. Thus, while Example 2 of that regulation purports to make the pick-up man liable for the 3290 occupational tax, Example 1 of the same regulation provides that "a secretary and bookkeeper" of one "engaged in the business of accepting horse race bets" are not liable for the occupational tax "unless they also receive wagers" for the person so engaged in business, although those who "receive wagers by telephone" are so liable. Thus in this instance a distinction seems to be drawn between the "acceptance" of the wager, and its "receipt" for recording purposes. But if this be proper, it is not apparent why the same distinction is not also valid between a writer, who "accepts" or "receives" a bet from a numbers player, and a pick-up man, who simply "receives" a copy of the slips on which the writer has recorded the bet, and passes it along to the banker.

[Footnote 13] See note 11, supra.

[Footnote 14] See the dissenting judge's opinion below, 236 F.2d 182, 185-186. The sufficiency of the instructions to the jury in Daley apparently [354 U.S. 351, 360] was not challenged on appeal. In any event, the Daley case was not concerned with a pick-up man, nor was the legislative history quoted at p. 356, supra, brought to the court's attention. The court in the Sagonias case, supra, which accepted the Government's contention as to the meaning of "receiving wagers," rejected the construction of the statute embodied in the instructions to the jury quoted in Daley.

[Footnote 15] See p. 356, supra.

MR. JUSTICE BURTON, dissenting.

For the reasons stated in Sagonias v. United States, 223 F.2d 146, I believe that the respondent pickup man was "engaged in receiving wagers for and on behalf" of the banker, within the meaning of 3290 and 3291 (a) (3), and therefore was required to pay the occupational tax and to register not only his name and place of residence, but that of the banker. [354 U.S. 351, 361]

The language of 3290 does not limit the occupational tax to persons "accepting wagers" in a contractual sense. Instead, it imposes the tax on "each person . . . who is engaged in receiving wagers for or on behalf of any person so liable [for the excise tax]." Those words readily include a pickup man for he is engaged in receiving for the banker the slips which provide the banker with the sole evidence of the wagers made.

The legislative history contains specific references that indicate that the section was to apply to bookmakers' agents or runners. 1 It shows that the occupational tax was enacted not only as a revenue measure on its own account, but as a measure to help enforce the much larger excise tax placed by 3285 upon the principal operator of the gambling enterprise. 2 To this end, 3291 (a) (1) and (3) requires each person who is subject to the occupational tax to register not only his own name and place of residence, but also that of the person for whom he is receiving wagers. Registration of the pickup man aids the Government in tracking these gambling operations to their headquarters and is essential to the enforcement of the excise tax. Since the "receiving wagers" phrase in the registration provisions includes the pickup man, it must have the same meaning in the identical provisions imposing the occupational tax.

Furthermore, the administrative interpretation of 3290 is significant. Since the enactment of the section [354 U.S. 351, 362] in 1951, there has been in effect the following explanation of its scope in Treasury Regulations 132:

"Example (2). B. operates a numbers game. He has an arrangement with ten persons, who are employed in various

> capacities, such as bootblacks, elevator operators, news dealers, etc., to receive wagers from the public on his behalf. B also employs a person to collect from his agents the wagers received on his behalf.
>
> "B, his ten agents, and the employee who collects the wagers received on his behalf are each liable for the special tax." (Emphasis supplied.) 26 CFR, 1957 Cum. Pocket Supp., 325.41.

This regulation should not be disregarded unless shown to be plainly inconsistent with the statute. Commissioner v. Wheeler, 324 U.S. 542, 547 ; Brewster v. Gage, 280 U.S. 327, 336 . Moreover, Congress re-enacted 3290 in 1954 as 26 U.S.C. (Supp. II) 4411. It thus impliedly accepted this established interpretation of the scope of the section. Corn Products Refining Co. v. Commissioner, 350 U.S. 46, 53 ; Helvering v. Winmill, 305 U.S. 79, 83 .

[Footnote 1] H. R. Rep. No. 586, 82d Cong., 1st Sess. 56; S. Rep. No. 781, 82d Cong., 1st Sess. 114; 97 Cong. Rec. 6896 (Representative Reed); id., at 12231-12232 (Senator Kefauver). In this connection, it should be noted that the opinion of the court below states that "The `numbers banker', even as bankers and brokers in reputable commerce, employs salaried runners and messengers. These couriers are called `pick-up men.'" (Emphasis supplied.) 236 F.2d 182, 184.

[Footnote 2] H. R. Rep. No. 586, 82d Cong., 1st Sess. 60; S. Rep. No. 781, 82d Cong., 1st Sess. 118. [354 U.S. 351, 363]

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SCT (U.S. Supreme Court Cases)

80 S.Ct. 144

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(Cite as: 361 U.S. 87, 80 S.Ct. 144)

4 L.Ed.2d 127, 4 A.F.T.R.2d 5778, 59-2 USTC P 9757

Supreme Court of the United States

COMMISSIONER OF INTERNAL REVENUE, Petitioner,

v.

Fred N. ACKER.

No. 13.

Argued Oct. 19, 1959.

Decided Nov. 16, 1959.

Proceedings on petition for review of a decision of the Tax Court. The Court of Appeals for the Sixth Circuit, 258 F.2d 568, affirmed in part and reversed in part. On certiorari granted, the Supreme Court, Mr. Justice Whittaker, held that statute did not authorize treatment of taxpayer's failure to file declaration of estimated tax as the equivalent of a declaration estimating his tax to be zero, and that while failure to file declaration subjected him to addition to tax for failure to file it did not subject him to further addition for filing of a 'substantial underestimate' of tax.

Affirmed.

Mr. Justice Frankfurter, Mr. Justice Clark and Mr. Justice Harlan, dissented.

Date of Download: Sep 14, 2001

West Headnotes

[1] Federal Courts k457

170Bk457

(Formerly 106k383(1))

Even though 1954 Internal Revenue Code had eliminated question presented as respects taxable years beginning after January 1, 1955, question, as to whether, under Internal Revenue Code of 1939, failure of taxpayer to file declaration not only subjected him to addition to tax for failure to file declaration but also subjected him to further addition to tax for filing of "substantial underestimate" of tax, was still a live one where a substantial number of cases which arose under and were governed by 1939 Code were pending; and because of conflict among circuits, Supreme Court granted certiorari to determine issue. 26 U.S.C.A. (I.R.C.1939) § 294(d)(1)(A), (2); 26 U.S.C.A. (I.R.C.1954) § 6654.

[2] Internal Revenue k5215

220k5215

(Formerly 220k2341)

Both addition to tax imposed for failure to file declaration of estimated tax and addition to tax imposed for substantial underestimation of tax were "penalties", and Code provisions imposing same were required to be strictly construed. 26 U.S.C.A. (I.R.C.1939) §§ 58, 294(d)(1)(A), (2).

[3] Statutes k241(1)

361k241(1)

Penal statutes must be strictly construed.

[4] Statutes k241(1)

361k241(1)

One is not to be subjected to penalty unless words of statute plainly impose it.

[5] Internal Revenue k5201

220k5201

(Formerly 220k2331)

The law does not permit addition to tax to be imposed by regulation.

[6] Internal Revenue k4811

220k4811

(Formerly 220k153)

It would have to be presumed that Congress had known that courts, except Tax Court, had almost uniformly held (1) that Code subdivision did not authorize an addition to tax in case where no declaration had been filed, and (2) that regulation was invalid; and, therefore, it could not be inferred, from fact that Congress, with knowledge of regulation, had several times amended Code without changing Code section in question, that Congress approved regulation. 26 U.S.C.A. (I.R.C.1939) § 294(d)(2).

[7] Internal Revenue k4811

220k4811

(Formerly 220k153)

Congress could not add to or expand statute, imposing addition for substantial underestimation of tax, by impliedly approving regulation providing that failure to file declaration of estimated tax should be deemed equivalent of a declaration estimating tax to be zero. 26 U.S.C.A. (I.R.C.1939) § 294(d)(2).

[8] Internal Revenue k5215

220k5215

(Formerly 220k2341)

Statute did not authorize treatment of taxpayer's failure to file declaration of estimated tax as the equivalent of a declaration estimating his tax to be zero; and, while failure of taxpayer to

file declaration subjected him to addition to tax for failure to file, it did not subject him to further addition for filing of a "substantial underestimate" of tax; overruling Abbott v. Commissioner, 258 F.2d 537, Patchen v. Commissioner, 258 F.2d 544, Hansen v. Commissioner, 258 F.2d 585, Palmisano v. United States, 159 F.Supp. 98, Farrow v. United States, 150 F.Supp. 581, Peterson v. United States, 141 F.Supp. 382, Clarence F. Buckley, 29 T.C. 455, and Marcel Garsaud, 28 T.C. 1086, 26 U.S.C.A. (I.R.C.1939) § 294(d)(2).

**145 *87 Mr. Ralph S. Spritzer, Washington, D.C., for petitioner.

Mr. Fred N. Acker, pro se, for respondent.

Mr. Justice WHITTAKER delivered the opinion of the Court.

This case presents the question whether, under the Internal Revenue Code of 1939, the failure of a taxpayer to file a declaration of estimated income tax, as required by s 58, [FN1] not only subjects him to the addition to the tax *88 prescribed by s 294(d)(1)(A) for failure to file the declaration, but also subjects him to the further addition to the tax prescribed by s 294(d)(2) for the filing of a 'substantial underestimate' of his tax.

FN1. Section 58, as amended, provides, in pertinent part, that:

'Every individual * * * shall, at the time prescribed in subsection (d), make a declaration of his estimated tax for the taxable year if (his gross income from wages or other sources can reasonably be expected to exceed stated sums, showing) the amount which he estimates as the amount of tax under this chapter for the taxable year, without regard to any credits under Sections 32 and 35 for taxes withheld at source * * *; the amount which he estimates as (such) credits * * *; and (that) the excess of the (estimated tax) over the (estimated credits) shall be considered the estimated tax for the taxable year.' 26 U.S.C. (1952 ed.) s 58, 26 U.S.C.A. s 58.

Section 294(d)(1)(A) provides, in substance, that if a taxpayer fails to make and file 'a declaration of estimated tax,' within the time prescribed, there shall be added to the tax an amount equal to 5% of each installment due and unpaid, plus 1% of such unpaid installments for each month except the first, not exceeding an aggregate of 10% of such unpaid installments. [FN2]

FN2. Section 294(d)(1)(A), as amended, provides, in pertinent part, that:

'(A) Failure to file declaration.

'In the case of a failure to make and file a declaration of estimated tax within the time prescribed * * * there shall be added to the tax 5 per centum of each installment due but unpaid, and in addition, with respect to each such installment due but unpaid, 1 per centum of the unpaid amount thereof for each month (except the first) or fraction thereof during which such amount remains unpaid. In no event shall the aggregate addition to the tax under this subparagraph with respect to any installment due but unpaid, exceed 10 per centum of the unpaid portion of such installment. For the purposes of this subparagraph the amount and due date of each installment shall be the same as if a declaration had been filed within the time prescribed showing an estimated tax equal to the correct tax reduced by the credits under sections 32 and 35.' 26 U.S.C. (1952 ed.) s 294(d)(1)(A), 26 U.S.C.A. s 294(d)(1)(A).

Section 294(d)(2), in pertinent part, provides:

'(2) Substantial underestimate of estimated tax.

'If 80 per centum of the tax (determined without regard to the credits under sections 32 and 35) * * * exceeds the estimated tax (increased by such credits), there shall be added to the tax an amount **146 equal to *89 such excess, or equal to 6 per centum of the amount by which such tax so determined exceeds the estimated tax so increased, whichever is the lesser * * *.' 26 U.S.C. (1952 ed.) s 294(d)(2), 26 U.S.C.A. s 294(d)(2).

Section 29.294--1(b)(3)(A) of Treasury Regulation 111, promulgated under the Internal Revenue Code of 1939, contains the statement that:

'In the event of a failure to file the required declaration, the amount of the estimated tax for the purposes of (s 294(d)(2)) is zero.'

[1] Respondent, without reasonable cause, failed to file a declaration of his estimated income tax for any of the years 1947 through 1950. The Commissioner imposed an addition to the tax for each of those years under s 294(d)(1)(A) for failure to file the declaration, and also imposed a further addition to the tax for each of those years under s 294(d)(2) for a 'substantial underestimate' of the tax. The Tax Court sustained the Commissioner's imposition of both additions. The Court of Appeals affirmed with respect to the addition imposed for failure to file the declaration, but reversed with respect to the addition imposed for substantial underestimation of the tax, holding that s 294(d)(2) does not authorize the treatment of a taxpayer's failure to file a declaration of estimated tax as the equivalent of a declaration estimating no tax, and that the regulation, which purports to do so, is not supported by the statute and is invalid. 258 F.2d 568. Because of a conflict among the circuits [FN3] we *90 granted the Commissioner's petition for certiorari. 358 U.S. 940, 79 S.Ct. 346, 3 L.Ed.2d 348.

FN3. After the Sixth Circuit had delivered its opinion in this case but before it had decided the Commissioner's petition for rehearing, the Third Circuit, in Abbott v. Commissioner, 258 F.2d 537, and the Fifth Circuit, in Patchen v. Commissioner, 258 F.2d 544, held that the failure of a taxpayer to file a declaration of estimated tax subjected him not only to the 'addition to the tax' imposed by s 294(d)(1)(A) for failure to file a declaration, but also to the 'addition to the tax' imposed by s 294(d)(2) for a 'substantial underestimate' of his tax. Less than two months earlier, the Ninth Circuit, too, had so held in Hansen v. Commissioner, 258 F.2d 585.

From the beginning of litigation involving the question here presented, a large majority of the published opinions of the District Courts have held that s 294(d)(2) does not authorize the treatment of a taxpayer's failure to file any declaration at all as the equivalent of a declaration estimating his tax to be zero, and that the regulation attempts to amend and extend the statute and is therefore invalid. See, e.g., United States v. Ridley, D.C., 120 F.Supp. 530, 538; United States v. Ridley, D.C., 127 F.Supp. 3, 11; Owen v. United States, D.C., 134 F.Supp. 31, 39, modified on another point sub nom. Knop v. United States, 8 Cir., 234 F.2d 760; Powell v. Granquist, D.C., 146 F.Supp. 308, 312, affirmed 9 Cir., 252 F.2d 56; Hodgkinson v. United States, 57--1 U.S.T.C. 9294; Jones v. Wood, D.C., 151 F.Supp. 678; Glass v. Dunn, 56--2 U.S.T.C. 9840; Stenzel v. United States, D.C., 150 F.Supp. 364; Todd v. United States, 57--2 U.S.T.C. 9768; Erwin v. Granquist, 57--2 U.S.T.C. 9732, affirmed Erwin v. Cranquist, 9 Cir., 253 F.2d 26; Barnwell v. United States, D.C., 164 F.Supp. 430. Three District Court opinions have held the other way, Palmisano v. United States, 158 F.Supp. 98; Farrow v. United States, 150 F.Supp. 581; and Peterson v. United States, 141 F.Supp. 382; and the Tax Court has consistently so held. See, e.g., Buckley v. Commissioner, 29 T.C. 455; Garsaud v. Commissioner, 28 T.C. 1086, 1090.

The 1954 Internal Revenue Code has eliminated the question here presented as respects taxable years beginning after January 1, 1955, by providing for a single addition to the tax of 6% of the amount of underpayment, whether for failure to file a declaration of estimated tax or timely to pay the quarterly installmants or for a substantial underestimation of the tax. 26 U.S.C. (1952 ed., Supp. V) s 6654, 26 U.S.C.A. s 6654. But the question is still a live one because of the pendency of a substantial number of cases which arose under and are governed by the 1939 Code.

**147 The first and primary question that we must decide is whether there is any expressed or necessarily implied provision or language in s 294(d)(2) which authorizes the *91 treatment of a taxpayer's failure to file a declaration of estimated tax as, or the equivalent of, a declaration estimating his tax to be zero.

[2][3][4] We are here concerned with a taxing Act which imposes a penalty. [FN4] The law is settled that 'penal statutes are to be construed strictly,' Federal Communications Commission v.

American Broadcasting Co., 347 U.S. 284, 296, 74 S.Ct. 593, 601, 98 L.Ed. 699, and that one 'is not to be subject to a penalty unless the words of the statute plainly impose it,' Keppel v. Tiffin Savings Bank, 197 U.S. 356, 362, 25 S.Ct. 443, 445, 49 L.Ed. 790. See, e.g., Tiffany v. National Bank of Missouri, 18 Wall. 409, 410, 21 L.Ed. 862; Elliott v. Railroad Co., 99 U.S. 573, 576, 25 L.Ed. 292.

FN4. Although the Commissioner concedes that the addition to the tax imposed by s 294(d)(1)(A) for failure to file a declaration of estimated tax is a penalty, he contends that the addition to the tax imposed by s 294(d)(2) for substantial underestimation of the tax may not be so regarded. He attempts to support a distinction upon the ground that the amount of the addition imposed by s 294(d) (1)(A) of 5%, plus 1% per month of unpaid installments, not exceeding an aggregate of 10% of such unpaid installments, does not represent a normal interest rate, whereas, he argues, the addition of the maximum of 6% that may be imposed under s 294(d)(2) is a normal interest rate and should not be regarded as a penalty but as interest to compensate the Government for delayed payment.

We think this argument is unsound, for both of the additions are imposed for the breach of statutory duty, and both are characterized by the same language. Each is stated in the respective sections to be an 'addition to the tax' itself; and, being such, it cannot be interest. Moreover, being 'addition(s) to the tax,' both additions are themselves as subject to statutory interest as the remainder of the tax. 26 U.S.C. (1952 ed.) s 292(a), 26 U.S.C.A. s 292(a).

[5] Viewing s 294(d)(2) in the light of this rule, we fail to find any expressed or necessarily implied provision or language that purports to authorize the treatment of a taxpayer's failure to file a declaration of estimated tax as, or the equivalent of, a declaration estimating his tax to be zero. This section contains no words or language *92 to that effect, and its implications look the other way. By twice mentioning, and predicating its application upon, 'the estimated tax' the section seems necessarily to contemplate, and to apply only to, cases in which a declaration of 'the estimated tax' has been made and filed. The fact that the section contains no basis or means for the computation of any addition to the tax in a case where no declaration has been filed would seem to settle the point beyond all controversy. If the section had in any appropriate words conveyed the thought expressed by the regulation it would thereby have clearly authorized the Commissioner to treat the taxpayer's failure to file a declaration as the equivalent of a declaration estimating his tax at zero and, hence, as constituting a 'substantial underestimate' of his tax. But the section contains nothing to that effect, and, therefore, to uphold this addition to the tax would be to hold that it may be imposed by regulation, which, of course, the law does not permit. United States v. Calamaro, 354 U.S. 351, 359, 77 S.Ct. 1138, 1143, 1 L.Ed.2d 1394; Koshland v. Helvering, 298 U.S. 441, 446--447, 56 S.Ct. 767, 769--770, 80 L.Ed. 1268; Manhattan General Equipment Co. v. Commissioner, 297 U.S. 129, 134, 56 S.Ct. 397, 399, 80 L.Ed. 528.

The Commissioner points to the fact that both the Senate Report [FN5] which accompanied the bill that became the Current Tax Payment Act of 1943, [FN6] and the **148 Conference Report [FN7] relating to that bill, contained the statement which was later embodied in the regulation. He then argues that by reading s 294(d) (2) in connection with that statement in those reports it becomes evident *93 that Congress intended by s 294(d)(2) to treat the failure to file a declaration as the equivalent of a declaration estimating no tax. He urges us to give effect to the congressional intention which he thinks is thus disclosed. However, these reports pertained to the forerunner of the section with which we are now confronted, and not to that section itself. Bearing in mind that we are here concerned with an attempt to justify the imposition of a second penalty for the same omission for which Congress has specifically provided a separate and very substantial penalty, we cannot say that the legislative history of the initial enactment is so persuasive as to overcome the language of s 294(d)(2) which seems clearly to contemplate the filing of an estimate before there can be an underestimate.

FN5. S.Rep. No. 221, 78th Cong., 1st Sess., p. 42; 1943 Cum.Bull. 1314, 1345.

FN6. Section 5(b) of the Current Tax Payment Act of 1943, c. 120, 57 Stat. 126, introduced into the 1939 Code what, as amended, is now s 294(d)(2) of that Code.

FN7. H.R.Conf.Rep. No. 510, 78th Cong., 1st Sess., p. 56; 1943 Cum.Bull. 1351, 1372.

[6][7] The Commissioner next argues that the fact that Congress, with knowledge of the regulation, several times amended the 1939 Code but left s 294(d)(2) unchanged, shows that Congress approved the regulation, and that we should accordingly hold it to be valid. This argument is not persuasive, for it must be presumed that Congress also knew that the courts, except the Tax Court, had almost uniformly held that s 294(d)(2) does not authorize an addition to the tax in a case where no declaration has been filed, and that the regulation is invalid. [FN8] But the point is immaterial, for Congress could not add to or expand this statute by impliedly approving the regulation.

FN8. See Note 3.

[8] These considerations compel us to conclude that s 294(d)(2) does not authorize the treatment of a taxpayer's failure to file a declaration of estimated tax as the equivalent of a declaration estimating his tax to be zero. The questioned regulation must therefore be regarded 'as *94 no more than an attempted addition to the statute of something which is not there.' United States v. Calamaro, supra, 354 U.S. at page 359, 77 S.Ct. at page 1143.

Affirmed.

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Mr. Justice FRANKFURTER, whom Mr. Justice CLARK and Mr. Justice HARLAN join, dissenting.

English courts would decide the case as it is being decided here. They would do so because English courts do not recognize the relevance of legislative explanations of the meaning of a statute made in the course of its enactment. If Parliament desires to put a gloss on the meaning of ordinary language, it must incorporate it in the text of legislation. See Plucknett, A Concise History of the Common Law (5th ed.), 330--336; Amos, The Interpretation of Statutes, 5 Camb.L.J. 163; Davies, The Interpretation of Statutes, 35 Col.L.Rev. 519; Lord Haldane in Viscountiss Rhondda's Claim, (1922) 2 A.C. 339, 383--384. Quite otherwise has been the process of statutory construction practiced by this Court over the decades in scores and scores of cases. Congress can be the glossator of the words it legislatively uses either by writing its desired meaning, however odd, into the taxt of its enactment, or by a contemporaneously authoritative explanation accompanying a statute. The most authoritative form of such explanation is a congressional report defining the scope and meaning of proposed legislation. The most authoritative report is a Conference Report acted upon by both Houses and therefore unequivocally representing the will of both Houses as the joint legislative body.

**149 No doubt to find failure to file a declaration of estimated income to be a 'substantial underestimate' would be to attribute to Congress a most unlikely meaning for that phrase in s 294(d)(2) simpliciter. But if Congress chooses by appropriate means for expressing its *95 purpose to use language with an unlikely and even odd meaning, it is not for this Court to frustrate its purpose. The Court's task is to construe not English but congressional English. Our problem is not what do ordinary English words mean, but what did Congress mean them to mean. 'It is said that when the meaning of language is plain we are not to resort to evidence in order to raise doubts. That is rather an axiom of experience than a rule of law and does not preclude consideration of persuasive evidence if it exists.' Boston Sand & Gravel Co. v. United States, 278 U.S. 41, 48, 49 S.Ct. 52, 54, 73 L.Ed. 170.

Here we have the most persuasive kind of evidence that Congress did not mean the language in controversy, however plain it may be to the ordinary user of English, to have the ordinary meaning. These provisions were first enacted in the Current Tax Payment Act of 1943, c. 120, 57 Stat. 126, as additions to s 294(a) of the Internal Revenue Code of 1939. The Conference Report, H.R.Conf.Rep. No. 510, p. 56, and the Senate Report, S.Rep.No. 221, p. 42, both gave the provision dealing with substantial underestimation of taxes the following gloss:

'In the event of a failure to file any declaration where one is due, the amount of the estimated tax for the purposes of this provision will be zero.'

The revision of the section eight months later by the Revenue Act of 1943, c. 63, 58 Stat. 21,

did not affect its substance, and this provision, therefore, continued to carry the original gloss. While the Court adverts to this congressional definition, it disregards its controlling significance. [FN*]

FN* The essential reliance of the Court is on its characterization of s 294(d) (2) as a penalty. No adequate justification for this exists. Section 294(d)(2) on its face indicates that it is in the nature of an interest charge, designed to compensate the Treasury for delay in receipt of funds which a reasonably accurate estimate would have disclosed to be due and owing. Significantly, this charge is imposed regardless of fault, while s 294(d)(1)(A), a true penalty provision, authorizes no addition to tax when the failure to file is shown 'to be due to reasonable cause and not to willful neglect.' Had taxpayer here had reasonable cause for failure to file, the 10% addition under s 294(d) (1)(A) could not have been imposed. Yet taxes would have been withheld by him pending the filing of a final return for the year. Section 294(d)(2) provides the Government a definite means for ascertaining the compensation for this loss of funds.

*96 I agree with the construction placed upon the provision by the Third, Fifth, and Ninth Circuits. Abbott v. Commissioner, 3 Cir., 1958, 258 F.2d 537; Patchen v. Commissioner, 5 Cir., 1958, 258 F.2d 544; Hansen v. Commissioner, 9 Cir., 1958, 258 F.2d 585.

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United States v. Calamaro, 354 U.S. 351, 77 S.Ct. 1138 (1957).

Supreme Court of the United States

UNITED STATES of America, Petitioner,

v.

Victor CALAMARO.

No. 304.

Decided June 17, 1957.

Mr. Justice HARLAN delivered the opinion of the Court.

The question before us is whether the respondent, a so-called 'pick- up man' in a type of lottery called the 'numbers game,' is subject to the annual $50 special occupational tax enacted by Subchapter B of Chapter 27A (Wagering Taxes) of the Internal Revenue Code of 1939, 65 Stat. 529, 530, 26 U.S.C. § 3285 et seq., 26 U.S.C.A. § 3285 et seq.

As will be seen from the statute, whose material parts are printed in the margin, [FN1] this Chapter of the 1939 Code enacts two kinds of wagering taxes: (1) An excise tax, imposed by § 3285(d) on persons 'engaged in the business of accepting wagers,' and (2) a special occupational tax, imposed by § 3290 not only on persons who are subject to the excise tax, being 'engaged in the business,' but also on those who are 'engaged in receiving wagers' on behalf of one subject to the excise tax. By definition the 'numbers game' is among the wagering transactions included in the statute.

At the outset we must understand some professional gambling terminology which has been given us by the parties. A numbers game involves three principal functional types of individuals: (1) the 'banker,' who deals in the numbers and against whom the player bets; (2) the 'writer,' who, for the banker, does the actual selling of the numbers to the public, and who records on triplicate slips the numbers sold to each player and the amount of his wager; and (3) the 'pick-up man,' who collects wagering slips [FN2] from the writer and delivers them to the banker. If there are winnings to be distributed, the banker delivers the required amount to the writer, who in turn pays off the successful players.

The respondent here was a pick-up man for a Philadelphia banker, receiving for his services a salary of $40 a week, but having no proprietary interest in this numbers enterprise. He was

convicted, after a jury trial in the United States District Court for the Eastern District of Pennsylvania, of failing to pay the § 3290 occupational tax, and was fined $1,000. [FN3] The Court of Appeals reversed by a divided court, 236 F.2d 182, and upon the Government's petition we granted certiorari, 352 U.S. 864, 77 S.Ct. 97, 1 L.Ed.2d 75, to resolve the conflict between the decision below and that of the Court of Appeals for the Fifth Circuit in Sagonias v. United States, 223 F.2d 146, as to the scope of § 3290. For reasons given hereafter we consider that the Court of Appeals in this case took the correct view of this statute.

The nub of the Court of Appeals' holding was put in the following language, with which we agree:

> 'In normal usage of familiar language, 'receiving wagers' is what someone on the 'banking' side of gambling does in dealing with a bettor. Placing and receiving a wager are opposite sides of a single coin. You can't have one without the other. (The court here referred to the definition of 'wager' contained in § 3285(b)(1)(C); note 1, supra.) Before the pick-up man enters the picture, in such a case as we have here, the wager has been received physically by the writer and, in legal contemplation, by the writer's principal as well. The government recognizes--and in an appropriate case no doubt would insist--that what the writer does in relation to the bettor amounts to 'receiving a wager.' Thus, the government has to argue that the wager is received a second time when the writer hands the yellow slip to the pick-up man. But we think this ignores the very real difference between a wager and a record of a wagering transaction. It is the banking record and not the wager which the pick-up man receives from the writer and transmits to the bank. The pick-up man no more receives wagers than a messenger, who carries records of customer transactions from a branch bank to a central office, receives deposits.' 236 F.2d at pages 184--185.

We do not think that either the language or purpose of this statute, as revealed by its legislative history, supports the position of the Government. When the phrase 'receiving wagers' is read in conjunction with § 3285(b)(1), which defines 'wager' in terms of the 'placing' of a bet in connection with any of the kinds of wagering transactions embraced in the statute, [FN4] it seems evident that the Court of Appeals was quite correct in regarding the 'placing' and 'receiving' of a wager as being 'opposite sides of a single coin.' [FN5] In other words, we think that as used in § 3290 the term 'receiving' a wager is synonymous with 'accepting' a wager; [FN6] that it is the making of a gambling contract, not the transportation of a piece of paper, to which the statute refers; and hence that, in such a case as this, it is the writer and not the pick-up man who is 'engaged in receiving wagers' within the meaning of § 3290.

We consider the legislative history of the statute, such as it is, to be fully consistent with this

interpretation of § 3290. In the Senate and House Reports on the bill, it is stated:

> '* * * A person is considered to be in the business of accepting wagers if he is engaged as a principal who, in accepting wagers, does so on his own account. The principals in such transactions are commonly referred to as 'bookmakers,' although it is not intended that any technical definition of 'bookmaker,' such as the maintenance of a handbook or other device for the recording of wagers, be required. It is intended that a wager be considered as 'placed' with a principal when it has been placed with another person acting for him. Persons who receive bets for principals are sometimes known as 'bookmakers' agents' or as 'runners.' * * *

'As in the case of bookmaking transactions, a wager will be considered as 'placed' in a pool or in a lottery whether placed directly with the person who conducts the pool or lottery or with another person acting for such a person.' H.R.Rep. No. 586, 82d Cong., 1st Sess. 56; S.Rep. No. 781, 82d Cong., 1st Sess. 114, U.S.Code Congressional and Administrative News 1951, vol. 2, p. 2091 (emphasis added).

Again, in the case of a numbers game, this indicates that Congress regarded the 'placing' or a wager as being complemented by its 'receipt' by the banker or by one acting for him in that transaction, that is, the writer and not the pick-up man.

Nor, contrary to what the Government contends, can we see anything in the registration provisions of § 3291 which points to the pick-up man as being considered a 'receiver' of wagers. Those provisions simply provide that one liable for any tax imposed by the statute must register his name and address with the collector of the district, and require in addition, (a) as to those subject to the § 3285 excise tax, the registration of the name and address 'of each person who is engaged in receiving wagers for him or on his behalf,' and (b) as to those subject to the § 3290 occupational tax, the registration of the name and address of each person for whom they are 'engaged in receiving wagers.' [FN7] It is doubtless true that these provisions, as well as the occupational tax itself, [FN8] were designed at least in part to facilitate collection of the excise tax. It is likewise plausible to suppose, as the Government suggests, that the more participants in a gambling enterprise are swept within these provisions, the more likely it is that information making possible the collection of excise taxes will be secured. The fact remains, however, that Congress did not choose to subject all employees of gambling enterprises to the tax and reporting requirements, but was content to impose them on persons actually 'engaged in receiving wagers.' Neither we nor the Commissioner may rewrite the statute simply because we may feel that the scheme it creates could be improved upon. [FN9]

We can give no weight to the Government's suggestion that holding the pick-up man to be no subject to this tax will defeat the policy of the statute because its enactment was 'in part

motivated by a congressional desire to suppress wagering.' [FN10] The statute was passed, and its constitutionality was upheld, as a revenue measure, United States v. Kahriger, 345 U.S. 22, 73 S.Ct. 510, 97 L.Ed. 754, and, apart from all else, in construing it we would not be justified in resorting to collateral motives or effects which, standing apart from the federal taxing power, might place the constitutionality of the statute in doubt. See Id., 345 U.S. at page 31, 73 S.Ct. at page 514.

Finally, the Government points to the fact that the Treasury Regulations relating to the statute purport to include the pick-up man among those subject to the § 3290 tax, [FN11] and argues (a) that this constitutes an administrative interpretation to which we should give weight in construing the statute, particularly because (b) section 3290 was carried over in haec verba into § 4411 of the Internal Revenue Code of 1954, 26 U.S.C.A. § 4411. We find neither argument persuasive. In light of the above discussion, we cannot but regard this Treasury Regulation as no more than an attempted addition to the statute of something which is not there. [FN12] As such the regulation can furnish no sustenance to the statute. Koshland v. Helvering, 298 U.S. 441, 446--447, 56 S.Ct. 767, 769--770, 80 L.Ed. 1268. Nor is the Government helped by its argument as to the 1954 Code. The regulation had been in effect for only three years, [FN13] and there is nothing to indicate that it was ever called to the attention of Congress. The re-enactment of § 3290 in the 1954 Code was not accompanied by any congressional discussion which throws light on its intended scope. In such circumstances we consider the 1954 re-enactment to be without significance. Commissioner of Internal Revenue v. Glenshaw Glass Co., 348 U.S. 426, 431, 75 S.Ct. 473, 476, 99 L.Ed. 483.

In conclusion, we cannot accept the alternative reasoning of the dissenting judge below who, relying on that part of the opinion in Daley v. United States, 1 Cir., 231 F.2d 123, 128, relating to the trial court's charge to the jury in a prosecution for failing to pay the § 3285 excise tax, [FN14] regarded the respondent's conviction here as sustainable also on the theory that he was a person 'engaged in the business of accepting wagers' within the meaning of § 3285(d). The Government disclaims this ground for upholding the respondent's conviction, as indeed it must, in light of the unambiguous legislative history showing that the excise tax applies only to one who is 'engaged in the business of accepting wagers' as a 'principal * * * on his own account.' [FN15] In this instance, that means the banker, as the Government concedes.

We hold, therefore, that the occupational tax imposed by § 3290 does not apply to this respondent as a pick-up man, and that the judgment below must accordingly be affirmed.

Affirmed.

Mr. Justice WHITTAKER took no part in the consideration or decision of this case.

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Mr. Justice BURTON, dissenting.

For the reasons stated in Sagonias v. United States, 5 Cir., 223 F.2d 146, I believe that the respondent pickup man was 'engaged in receiving wagers for and on behalf' of the banker, within the meaning of §§ 3290 and 3291(a)(3), and therefore was required to pay the occupational tax and to register not only his name and place of residence, but that of the banker.

The language of § 3290 does not limit the occupational tax to persons 'accepting wagers' in a contractual sense. Instead, it imposes the tax on 'each person * * * who is engaged in receiving wagers for or on behalf of any person so liable (for the excise tax).' Those words readily include a pickup man for he is engaged in receiving for the banker the slips which provide the banker with the sole evidence of the wagers made.

The legislative history contains specific references that indicate that the section was to apply to bookmakers' agents or runners. [FN1] It shows that the occupational tax was enacted not only as a revenue measure on its own account, but as a measure to help enforce the much larger excise tax placed by § 3285 upon the principal operator of the gambling enterprise. [FN2] To this end, § 3291(a)(1) and (3) requires each person who is subject to the occupational tax to register not only his own name and place of residence, but also that of the person for whom he is receiving wagers. Registration of the pickup man aids the Government in tracking these gambling operations to their headquarters and is essential to the enforcement of the excise tax. Since the 'receiving wagers' phrase in the registration provisions includes the pickup man, it must have the same meaning in the identical provisions imposing the occupational tax.

Furthermore, the administrative interpretation of § 3290 is significant. Since the enactment of the section in 1951, there has been in effect the following explanation of its scope in Treasury Regulations 132:

> 'Example (2). B operates a numbers game. He has an arrangement with ten persons, who are employed in various capacities, such as bootblacks, elevator operators, news dealers, etc., to receive wagers from the public on his behalf. B also employs a person to collect from his agents the wagers received on his behalf.
>
> 'B, his ten agents, and the employee who collects the wagers received on his behalf are each liable for the special tax.' (Emphasis supplied.) 26 CFR, 1957 Cum. Pocket Supp., § 325.41.

This regulation should not be disregarded unless shown to be plainly inconsistent with the statute. Commissioner of Internal Revenue v. Wheeler, 324 U.S. 542, 547, 65 S.Ct. 799, 802,

89 L.Ed. 1166; Brewster v. Gage, 280 U.S. 327, 336, 50 S.Ct. 115, 117, 74 L.Ed. 457. Moreover, Congress re-enacted § 3290 in 1954 as 26 U.S.C. (Supp. II) § 4411, 26 U.S.C.A. § 4411. It thus impliedly accepted this established interpretation of the scope of the section. Corn Products Refining Co. v. Commissioner of Internal Revenue, 350 U.S. 46, 53, 76 S.Ct. 20, 24, 100 L.Ed. 29; Helvering v. Winmill, 305 U.S. 79, 83, 59 S.Ct. 45, 46, 83 L.Ed. 52.

Footnotes:

Majority opinion:

FN1. 'Subchapter A--Tax on Wagers

§ 3285. Tax

'(a) Wagers. There shall be imposed on wagers, as defined in subsection (b), an excise tax equal to 10 per centum of the amount thereof.

'(b) Definitions. For the purposes of this chapter--

'(1) The term 'wager' means (A) any wager with respect to a sports event or a contest placed with a person engaged in the business of accepting such wagers, (B) any wager placed in a wagering pool with respect to a sports event or a contest, if such pool is conducted for profit, and (C) any wager placed in a lottery conducted for profit.

'(2) The term 'lottery' includes the numbers game * * *.

'(d) Persons liable for tax. Each person who is engaged in the business of accepting wagers shall be liable for and shall pay the tax under this subchapter on all wagers placed with him. Each person who conducts any wagering pool or lottery shall be liable for and shall pay the tax under this subchapter on all wagers placed in such pool or lottery.

'Subchapter B--Occupational Tax

§ 3290. Tax

'A special tax of $50 per year shall be paid by each person who is liable for tax under subchapter A or who is engaged in receiving wagers for or on behalf of any person so liable.

§ 3291. Registration

'(a) Each person required to pay a special tax under this subchapter shall register with the collector of the district--

'(1) his name and place of residence;

'(2) if he is liable for tax under subchapter A, each place of business where the activity which makes him so liable is carried on, and the name and place of residence of each person who is engaged in receiving wagers for him or on his behalf; and

'(3) if he is engaged in receiving wagers for or on behalf of any person liable for tax under subchapter A, the name and place of residence of each such person.

§ 3294. Penalties

'(a) Failure to pay tax. Any person who does any act which makes him liable for special tax under this subchapter, without having paid such tax, shall, besides being liable to the payment of the tax, be fined not less than $1,000 and not more than $5,000.' 65 Stat. 529, 530, 26 U.S.C. §§ 3285--3294, 26 U.S.C.A. §§ 3285--3294.

FN2. The pick-up man collects the 'yellow' copy. The 'tissue' copy is given to the player when he places his bet, and the 'white' copy is retained by the writer.

FN3. 137 F.Supp. 816.

FN4. See note 1, supra.

FN5. That the 'placing' and 'receiving' of a wager should be regarded as simply complementing one another is recognized by Treasury Regulations 132, § 325.24(a) of which states:

'* * * Any wager or contribution received by an agent or employee on behalf of such person (one in the business of accepting wagers or operating a wagering pool or lottery) shall be considered to have been accepted by and placed with such person.' 26 CFR, 1957 Cum. Pocket Supp., § 325.24(a).

FN6. Indeed, the information filed against the respondent, which charged him with failing to pay the § 3290 occupational tax, alleged that he 'did accept,' not that he 'did receive,' wagers. 137 F.Supp., at page 817, note 1.

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FN7. See note 1, supra.

FN8. H.R.Rep. No. 586, 82d Cong., 1st Sess. 60; S.Rep. No. 781, 82d Cong., 1st Sess. 118 (1951).

FN9. We do not consider as illuminating, on the issue before us, the statement in the House and Senate Reports cited in note 8, supra, to the effect that 'Enforcement of a tax on wagers frequently will necessitate the tracing of transactions through complex business relationships, thus requiring the identification of the various steps involved.' This general statement, not necessarily referring to the numbers game or to mere delivery systems, as distinguished from arrangements for the 'lay-off' of bets by gambling principals, is not helpful in interpreting § 3290 in relation to the numbers game and 'pick-up men.' Cf. Federal Communications Commission v. Columbia Broadcasting System of Calif., Inc., 311 U.S. 132, 136, 61 S.Ct. 152, 153, 85 L.Ed. 87. We think the same is true of the statements of Representative Reed, 97 Cong.Rec. 6896, and of Senator Kefauver, 97 Cong.Rec. 12231--12232, relied on by the Government. The significance of Senator Kefauver's statement is further limited by the fact that he was an opponent of the bill. See Mastro Plastics Corp. v. National Labor Relations Board, 350 U.S. 270, 288, 76 S.Ct. 349, 360, 100 L.Ed. 309.

FN10. See 97 Cong.Rec. 6892, 12236, referred to in United States v. Kahriger, 345 U.S. 22, 27, note 3, 73 S.Ct. 510, 512, 97 L.Ed. 754.

FN11. Treas.Reg. 132, § 325.41, Example 2 (26 CFR, 1957 Cum. Pocket Supp.), which was issued on November 1, 1951 (16 Fed.Reg. 11211, 11222), provides as follows:

'B operates a numbers game. He has an arrangement with ten persons, who are employed in various capacities, such as bootblacks, elevator operators, newsdealers, etc., to receive wagers from the public on his behalf. B also employs a person to collect from his agents the wagers received on his behalf.

'B, his ten agents, and the employee who collects the wagers received on his behalf are each liable for the special tax.'

FN12. Apart from this, the force of this Treasury Regulations as an aid to the interpretation of the statute is impaired by its own internal inconsistency. Thus, while Example 2 of that regulation purports to make the pick-up man liable for the § 3290 occupational tax, Example 1 of the same regulation provides that 'a secretary and bookkeeper' of one 'engaged in the business of accepting horse race bets' are not liable for the occupational tax 'unless they also receive wagers' for the person so engaged in business, although those who 'receive wagers by telephone' are so liable. Thus in this instance a distinction seems to be drawn between the

'acceptance' of the wager, and its 'receipt' for recording purposes. But if this be proper, it is not apparent why the same distinction is not also valid between a writer, who 'accepts' or 'receives' a bet from a numbers player, and a pick-up man, who simply 'receives' a copy of the slips on which the writer has recorded the bet, and passes it along to the banker.

FN13. See note 11, supra.

FN14. See the dissenting judge's opinion below, 236 F.2d 182, 185--186. The sufficiency of the instructions to the jury in Daley apparently was not challenged on appeal. In any event, the Daley case was not concerned with a pick-up man, nor was the legislative history quoted, 354 U.S. 356, 77 S.Ct. at page 1142, supra, brought to the court's attention. The court in the Sagonias case, supra, which accepted the Government's contention as to the meaning of 'receiving wagers,' rejected the construction of the statute embodied in the instructions to the jury quoted in Daley.

FN15. See 354 U.S. 356, 77 S.Ct. 1142, supra.

Dissent:

FN1. H.R.Rep. No. 586, 82d Cong., 1st Sess. 56; S.Rep. No. 781, 82d Cong., 1st Sess. 114; 97 Cong.Rec. 6896 (Representative Reed); id., at 12231--12232 (Senator Kefauver). In this connection, it should be noted that the opinion of the court below states that 'The 'numbers banker', even as bankers and brokers in reputable commerce, employs salaried runners and messengers. These couriers are called 'pick-up men." (Emphasis supplied.) 236 F.2d 182, 184.

FN2. H.R.Rep. No. 586, 82d Cong., 1st Sess. 60; S.Rep. No. 781, 82d Cong., 1st Sess. 118.

Code **Sec. 1.1-1 Income tax on individuals.**

(a) General rule.

(1) Section 1 of the Code imposes an income tax on the income of every individual who is a citizen or resident of the United States and, to the extent provided by section 871(b) or 877(b), on the income of a nonresident alien individual. For optional tax in the case of taxpayers with adjusted gross income of less than $10,000 (less than $5,000 for taxable years beginning before January 1, 1970) see section 3. The tax imposed is upon taxable income (determined by subtracting the allowable deductions from gross income). The tax is determined in accordance with the table contained in section 1. See subparagraph (2) of this paragraph for reference guides to the appropriate table for taxable years beginning on or after January 1, 1964, and before January 1, 1965, taxable years beginning after December 31, 1964, and before January 1, 1971, and taxable years beginning after December 31, 1970. In certain cases credits are allowed against the amount of the tax. See Part IV (section 31 and following), Subchapter A, Chapter 1 of the Code. In general, the tax is payable upon the basis of returns rendered by persons liable therefor (Subchapter A (sections 6001 and following), Chapter 61 of the Code) or at the source of the income by withholding. For the computation of tax in the case of a joint return of a husband and wife, or a return of a surviving spouse, for taxable years beginning before January 1, 1971, see section 2. The computation of tax in such a case for taxable years beginning after December 31, 1970, is determined in accordance with the table contained in section 1(a) as amended by the Tax Reform Act of 1969. For other rates of tax on individuals, see section 5(a). For the imposition of an additional tax for the calendar years 1968, 1969, and 1970, see section 51(a).

(2)

(i) For taxable years beginning on or after January 1, 1964, the tax imposed upon a single individual, a head of a household, a married individual filing a separate return, and estates and trusts is the tax imposed by section 1 determined in accordance with the appropriate table contained in the following subsection of section 1:

Taxable years beginning in 1964	Taxable years beginning after 1964 but before 1971	Taxable years beginning after Dec. 31, 1970 (references in this column are to the Code as amended by the Tax Reform Act of 1969)

Single individual	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(c).
Head of a household	Sec. 1(b)(1)	Sec. 1(b)(2)	Sec. 1(b).
Married individual filing a separate return	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(d).
Estates and trusts	Sec. 1(a)(1)	Sec. 1(a)(2)	Sec. 1(d).

(ii) For taxable years beginning after December 31, 1970, the tax imposed by section 1(d), as amended by the Tax Reform Act of 1969, shall apply to the income effectively connected with the conduct of a trade or business in the United States by a married alien individual who is a nonresident of the United States for all or part of the taxable year or by a foreign estate or trust. For such years the tax imposed by section 1(c), as amended by such Act, shall apply to the income effectively connected with the conduct of a trade or business in the United States by an unmarried alien individual (other than a surviving spouse) who is a nonresident of the United States for all or part of the taxable year. See paragraph (b)(2) of section 1.871-8.

(3) The income tax imposed by section 1 upon any amount of taxable income is computed by adding to the income tax for the bracket in which that amount falls in the appropriate table in section 1 the income tax upon the excess of that amount over the bottom of the bracket at the rate indicated in such table.

(4) The provisions of section 1 of the Code, as amended by the Tax Reform Act of 1969, and of this paragraph may be illustrated by the following examples:

Example 1.

A, an unmarried individual, had taxable income for the calendar year 1964 of $15,750. Accordingly, the tax upon such taxable income would be $4,507.50, computed as follows from the table in section 1(a)(1):

Tax on $14,000 (from table)	$3,790.00

Tax on $1,750 (at 41 percent as determined from the table)	717.50
Total tax on $15,750	4,507.50

Example 2.

Assume the same facts as in example (1), except the figures are for the calendar year 1965. The tax upon such taxable income would be $4,232.50, computed as follows from the table in section 1(a)(2):

Tax on $14,000 (from table)	$3,550.00
Tax on $1,750 (at 39 percent as determined from the table)	682.50
Total tax on $15,750	4,232.50

Example 3.

Assume the same facts as in example (1), except the figures are for the calendar year 1971. The tax upon such taxable income would be $3,752.50, computed as follows from the table in section 1(c), as amended:

Tax on $14,000 (from table)	$3,210.00
Tax on $1,750 (at 31 percent as determined from the table)	542.50
Total tax on $15,750	3,752.50

(b) Citizens or residents of the United States liable to tax.

In general, all citizens of the United States, wherever resident, and all resident alien individuals are

liable to the income taxes imposed by the Code whether the income is received from sources within or without the United States. Pursuant to section 876, a nonresident alien individual who is a bona fide resident of Puerto Rico during the entire taxable year is, except as provided in section 933 with respect to Puerto Rican source income, subject to taxation in the same manner as a resident alien individual. As to tax on nonresident alien individuals, see sections 871 and 877.

(c) Who is a citizen.

Every person born or naturalized in the United States and subject to its jurisdiction is a citizen. For other rules governing the acquisition of citizenship, see Chapters 1 and 2 of Title III of the Immigration and Nationality Act (8 U.S.C. 1401-1459). For rules governing loss of citizenship, see sections 349 to 357, inclusive, of such Act (8 U.S.C. 1481-1489), Schneider v. Rusk, (1964) 377 U.S. 163, and Rev. Rul. 70-506, C.B. 1970-2, 1. For rules pertaining to persons who are nationals but not citizens at birth, e.g., a person born in American Samoa, see section 308 of such Act (8 U.S.C. 1408). For special rules applicable to certain expatriates who have lost citizenship with a principal purpose of avoiding certain taxes, see section 877. A foreigner who has filed his declaration of intention of becoming a citizen but who has not yet been admitted to citizenship by a final order of a naturalization court is an alien.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 7332, 39 FR 44216, Dec. 23, 1974]

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Sec. 1. - Tax imposed

(a) Married individuals filing joint returns and surviving spouses

There is hereby imposed on the taxable income of -

(1)

every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

(2)

every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over $36,900	15% of taxable income.
Over $36,900 but not over $89,150	$5,535, plus 28% of the excess over $36,900.

Over $89,150 but not over $140,000	$20,165, plus 31% of the excess over $89,150.
Over $140,000 but not over $250,000	$35,928.50, plus 36% of the excess over $140,000.
Over $250,000	$75,528.50, plus 39.6% of the excess over $250,000.

(b) Heads of households

There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over $29,600	15% of taxable income.
Over $29,600 but not over $76,400	$4,440, plus 28% of the excess over $29,600.
Over $76,400 but not over $127,500	$17,544, plus 31% of the excess over $76,400.
Over $127,500 but not over $250,000	$33,385, plus 36% of the excess over $127,500.
Over $250,000	$77,485, plus 39.6% of the excess over $250,000.

(c) Unmarried individuals (other than surviving spouses and heads of households)

There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as

defined in section 7703) a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over $22,100	15% of taxable income.
Over $22,100 but not over $53,500	$3,315, plus 28% of the excess over $22,100.
Over $53,500 but not over $115,000	$12,107, plus 31% of the excess over $53,500.
Over $115,000 but not over $250,000	$31,172, plus 36% of the excess over $115,000.
Over $250,000	$79,772, plus 39.6% of the excess over $250,000.

(d) Married individuals filing separate returns

There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over $18,450	15% of taxable income.
Over $18,450 but not over $44,575	$2,767.50, plus 28% of the excess over $18,450.
Over $44,575 but not over $70,000	$10,082.50, plus 31% of the excess over $44,575.
Over $70,000 but not over $125,000	$17,964.25, plus 36% of the excess over $70,000.

Over $125,000	$37,764.25, plus 39.6% of the excess over $125,000.

(e) Estates and trusts

There is hereby imposed on the taxable income of -

(1)

every estate, and

(2)

every trust,

taxable under this subsection a tax determined in accordance with the following table

If taxable income is:	The tax is:
Not over $1,500	15% of taxable income.
Over $1,500 but not over $3,500	$225, plus 28% of the excess over $1,500.
Over $3,500 but not over $5,500	$785, plus 31% of the excess over $3,500.
Over $5,500 but not over $7,500	$1,405, plus 36% of the excess over $5,500.
Over $7,500	$2,125, plus 39.6% of the excess over $7,500.

(f) Adjustments in tax tables so that inflation will not result in tax increases

(1) In general

Not later than December 15 of 1993, and

each subsequent calendar year, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning in the succeeding calendar year.

(2) Method of prescribing tables

The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed -

(A)

by increasing the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table by the cost-of-living adjustment for such calendar year,

(B)

by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A), and

(C)

by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

(3) Cost-of-living adjustment

For purposes of paragraph (2), the cost-of-living adjustment for any calendar year is

the percentage (if any) by which -

(A)

the CPI for the preceding calendar year, exceeds

(B)

the CPI for the calendar year 1992.

(4) CPI for any calendar year

For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

(5) Consumer Price Index

For purposes of paragraph (4), the term ''Consumer Price Index'' means the last Consumer Price Index for all-urban consumers published by the Department of Labor. For purposes of the preceding sentence, the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1986 shall be used.

(6) Rounding

(A) In general

If any increase determined under paragraph (2)(A), section 63(c)(4), section 68(b)(2) or section 151(d)(4) is not a multiple of $50, such increase shall be rounded to the next lowest multiple of

$50.

(B) Table for married individuals filing separately

In the case of a married individual filing a separate return, subparagraph (A) (other than with respect to subsection (c)(4) of section 63 (as it applies to subsections (c)(5)(A) and (f) of such section) and section 151(d)(4)(A)) shall be applied by substituting ''$25'' for ''$50'' each place it appears.

(7) Special rule for certain brackets

(A) Calendar year 1994

In prescribing the tables under paragraph (1) which apply with respect to taxable years beginning in calendar year 1994, the Secretary shall make no adjustment to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate begins under any table contained in subsection (a), (b), (c), (d), or (e).

(B) Later calendar years

In prescribing tables under paragraph (1) which apply with respect to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts referred to in subparagraph (A) shall be determined under paragraph (3) by substituting ''1993'' for ''1992''.

(g) Certain unearned income of minor children

taxed as if parent's income

(1) In general

In the case of any child to whom this subsection applies, the tax imposed by this section shall be equal to the greater of -

(A)

the tax imposed by this section without regard to this subsection, or

(B)

the sum of -

(i)

the tax which would be imposed by this section if the taxable income of such child for the taxable year were reduced by the net unearned income of such child, plus

(ii)

such child's share of the allocable parental tax.

(2) Child to whom subsection applies

This subsection shall apply to any child for any taxable year if -

(A)

such child has not attained age 14 before the close of the taxable year, and

(B)

either parent of such child is alive at the close of the taxable year.

(3) Allocable parental tax

For purposes of this subsection -

(A) In general

The term ''allocable parental tax'' means the excess of -

(i)

the tax which would be imposed by this section on the parent's taxable income if such income included the net unearned income of all children of the parent to whom this subsection applies, over

(ii)

the tax imposed by this section on the parent without regard to this subsection.

For purposes of clause (i), net unearned income of all children of the parent shall not be taken into account in computing any exclusion, deduction, or credit of the parent.

(B) Child's share

A child's share of any allocable parental tax of a parent shall be equal to an amount which bears the same ratio to the

total allocable parental tax as the child's net unearned income bears to the aggregate net unearned income of all children of such parent to whom this subsection applies.

(C) Special rule where parent has different taxable year

Except as provided in regulations, if the parent does not have the same taxable year as the child, the allocable parental tax shall be determined on the basis of the taxable year of the parent ending in the child's taxable year.

(4) Net unearned income

For purposes of this subsection -

(A) In general

The term ''net unearned income'' means the excess of -

(i)

the portion of the adjusted gross income for the taxable year which is not attributable to earned income (as defined in section 911(d)(2)), over

(ii)

the sum of -

(I)

the amount in effect for the taxable year under section 63(c)(5)(A)

(relating to limitation on standard deduction in the case of certain dependents), plus

(II)

the greater of the amount described in subclause (I) or, if the child itemizes his deductions for the taxable year, the amount of the itemized deductions allowed by this chapter for the taxable year which are directly connected with the production of the portion of adjusted gross income referred to in clause (i).

(B) Limitation based on taxable income

The amount of the net unearned income for any taxable year shall not exceed the individual's taxable income for such taxable year.

(5) Special rules for determining parent to whom subsection applies

For purposes of this subsection, the parent whose taxable income shall be taken into account shall be -

(A)

in the case of parents who are not married (within the meaning of section 7703), the custodial parent (within the meaning of section 152(e)) of the child, and

(B)

in the case of married individuals filing separately, the individual with the greater taxable income.

(6) Providing of parent's TIN

The parent of any child to whom this subsection applies for any taxable year shall provide the TIN of such parent to such child and such child shall include such TIN on the child's return of tax imposed by this section for such taxable year.

(7) Election to claim certain unearned income of child on parent's return

(A) In general

If -

(i)

any child to whom this subsection applies has gross income for the taxable year only from interest and dividends (including Alaska Permanent Fund dividends),

(ii)

such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,

(iii)

no estimated tax payments for such year are made in the name and TIN of

such child, and no amount has been deducted and withheld under section 3406, and

(iv)

the parent of such child (as determined under paragraph (5)) elects the application of subparagraph (B),

such child shall be treated (other than for purposes of this paragraph) as having no gross income for such year and shall not be required to file a return under section 6012.

(B) Income included on parent's return

In the case of a parent making the election under this paragraph -

(i)

the gross income of each child to whom such election applies (to the extent the gross income of such child exceeds twice the amount described in paragraph (4)(A)(ii)(I)) shall be included in such parent's gross income for the taxable year,

(ii)

the tax imposed by this section for such year with respect to such parent shall be the amount equal to the sum of -

(I)

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the amount determined under this section after the application of clause (i), plus

(II)

for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and

(iii)

any interest which is an item of tax preference under section 57(a)(5) of the child shall be treated as an item of tax preference of such parent (and not of such child).

(C) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph.

(h) Maximum capital gains rate

(1) In general

If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of -

(A)

a tax computed at the rates and in the same manner as if this subsection had

not been enacted on the greater of -

(i)

taxable income reduced by the net capital gain; or

(ii)

the lesser of -

(I)

the amount of taxable income taxed at a rate below 28 percent; or

(II)

taxable income reduced by the adjusted net capital gain;

(B)

10 percent of so much of the adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of -

(i)

the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 28 percent, over

(ii)

the taxable income reduced by the adjusted net capital gain;

(C)

20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B);

(D)

25 percent of the excess (if any) of -

(i)

the unrecaptured section 1250 gain (or, if less, the net capital gain), over

(ii)

the excess (if any) of -

(I)

the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain, over

(II)

taxable income; and

(E)

28 percent of the amount of taxable income in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

(2) Reduced capital gain rates for qualified 5-year gain

(A) Reduction in 10-percent rate

In the case of any taxable year beginning after December 31, 2000, the rate under paragraph (1)(B) shall be 8 percent with respect to so much of the amount to which the 10-percent rate would otherwise apply as does not exceed qualified 5-year gain, and 10 percent with respect to the remainder of such amount.

(B) Reduction in 20-percent rate

The rate under paragraph (1)(C) shall be 18 percent with respect to so much of the amount to which the 20-percent rate would otherwise apply as does not exceed the lesser of -

(i)

the excess of qualified 5-year gain over the amount of such gain taken into account under subparagraph (A) of this paragraph; or

(ii)

the amount of qualified 5-year gain (determined by taking into account only property the holding period for which begins after December 31, 2000),

and 20 percent with respect to the remainder of such amount. For purposes of determining under the preceding sentence whether the holding period of property begins after December 31, 2000, the holding period of property acquired

pursuant to the exercise of an option (or other right or obligation to acquire property) shall include the period such option (or other right or obligation) was held.

(3) Net capital gain taken into account as investment income

For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

(4) Adjusted net capital gain

For purposes of this subsection, the term ''adjusted net capital gain'' means net capital gain reduced (but not below zero) by the sum of -

(A)

unrecaptured section 1250 gain; and

(B)

28-percent rate gain.

(5) 28-percent rate gain

For purposes of this subsection, the term ''28-percent rate gain'' means the excess (if any) of -

(A)

the sum of -

(i)

collectibles gain; and

(ii)

section 1202 gain, over

(B)

the sum of -

(i)

collectibles loss;

(ii)

the net short-term capital loss; and

(iii)

the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.

(6) Collectibles gain and loss

For purposes of this subsection -

(A) In general

The terms ''collectibles gain'' and ''collectibles loss'' mean gain or loss (respectively) from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent

such gain is taken into account in computing gross income and such loss is taken into account in computing taxable income.

(B) Partnerships, etc.

For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

(7) Unrecaptured section 1250 gain

For purposes of this subsection -

(A) In general

The term ''unrecaptured section 1250 gain'' means the excess (if any) of -

(i)

the amount of long-term capital gain (not otherwise treated as ordinary income) which would be treated as ordinary income if section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, over

(ii)

the excess (if any) of -

(I)

the amount described in paragraph (5)(B); over

(II)

the amount described in paragraph (5)(A).

(B) Limitation with respect to section 1231 property

The amount described in subparagraph (A)(i) from sales, exchanges, and conversions described in section 1231(a)(3)(A) for any taxable year shall not exceed the net section 1231 gain (as defined in section 1231(c)(3)) for such year.

(8) Section 1202 gain

For purposes of this subsection, the term ''section 1202 gain'' means the excess of -

(A)

the gain which would be excluded from gross income under section 1202 but for the percentage limitation in section 1202(a), over

(B)

the gain excluded from gross income under section 1202.

(9) Qualified 5-year gain

For purposes of this subsection, the term ''qualified 5-year gain'' means the aggregate long-term capital gain from property held for more than 5 years. The determination under the preceding sentence shall be made without regard to collectibles gain, gain described in paragraph (7)(A)(i), and section 1202 gain.

(10) Coordination with recapture of net ordinary losses under section 1231

If any amount is treated as ordinary income under section 1231(c), such amount shall be allocated among the separate categories of net section 1231 gain (as defined in section 1231(c)(3)) in such manner as the Secretary may by forms or regulations prescribe.

(11) Regulations

The Secretary may prescribe such regulations as are appropriate (including regulations requiring reporting) to apply this subsection in the case of sales and exchanges by pass-thru entities and of interests in such entities.

(12) Pass-thru entity defined

For purposes of this subsection, the term ''pass-thru entity'' means -

(A)

a regulated investment company;

(B)

a real estate investment trust;

(C)

an S corporation;

(D)

a partnership;

(E)

an estate or trust;

(F)

a common trust fund;

(G)

a foreign investment company which is described in section 1246(b)(1) and for which an election is in effect under section 1247; and

(H)

a qualified electing fund (as defined in section 1295).

(13) Special rules

(A) Determination of 28-percent rate gain

In applying paragraph (5) -

(i)

the amount determined under subparagraph (A) of paragraph (5)

shall include long-term capital gain (not otherwise described in such subparagraph) -

(I)

which is properly taken into account for the portion of the taxable year before May 7, 1997; or

(II)

from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998;

(ii)

the amount determined under subparagraph (B) of paragraph (5) shall include long-term capital loss (not otherwise described in such subparagraph) -

(I)

which is properly taken into account for the portion of the taxable year before May 7, 1997; or

(II)

from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998; and

(iii)

subparagraph (B) of paragraph (5) (as in effect immediately before the enactment of this clause) shall apply to amounts properly taken into account before January 1, 1998.

(B) Determination of unrecaptured section 1250 gain

The amount determined under paragraph (7)(A)(i) shall not include gain -

(i)

which is properly taken into account for the portion of the taxable year before May 7, 1997; or

(ii)

from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998.

(C) Special rules for pass-thru entities

In applying this paragraph with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.

(D) Charitable remainder trusts

Subparagraphs (A) and (B)(ii) shall not apply to any capital gain distribution

made by a trust described in section 664.'

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Sec. 1. - Tax imposed

(a) Married individuals filing joint returns and surviving spouses

There is hereby imposed on the taxable income of -

(1)

every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

(2)

every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over $36,900	15% of taxable income.
Over $36,900 but not over $89,150	$5,535, plus 28% of the excess over $36,900.
Over $89,150 but not over $140,000	$20,165, plus 31% of the excess over $89,150.
Over $140,000 but not over $250,000	$35,928.50, plus 36% of the excess over $140,000.
Over $250,000	$75,528.50, plus 39.6% of the excess over $250,000.

(b) Heads of households

There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

If taxable income is:	The tax is:

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Not over $29,600	15% of taxable income.
Over $29,600 but not over $76,400	$4,440, plus 28% of the excess over $29,600.
Over $76,400 but not over $127,500	$17,544, plus 31% of the excess over $76,400.
Over $127,500 but not over $250,000	$33,385, plus 36% of the excess over $127,500.
Over $250,000	$77,485, plus 39.6% of the excess over $250,000.

(c) Unmarried individuals (other than surviving spouses and heads of households)

There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over $22,100	15% of taxable income.
Over $22,100 but not over $53,500	$3,315, plus 28% of the excess over $22,100.
Over $53,500 but not over $115,000	$12,107, plus 31% of the excess over $53,500.
Over $115,000 but not over $250,000	$31,172, plus 36% of the excess over $115,000.
Over $250,000	$79,772, plus 39.6% of the excess over $250,000.

(d) Married individuals filing separate returns

There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over $18,450	15% of taxable income.
Over $18,450 but not over $44,575	$2,767.50, plus 28% of the excess over $18,450.
Over $44,575 but not over $70,000	$10,082.50, plus 31% of the excess over $44,575.

Over $70,000 but not over $125,000	$17,964.25, plus 36% of the excess over $70,000.
Over $125,000	$37,764.25, plus 39.6% of the excess over $125,000.

(e) Estates and trusts

There is hereby imposed on the taxable income of -

(1)

every estate, and

(2)

every trust,

taxable under this subsection a tax determined in accordance with the following table

If taxable income is:	**The tax is:**
Not over $1,500	15% of taxable income.
Over $1,500 but not over $3,500	$225, plus 28% of the excess over $1,500.
Over $3,500 but not over $5,500	$785, plus 31% of the excess over $3,500.
Over $5,500 but not over $7,500	$1,405, plus 36% of the excess over $5,500.
Over $7,500	$2,125, plus 39.6% of the excess over $7,500.

(f) Adjustments in tax tables so that inflation will not result in tax increases

(1) In general

Not later than December 15 of 1993, and each subsequent calendar year, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning in the succeeding calendar year.

(2) Method of prescribing tables

The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed -

(A)

by increasing the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table by the cost-of-living adjustment for such calendar year,

(B)

by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A), and

(C)

by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

(3) Cost-of-living adjustment

For purposes of paragraph (2), the cost-of-living adjustment for any calendar year is the percentage (if any) by which -

(A)

the CPI for the preceding calendar year, exceeds

(B)

the CPI for the calendar year 1992.

(4) CPI for any calendar year

For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

(5) Consumer Price Index

For purposes of paragraph (4), the term ''Consumer Price Index'' means the last Consumer Price Index for all-urban consumers published by the Department of Labor. For purposes of the preceding sentence, the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1986 shall be used.

(6) Rounding

(A) In general

If any increase determined under paragraph (2)(A), section 63(c)(4), section 68(b)(2) or section 151(d)(4) is not a multiple of $50, such increase shall be

rounded to the next lowest multiple of $50.

(B) Table for married individuals filing separately

In the case of a married individual filing a separate return, subparagraph (A) (other than with respect to subsection (c)(4) of section 63 (as it applies to subsections (c)(5)(A) and (f) of such section) and section 151(d)(4)(A)) shall be applied by substituting ''$25'' for ''$50'' each place it appears.

(7) Special rule for certain brackets

(A) Calendar year 1994

In prescribing the tables under paragraph (1) which apply with respect to taxable years beginning in calendar year 1994, the Secretary shall make no adjustment to the dollar amounts at which the 36 percent rate bracket begins or at which the 39.6 percent rate begins under any table contained in subsection (a), (b), (c), (d), or (e).

(B) Later calendar years

In prescribing tables under paragraph (1) which apply with respect to taxable years beginning in a calendar year after 1994, the cost-of-living adjustment used in making adjustments to the dollar amounts referred to in subparagraph (A) shall be determined under paragraph (3) by substituting ''1993'' for ''1992''.

(g) Certain unearned income of minor children taxed as if parent's income

(1) In general

In the case of any child to whom this subsection applies, the tax imposed by this section shall be equal to the greater of -

(A)

the tax imposed by this section without regard to this subsection, or

(B)

the sum of -

(i)

the tax which would be imposed by this section if

the taxable income of such child for the taxable year were reduced by the net unearned income of such child, plus

(ii)

such child's share of the allocable parental tax.

(2) Child to whom subsection applies

This subsection shall apply to any child for any taxable year if -

(A)

such child has not attained age 14 before the close of the taxable year, and

(B)

either parent of such child is alive at the close of the taxable year.

(3) Allocable parental tax

For purposes of this subsection -

(A) In general

The term ''allocable parental tax'' means the excess of -

(i)

the tax which would be imposed by this section on the parent's taxable income if such income included the net unearned income of all children of the parent to whom this subsection applies, over

(ii)

the tax imposed by this section on the parent without regard to this subsection.

For purposes of clause (i), net unearned income of all children of the parent shall not be taken into account in computing any exclusion, deduction, or credit of the parent.

(B) Child's share

A child's share of any allocable parental tax of a parent shall be equal to an amount which bears the same ratio to the total allocable parental tax as the

child's net unearned income bears to the aggregate net unearned income of all children of such parent to whom this subsection applies.

(C) Special rule where parent has different taxable year

Except as provided in regulations, if the parent does not have the same taxable year as the child, the allocable parental tax shall be determined on the basis of the taxable year of the parent ending in the child's taxable year.

(4) Net unearned income

For purposes of this subsection -

(A) In general

The term ''net unearned income'' means the excess of -

(i)

the portion of the adjusted gross income for the taxable year which is not attributable to earned income (as defined in section 911(d)(2)), over

(ii)

the sum of -

(I)

the amount in effect for the taxable year under section 63(c)(5)(A) (relating to limitation on standard deduction in the case of certain dependents), plus

(II)

the greater of the amount described in subclause (I) or, if the child itemizes his deductions for the taxable year, the amount of the itemized deductions allowed by this chapter for the taxable year which are directly connected with the production of the portion of adjusted gross income referred to in clause (i).

(B) Limitation based on taxable income

The amount of the net unearned income for any taxable year shall not exceed the individual's taxable income for such taxable year.

(5) Special rules for determining parent to whom subsection applies

For purposes of this subsection, the parent whose taxable income shall be taken into account shall be -

(A)

in the case of parents who are not married (within the meaning of section 7703), the custodial parent (within the meaning of section 152(e)) of the child, and

(B)

in the case of married individuals filing separately, the individual with the greater taxable income.

(6) Providing of parent's TIN

The parent of any child to whom this subsection applies for any taxable year shall provide the TIN of such parent to such child and such child shall include such TIN on the child's return of tax imposed by this section for such taxable year.

(7) Election to claim certain unearned income of child on parent's return

(A) In general

If -

(i)

any child to whom this subsection applies has gross income for the taxable year only from interest and dividends (including Alaska Permanent Fund dividends),

(ii)

such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,

(iii)

no estimated tax payments for such year are made in the name and TIN of such child, and no amount has been deducted and withheld under section 3406, and

(iv)

the parent of such child (as determined under paragraph (5)) elects the application of subparagraph (B),

such child shall be treated (other than for purposes of this paragraph) as having no gross income for such year and shall not be required to file a return under section 6012.

(B) Income included on parent's return

In the case of a parent making the election under this paragraph -

(i)

the gross income of each child to whom such election applies (to the extent the gross income of such child exceeds twice the amount described in paragraph (4)(A)(ii)(I)) shall be included in such parent's gross income for the taxable year,

(ii)

the tax imposed by this section for such year with respect to such parent shall be the amount equal to the sum of -

(I)

the amount determined under this section after the application of clause (i), plus

(II)

for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and

(iii)

any interest which is an item of tax preference under section 57(a)(5) of the child shall be treated as an item of tax preference of such parent (and not of such child).

(C) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph.

(h) Maximum capital gains rate

(1) In general

If a taxpayer has a net capital gain for any taxable year, the tax imposed by this section for such taxable year shall not exceed the sum of -

(A)

a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of -

(i)

taxable income reduced by the net capital gain; or

(ii)

the lesser of -

(I)

the amount of taxable income taxed at a rate below 28 percent; or

(II)

taxable income reduced by the adjusted net capital gain;

(B)

10 percent of so much of the adjusted net capital gain (or, if less, taxable income) as does not exceed the excess (if any) of -

(i)

the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 28 percent, over

(ii)

the taxable income reduced by the adjusted net capital gain;

(C)

20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the amount on which a tax is determined under subparagraph (B);

(D)

25 percent of the excess (if any) of -

(i)

the unrecaptured section 1250 gain (or, if less, the net capital gain), over

(ii)

the excess (if any) of -

(I)

the sum of the amount on which tax is determined under subparagraph (A) plus the net capital gain, over

(II)

taxable income; and

(E)

28 percent of the amount of taxable income in excess of the sum of the amounts on which tax is determined under the preceding subparagraphs of this paragraph.

(2) Reduced capital gain rates for qualified 5-year gain

(A) Reduction in 10-percent rate

In the case of any taxable year beginning after December 31, 2000, the rate under paragraph (1)(B) shall be 8 percent with respect to so much of the amount to which the 10-percent rate would otherwise apply as does not exceed qualified 5-year gain, and 10 percent with respect to the remainder of such amount.

(B) Reduction in 20-percent rate

The rate under paragraph (1)(C) shall be 18 percent with respect to so much of the amount to which the 20-percent rate would otherwise apply as does not exceed the lesser of -

(i)

the excess of qualified 5-year gain over the amount of such gain taken into account under subparagraph (A) of this paragraph; or

(ii)

the amount of qualified 5-year gain (determined by taking into account only property the holding period for which begins after December 31, 2000),

and 20 percent with respect to the remainder of such amount. For purposes of determining under the preceding sentence whether the holding period of property begins after December 31, 2000, the holding period of property acquired pursuant to the exercise of an option (or other right or obligation to acquire property) shall include the period such option (or other right or obligation) was held.

(3) Net capital gain taken into account as investment income

For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

(4) Adjusted net capital gain

For purposes of this subsection, the term ''adjusted net capital gain'' means net capital gain reduced (but not below zero) by the sum of -

(A)

unrecaptured section 1250 gain; and

(B)

28-percent rate gain.

(5) 28-percent rate gain

For purposes of this subsection, the term ''28-percent rate gain'' means the excess (if any) of -

(A)

the sum of -

(i)

collectibles gain; and

(ii)

section 1202 gain, over

(B)

the sum of -

(i)

collectibles loss;

(ii)

the net short-term capital loss; and

(iii)

the amount of long-term capital loss carried under section 1212(b)(1)(B) to the taxable year.

(6) Collectibles gain and loss

For purposes of this subsection -

(A) In general

The terms ''collectibles gain'' and ''collectibles loss'' mean gain or loss (respectively) from the sale or exchange of a collectible (as defined in section 408(m) without regard to paragraph (3) thereof) which is a capital asset held for more than 1 year but only to the extent such gain is taken into account in computing gross income and such loss is taken into account in computing taxable income.

(B) Partnerships, etc.

For purposes of subparagraph (A), any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751 shall apply for purposes of the preceding sentence.

(7) Unrecaptured section 1250 gain

For purposes of this subsection -

(A) In general

The term ''unrecaptured section 1250 gain'' means the excess (if any) of -

(i)

the amount of long-term capital gain (not otherwise treated as ordinary income) which would

be treated as ordinary income if section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent, over

(ii)

the excess (if any) of -

(I)

the amount described in paragraph (5)(B); over

(II)

the amount described in paragraph (5)(A).

(B) Limitation with respect to section 1231 property

The amount described in subparagraph (A)(i) from sales, exchanges, and conversions described in section 1231(a)(3)(A) for any taxable year shall not exceed the net section 1231 gain (as defined in section 1231 (c)(3)) for such year.

(8) Section 1202 gain

For purposes of this subsection, the term ''section 1202 gain'' means the excess of -

(A)

the gain which would be excluded from gross income under section 1202 but for the percentage limitation in section 1202(a), over

(B)

the gain excluded from gross income under section 1202.

(9) Qualified 5-year gain

For purposes of this subsection, the term ''qualified 5-year gain'' means the aggregate long-term capital gain from property held for more than 5 years. The determination under the preceding sentence shall be made without regard to collectibles gain, gain described in paragraph (7)(A)(i), and section 1202 gain.

(10) Coordination with recapture of net ordinary losses under section 1231

If any amount is treated as ordinary income under section 1231(c), such amount shall be allocated among

the separate categories of net section 1231 gain (as defined in section 1231(c)(3)) in such manner as the Secretary may by forms or regulations prescribe.

(11) Regulations

The Secretary may prescribe such regulations as are appropriate (including regulations requiring reporting) to apply this subsection in the case of sales and exchanges by pass-thru entities and of interests in such entities.

(12) Pass-thru entity defined

For purposes of this subsection, the term ''pass-thru entity'' means -

(A)

a regulated investment company;

(B)

a real estate investment trust;

(C)

an S corporation;

(D)

a partnership;

(E)

an estate or trust;

(F)

a common trust fund;

(G)

a foreign investment company which is described in section 1246(b)(1) and for which an election is in effect under section 1247; and

(H)

a qualified electing fund (as defined in section 1295).

(13) Special rules

(A) Determination of 28-percent rate gain

In applying paragraph (5) -

(i)

the amount determined under subparagraph (A) of paragraph (5) shall include long-term capital gain (not otherwise described in such subparagraph) -

(I)

which is properly taken into account for the portion of the taxable year before May 7, 1997; or

(II)

from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998;

(ii)

the amount determined under subparagraph (B) of paragraph (5) shall include long-term capital loss (not otherwise described in such subparagraph) -

(I)

which is properly taken into account for the portion of the taxable year before May 7, 1997; or

(II)

from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998; and

(iii)

subparagraph (B) of paragraph (5) (as in effect immediately before the enactment of this clause) shall apply to amounts properly taken into account before January 1, 1998.

(B) Determination of unrecaptured section 1250 gain

The amount determined under paragraph (7)(A)(i) shall not include gain -

(i)

which is properly taken into account for the portion

of the taxable year before May 7, 1997; or

(ii)

from property held not more than 18 months which is properly taken into account for the portion of the taxable year after July 28, 1997, and before January 1, 1998.

(C) Special rules for pass-thru entities

In applying this paragraph with respect to any pass-thru entity, the determination of when gains and loss are properly taken into account shall be made at the entity level.

(D) Charitable remainder trusts

Subparagraphs (A) and (B)(ii) shall not apply to any capital gain distribution made by a trust described in section 664.'

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Sec. 871. - Tax on nonresident alien individuals

(a)

Income not connected with United States business - 30 percent tax

(1) Income other than capital gains

Except as provided in subsection (h), there is hereby imposed for each taxable year a tax of 30 percent of the amount received from sources within the United States by a nonresident alien individual as -

(A)

interest (other than original issue discount as defined in section 1273), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income,

(B)

gains described in section 631(b) or (c),

and gains on transfers described in section 1235 made on or before October 4, 1966,

(C)

in the case of -

(i)

a sale or exchange of an original issue discount obligation, the amount of the original issue discount accruing while such obligation was held by the nonresident alien individual (to the extent such discount was not theretofore taken into account under clause (ii)), and

(ii)

a payment on an original issue discount obligation, an amount equal to the original issue discount accruing while such obligation was held by the nonresident alien individual (except that such original issue discount shall be taken into account under this clause only to the extent such discount was not theretofore taken into account under this clause and only to the extent that the tax thereon does not exceed the payment less the tax imposed by subparagraph (A) thereon), and

(D)

gains from the sale or exchange after October 4, 1966, of patents, copyrights,

secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property, or of any interest in any such property, to the extent such gains are from payments which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged,

but only to the extent the amount so received is not effectively connected with the conduct of a trade or business within the United States.

(2) Capital gains of aliens present in the United States 183 days or more

In the case of a nonresident alien individual present in the United States for a period or periods aggregating 183 days or more during the taxable year, there is hereby imposed for such year a tax of 30 percent of the amount by which his gains, derived from sources within the United States, from the sale or exchange at any time during such year of capital assets exceed his losses, allocable to sources within the United States, from the sale or exchange at any time during such year of capital assets. For purposes of this paragraph, gains and losses shall be taken into account only if, and to the extent that, they would be recognized and taken into account if such gains and losses were effectively connected with the conduct of a trade or business within the United States, except that such gains and losses shall be determined without regard to section 1202 and such losses shall be determined without the benefits of the capital loss carryover provided in section

1212. Any gain or loss which is taken into account in determining the tax under paragraph (1) or subsection (b) shall not be taken into account in determining the tax under this paragraph. For purposes of the 183-day requirement of this paragraph, a nonresident alien individual not engaged in trade or business within the United States who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

(3) Taxation of social security benefits

For purposes of this section and section 1441 -

(A)

85 percent of any social security benefit (as defined in section 86(d)) shall be included in gross income (notwithstanding section 207 of the Social Security Act), and

(B)

section 86 shall not apply.

For treatment of certain citizens of possessions of the United States, see section 932(c). [1]

(b)

Income connected with United States business - graduated rate of tax

(1) Imposition of tax

A nonresident alien individual engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 1 or 55 on his taxable income which is effectively connected with the conduct of a trade or business within the United States.

(2) Determination of taxable income

In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the conduct of a trade or business within the United States.

(c) Participants in certain exchange or training programs

For purposes of this section, a nonresident alien individual who (without regard to this subsection) is not engaged in trade or business within the United States and who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)(F), (J), (M), or (Q)), shall be treated as a nonresident alien individual engaged in trade or business within the United States, and any income described in the second sentence of section 1441(b) which is received by such individual shall, to the extent derived from sources within the United States, be treated as effectively connected with the conduct of a trade or business within the United States.

(d) Election to treat real property income as income connected with United States business

(1) In general

A nonresident alien individual who during the taxable year derives any income -

(A)

from real property held for the production of income and located in the United States, or from any interest in such real property, including

(i)

gains from the sale or exchange of such real property or an interest therein,

(ii)

rents or royalties from mines, wells, or other natural deposits, and

(iii)

gains described in section 631(b) or (c), and

(B)

which, but for this subsection, would not be treated as income which is effectively connected with the conduct of a trade or business within the United States,

may elect for such taxable year to treat all such income as income which is effectively connected with the conduct of a trade or business within the United States. In such

case, such income shall be taxable as provided in subsection (b)(1) whether or not such individual is engaged in trade or business within the United States during the taxable year. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary with respect to any taxable year.

(2) Election after revocation

If an election has been made under paragraph (1) and such election has been revoked, a new election may not be made under such paragraph for any taxable year before the 5th taxable year which begins after the first taxable year for which such revocation is effective, unless the Secretary consents to such new election.

(3) Form and time of election and revocation

An election under paragraph (1), and any revocation of such an election, may be made only in such manner and at such time as the Secretary may by regulations prescribe.

(e)

Repealed. Pub. L. 99-514, title XII, Sec. 1211(b)(5), Oct. 22, 1986, 100 Stat. 2536)

(f) Certain annuities received under qualified plans

(1) In general

For purposes of this section, gross income does not include any amount received as an annuity under a qualified annuity plan described in section 403(a)(1), or from a qualified trust described in section 401(a) which is exempt from tax under section 501(a), if -

(A)

all of the personal services by reason of which the annuity is payable were either -

(i)

personal services performed outside the United States by an individual who, at the time of performance of such personal services, was a nonresident alien, or

(ii)

personal services described in section 864(b)(1) performed within the United States by such individual, and

(B)

at the time the first amount is paid as an annuity under the annuity plan or by the trust, 90 percent or more of the employees for whom contributions or benefits are provided under such annuity plan, or under the plan or plans of which the trust is a part, are citizens or residents of the United States.

(2) Exclusion

Income received during the taxable year which would be excluded from gross income under this subsection but for the requirement of paragraph (1)(B) shall not be included in gross income if -

(A)

the recipient's country of residence grants a substantially equivalent exclusion to residents and citizens of the United States; or

(B)

the recipient's country of residence is a beneficiary developing country under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

(g) Special rules for original issue discount

For purposes of this section and section 881 -

(1) Original issue discount obligation

(A) In general

Except as provided in subparagraph (B), the term ''original issue discount obligation'' means any bond or other evidence of indebtedness having original issue discount (within the meaning of section 1273).

(B) Exceptions

The term ''original issue discount obligation'' shall not include -

(i) Certain short-term obligations

Any obligation payable 183 days or less from the date of original issue (without regard to the period held by the taxpayer).

(ii) Tax-exempt obligations

Any obligation the interest on which is exempt from tax under section 103 or under any other provision of law without regard to the identity of the holder.

(2) Determination of portion of original issue discount accruing during any period

The determination of the amount of the original issue discount which accrues during any period shall be made under the rules of section 1272 (or the corresponding provisions of prior law) without regard to any exception for short-term obligations.

(3) Source of original issue discount

Except to the extent provided in regulations prescribed by the Secretary, the determination of whether any amount described in subsection (a)(1)(C) is from sources within the United States shall be made at the time of the payment (or sale or exchange) as if such payment (or sale or exchange) involved the payment of interest.

(4) Stripped bonds

The provisions of section 1286 (relating to the treatment of stripped bonds and

stripped coupons as obligations with original issue discount) shall apply for purposes of this section.

(h) Repeal of tax on interest of nonresident alien individuals received from certain portfolio debt investments

(1) In general

In the case of any portfolio interest received by a nonresident individual from sources within the United States, no tax shall be imposed under paragraph (1)(A) or (1)(C) of subsection (a).

(2) Portfolio interest

For purposes of this subsection, the term ''portfolio interest'' means any interest (including original issue discount) which would be subject to tax under subsection (a) but for this subsection and which is described in any of the following subparagraphs:

(A) Certain obligations which are not registered

Interest which is paid on any obligation which -

(i)

is not in registered form, and

(ii)

is described in section 163(f)(2)(B).

(B) Certain registered obligations

Interest which is paid on an obligation -

(i)

which is in registered form, and

(ii)

with respect to which the United States person who would otherwise be required to deduct and withhold tax from such interest under section 1441(a) receives a statement (which meets the requirements of paragraph (5)) that the beneficial owner of the obligation is not a United States person.

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(3) Portfolio interest not to include interest received by 10-percent shareholders

For purposes of this subsection -

(A) In general

The term ''portfolio interest'' shall not include any interest described in subparagraph (A) or (B) of paragraph (2) which is received by a 10-percent shareholder.

(B) 10-Percent shareholder

The term ''10-percent shareholder'' means -

(i)

in the case of an obligation issued by a corporation, any person who owns 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote, or

(ii)

in the case of an obligation issued by a partnership, any person who owns 10 percent or more of the capital or profits interest in such partnership.

(C) Attribution rules

For purposes of determining ownership of stock under subparagraph (B)(i) the rules of section 318(a) shall apply, except that -

(i)

section 318(a)(2)(C) shall be applied without regard to the 50-percent limitation therein,

(ii)

section 318(a)(3)(C) shall be applied -

(I)

without regard to the 50-percent limitation therein; and

(II)

in any case where such section would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock

in such corporation) which is owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation, and

(iii)

any stock which a person is treated as owning after application of section 318(a)(4) shall not, for purposes of applying paragraphs (2) and (3) of section 318(a), be treated as actually owned by such person.

Under regulations prescribed by the Secretary, rules similar to the rules of the preceding sentence shall be applied in determining the ownership of the capital or profits interest in a partnership for purposes of subparagraph (B)(ii).

(4) Portfolio interest not to include certain contingent interest

For purposes of this subsection -

(A) In general

Except as otherwise provided in this paragraph, the term ''portfolio interest'' shall not include -

(i)

any interest if the amount of such interest is determined by reference to -

(I)

any receipts, sales or other cash flow of the debtor or a related person,

(II)

any income or profits of the debtor or a related person,

(III)

any change in value of any property of the debtor or a related person, or

(IV)

any dividend, partnership distributions, or similar payments made by the debtor or a related person, or

(ii)

any other type of contingent interest that is identified by the Secretary by regulation, where a denial of the portfolio interest exemption is necessary or appropriate to prevent avoidance of Federal income tax.

(B) Related person

The term ''related person'' means any person who is related to the debtor within the meaning of section 267(b) or 707(b)(1), or who is a party to any arrangement undertaken for a purpose of avoiding the application of this paragraph.

(C) Exceptions

Subparagraph (A)(i) shall not apply to -

(i)

any amount of interest solely by reason of the fact that the timing of any interest or principal payment is subject to a contingency,

(ii)

any amount of interest solely by reason of the fact that the interest is paid with respect to nonrecourse or limited recourse indebtedness,

(iii)

any amount of interest all or substantially all of which is determined by reference to any other amount of interest not described in subparagraph (A) (or by reference to the principal amount of indebtedness on which such other interest is paid),

(iv)

any amount of interest solely by reason of the fact that the debtor or a related person enters into a hedging transaction to manage the risk of interest rate or currency fluctuations with respect to such interest,

(v)

any amount of interest determined by

reference to -

(I)

changes in the value of property (including stock) that is actively traded (within the meaning of section 1092(d)) other than property described in section 897(c)(1) or (g),

(II)

the yield on property described in subclause (I), other than a debt instrument that pays interest described in subparagraph (A), or stock or other property that represents a beneficial interest in the debtor or a related person, or

(III)

changes in any index of the value of property described in subclause (I) or of the yield on property described in subclause (II), and (vi) any other type of interest identified by the Secretary by regulation.

(D) Exception for certain existing indebtedness

Subparagraph (A) shall not apply to any interest paid or accrued with respect to any indebtedness with a fixed term -

(i)

which was issued on or before April 7, 1993, or

(ii)

which was issued after such date pursuant to a written binding contract in effect on such date and at all times thereafter before such indebtedness was issued.

(5) Certain statements

A statement with respect to any obligation meets the requirements of this paragraph if such statement is made by -

(A)

the beneficial owner of such obligation, or

(B)

a securities clearing organization, a bank, or other financial institution that holds customers' securities in the ordinary course of its trade or business.

The preceding sentence shall not apply to any statement with respect to payment of interest on any obligation by any person if, at least one month before such payment, the Secretary has published a determination that any statement from such person (or any class including such person) does not meet the requirements of this paragraph.

(6) Secretary may provide subsection not to apply in cases of inadequate information exchange

(A) In general

If the Secretary determines that the exchange of information between the United States and a foreign country is inadequate to prevent evasion of the United States income tax by United States persons, the Secretary may provide in writing (and publish a statement) that the provisions of this subsection shall not apply to payments of interest to any person within such foreign country (or payments addressed to, or for the account of, persons within such foreign country) during the period -

(i)

beginning on the date specified by the Secretary, and

(ii)

ending on the date that the Secretary determines that the exchange of information between the United States and the foreign country is adequate to prevent the evasion of United States income tax by United States persons.

(B) Exception for certain obligations

Subparagraph (A) shall not apply to the payment of interest on any obligation which is issued on or before the date of the publication of the Secretary's determination under such subparagraph.

(7) Registered form

For purposes of this subsection, the term ''registered form'' has the same meaning

given such term by section 163(f).

(i) Tax not to apply to certain interest and dividends

(1) In general

No tax shall be imposed under paragraph (1)(A) or (1)(C) of subsection (a) on any amount described in paragraph (2).

(2) Amounts to which paragraph (1) applies

The amounts described in this paragraph are as follows:

(A)

Interest on deposits, if such interest is not effectively connected with the conduct of a trade or business within the United States.

(B)

A percentage of any dividend paid by a domestic corporation meeting the 80-percent foreign business requirements of section 861(c)(1) equal to the percentage determined for purposes of section 861(c)(2)(A).

(C)

Income derived by a foreign central bank of issue from bankers' acceptances.

(3) Deposits

For purposes of paragraph (2), the term

''deposits'' means amounts which are -

(A)

deposits with persons carrying on the banking business,

(B)

deposits or withdrawable accounts with savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, but only to the extent that amounts paid or credited on such deposits or accounts are deductible under section 591 (determined without regard to sections 265 and 291) in computing the taxable income of such institutions, and

(C)

amounts held by an insurance company under an agreement to pay interest thereon.

(j) Exemption for certain gambling winnings

No tax shall be imposed under paragraph (1)(A) of subsection (a) on the proceeds from a wager placed in any of the following games: blackjack, baccarat, craps, roulette, or big-6 wheel. The preceding sentence shall not apply in any case where the Secretary determines by regulation that the collection of the tax is administratively feasible.

(k)

Cross references

(1)

For tax treatment of certain amounts distributed by the United States to nonresident alien individuals, see section 402(e)(2).

(2)

For taxation of nonresident alien individuals who are expatriate United States citizens, see section 877.

(3)

For doubling of tax on citizens of certain foreign countries, see section 891.

(4)

For adjustment of tax in case of nationals or residents of certain foreign countries, see section 896.

(5)

For withholding of tax at source on nonresident alien individuals, see section 1441.

(6)

For election to treat married nonresident alien individual as resident of United States in certain cases, see subsections (g) and (h) of section 6013.

(7)

For special tax treatment of gain or loss from the disposition by a nonresident alien individual of a United States real property interest, see section 897

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[1] See References in Text note below.

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Sec. 871. - Tax on nonresident alien individuals

(a)

Income not connected with United States business - 30 percent tax

(1) Income other than capital gains

Except as provided in subsection (h), there is hereby imposed for each taxable year a tax of 30 percent of the amount received from sources within the United States by a nonresident alien individual as -

(A)

interest (other than original issue discount as defined in section 1273), dividends, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, and other fixed or determinable annual or periodical gains, profits, and income,

(B)

gains described in section 631(b) or (c), and gains on transfers described in section 1235 made on or before October 4, 1966,

(C)

in the case of -

(i)

a sale or exchange of an original issue discount obligation, the amount of the original issue discount accruing while such obligation was held by the nonresident alien individual (to the extent such discount was not theretofore taken into account under clause (ii)), and

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(ii)

a payment on an original issue discount obligation, an amount equal to the original issue discount accruing while such obligation was held by the nonresident alien individual (except that such original issue discount shall be taken into account under this clause only to the extent such discount was not theretofore taken into account under this clause and only to the extent that the tax thereon does not exceed the payment less the tax imposed by subparagraph (A) thereon), and

(D)

gains from the sale or exchange after October 4, 1966, of patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like property, or of any interest in any such property, to the extent such gains are from payments which are contingent on the productivity, use, or disposition of the property or interest sold or exchanged,

but only to the extent the amount so received is not effectively connected with the conduct of a trade or business within the United States.

(2) Capital gains of aliens present in the United States 183 days or more

In the case of a nonresident alien individual present in the United States for a period or periods aggregating 183 days or more during the taxable year, there is hereby imposed for such year a tax of 30 percent of the amount by which his gains, derived from sources within the United States, from the sale or exchange at any time during such year of capital assets exceed his losses, allocable to sources within the United States, from the sale or exchange at any time during such year of capital assets. For purposes of this paragraph, gains and losses shall be taken into account only if, and to the extent that, they would be recognized and taken into account if such gains and losses were effectively connected with the conduct of a trade or business within the United States, except that such gains and losses shall be determined without regard to section 1202 and such losses shall be determined without the benefits of the capital loss carryover provided in section 1212. Any gain or loss which is taken into account in determining the tax under paragraph (1) or subsection (b) shall not be taken into account in determining the tax under this paragraph. For purposes of the 183-day requirement of this paragraph, a nonresident alien individual not engaged in trade or

business within the United States who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

(3) Taxation of social security benefits

For purposes of this section and section 1441 -

(A)

85 percent of any social security benefit (as defined in section 86(d)) shall be included in gross income (notwithstanding section 207 of the Social Security Act), and

(B)

section 86 shall not apply.

For treatment of certain citizens of possessions of the United States, see section 932(c). [1]

(b)

Income connected with United States business - graduated rate of tax

(1) Imposition of tax

A nonresident alien individual engaged in trade or business within the United States during the taxable year shall be taxable as provided in section 1 or 55 on his taxable income which is effectively connected with the conduct of a trade or business within the United States.

(2) Determination of taxable income

In determining taxable income for purposes of paragraph (1), gross income includes only gross income which is effectively connected with the conduct of a trade or business within the United States.

(c) Participants in certain exchange or training programs

For purposes of this section, a nonresident alien individual who (without regard to this subsection) is not engaged in trade or business within the United States and who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), (M), or (Q) of section 101(a)(15) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101(a)(15)(F), (J), (M), or (Q)), shall be treated as a nonresident alien individual engaged in trade or business within the United States, and any income

described in the second sentence of section 1441(b) which is received by such individual shall, to the extent derived from sources within the United States, be treated as effectively connected with the conduct of a trade or business within the United States.

(d) Election to treat real property income as income connected with United States business

(1) In general

A nonresident alien individual who during the taxable year derives any income -

(A)

from real property held for the production of income and located in the United States, or from any interest in such real property, including

(i)

gains from the sale or exchange of such real property or an interest therein,

(ii)

rents or royalties from mines, wells, or other natural deposits, and

(iii)

gains described in section 631(b) or (c), and

(B)

which, but for this subsection, would not be treated as income which is effectively connected with the conduct of a trade or business within the United States,

may elect for such taxable year to treat all such income as income which is effectively connected with the conduct of a trade or business within the United States. In such case, such income shall be taxable as provided in subsection (b)(1) whether or not such individual is engaged in trade or business within the United States during the taxable year. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary with respect to any taxable year.

(2) Election after revocation

If an election has been made under paragraph (1) and such election has been revoked, a new election may not be made under such paragraph for any taxable year before the 5th taxable year which begins after the first taxable year for which such revocation is effective, unless the Secretary consents to such new election.

(3) Form and time of election and revocation

An election under paragraph (1), and any revocation of such an election, may be made only in such manner and at such time as the Secretary may by regulations prescribe.

(e)

Repealed. Pub. L. 99-514, title XII, Sec. 1211(b)(5), Oct. 22, 1986, 100 Stat. 2536)

(f) Certain annuities received under qualified plans

(1) In general

For purposes of this section, gross income does not include any amount received as an annuity under a qualified annuity plan described in section 403(a)(1), or from a qualified trust described in section 401(a) which is exempt from tax under section 501(a), if -

(A)

all of the personal services by reason of which the annuity is payable were either -

(i)

personal services performed outside the United States by an individual who, at the time of performance of such personal services, was a nonresident alien, or

(ii)

personal services described in section 864(b)(1) performed within the United States by such individual, and

(B)

at the time the first amount is paid as an annuity under the annuity plan or by the trust, 90 percent or more of the employees for whom contributions or benefits are provided under such annuity plan, or under the plan or plans of which the trust is a part,

are citizens or residents of the United States.

(2) Exclusion

Income received during the taxable year which would be excluded from gross income under this subsection but for the requirement of paragraph (1)(B) shall not be included in gross income if -

(A)

the recipient's country of residence grants a substantially equivalent exclusion to residents and citizens of the United States; or

(B)

the recipient's country of residence is a beneficiary developing country under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.).

(g) Special rules for original issue discount

For purposes of this section and section 881 -

(1) Original issue discount obligation

(A) In general

Except as provided in subparagraph (B), the term ''original issue discount obligation'' means any bond or other evidence of indebtedness having original issue discount (within the meaning of section 1273).

(B) Exceptions

The term ''original issue discount obligation'' shall not include -

(i) Certain short-term obligations

Any obligation payable 183 days or less from the date of original issue (without regard to the period held by the taxpayer).

(ii) Tax-exempt obligations

Any obligation the interest on which is exempt from tax under section 103 or under any other provision of law without regard to the identity of the holder.

(2) Determination of portion of original issue discount accruing during any period

The determination of the amount of the original issue discount which accrues during any period shall be made under the rules of section 1272 (or the corresponding provisions of prior law) without regard to any exception for short-term obligations.

(3) Source of original issue discount

Except to the extent provided in regulations prescribed by the Secretary, the determination of whether any amount described in subsection (a)(1)(C) is from sources within the United States shall be made at the time of the payment (or sale or exchange) as if such payment (or sale or exchange) involved the payment of interest.

(4) Stripped bonds

The provisions of section 1286 (relating to the treatment of stripped bonds and stripped coupons as obligations with original issue discount) shall apply for purposes of this section.

(h) Repeal of tax on interest of nonresident alien individuals received from certain portfolio debt investments

(1) In general

In the case of any portfolio interest received by a nonresident individual from sources within the United States, no tax shall be imposed under paragraph (1)(A) or (1)(C) of subsection (a).

(2) Portfolio interest

For purposes of this subsection, the term ''portfolio interest'' means any interest (including original issue discount) which would be subject to tax under subsection (a) but for this subsection and which is described in any of the following subparagraphs:

(A) Certain obligations which are not registered

Interest which is paid on any obligation which -

(i)

is not in registered form, and

(ii)

is described in section 163(f)(2)(B).

(B) Certain registered obligations

Interest which is paid on an obligation -

(i)

which is in registered form, and

(ii)

with respect to which the United States person who would otherwise be required to deduct and withhold tax from such interest under section 1441 (a) receives a statement (which meets the requirements of paragraph (5)) that the beneficial owner of the obligation is not a United States person.

(3) Portfolio interest not to include interest received by 10-percent shareholders

For purposes of this subsection -

(A) In general

The term ''portfolio interest'' shall not include any interest described in subparagraph (A) or (B) of paragraph (2) which is received by a 10-percent shareholder.

(B) 10-Percent shareholder

The term ''10-percent shareholder'' means -

(i)

in the case of an obligation issued by a corporation, any person who owns 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote, or

(ii)

in the case of an obligation issued by a partnership, any person who owns 10 percent or more of the capital or profits interest in such partnership.

(C) Attribution rules

For purposes of determining ownership of stock under subparagraph (B)(i) the rules of section 318(a) shall apply, except that -

(i)

section 318(a)(2)(C) shall be applied without

regard to the 50-percent limitation therein,

(ii)

section 318(a)(3)(C) shall be applied -

(I)

without regard to the 50-percent limitation therein; and

(II)

in any case where such section would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) which is owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation, and

(iii)

any stock which a person is treated as owning after application of section 318(a)(4) shall not, for purposes of applying paragraphs (2) and (3) of section 318(a), be treated as actually owned by such person.

Under regulations prescribed by the Secretary, rules similar to the rules of the preceding sentence shall be applied in determining the ownership of the capital or profits interest in a partnership for purposes of subparagraph (B)(ii).

(4) Portfolio interest not to include certain contingent interest

For purposes of this subsection -

(A) In general

Except as otherwise provided in this paragraph, the term ''portfolio interest'' shall not include -

(i)

any interest if the amount of such interest is determined by reference to -

(I)

any receipts, sales or other cash flow of the debtor or a related person,

(II)

any income or profits of the debtor or a related person,

(III)

any change in value of any property of the debtor or a related person, or

(IV)

any dividend, partnership distributions, or similar payments made by the debtor or a related person, or

(ii)

any other type of contingent interest that is identified by the Secretary by regulation, where a denial of the portfolio interest exemption is necessary or appropriate to prevent avoidance of Federal income tax.

(B) Related person

The term ''related person'' means any person who is related to the debtor within the meaning of section 267(b) or 707(b)(1), or who is a party to any arrangement undertaken for a purpose of avoiding the application of this paragraph.

(C) Exceptions

Subparagraph (A)(i) shall not apply to -

(i)

any amount of interest solely by reason of the fact that the timing of any interest or principal payment is subject to a contingency,

(ii)

any amount of interest solely by reason of the fact that the interest is paid with respect to nonrecourse or limited recourse indebtedness,

(iii)

any amount of interest all or substantially all of which is determined by reference to any other

amount of interest not described in subparagraph (A) (or by reference to the principal amount of indebtedness on which such other interest is paid),

(iv)

any amount of interest solely by reason of the fact that the debtor or a related person enters into a hedging transaction to manage the risk of interest rate or currency fluctuations with respect to such interest,

(v)

any amount of interest determined by reference to -

(I)

changes in the value of property (including stock) that is actively traded (within the meaning of section 1092(d)) other than property described in section 897(c)(1) or (g),

(II)

the yield on property described in subclause (I), other than a debt instrument that pays interest described in subparagraph (A), or stock or other property that represents a beneficial interest in the debtor or a related person, or

(III)

changes in any index of the value of property described in subclause (I) or of the yield on property described in subclause (II), and (vi) any other type of interest identified by the Secretary by regulation.

(D) Exception for certain existing indebtedness

Subparagraph (A) shall not apply to any interest paid or accrued with respect to any indebtedness with a fixed term -

(i)

which was issued on or before April 7, 1993, or

(ii)

which was issued after such date pursuant to a written binding contract in effect on such date and

at all times thereafter before such indebtedness was issued.

(5) Certain statements

A statement with respect to any obligation meets the requirements of this paragraph if such statement is made by -

(A)

the beneficial owner of such obligation, or

(B)

a securities clearing organization, a bank, or other financial institution that holds customers' securities in the ordinary course of its trade or business.

The preceding sentence shall not apply to any statement with respect to payment of interest on any obligation by any person if, at least one month before such payment, the Secretary has published a determination that any statement from such person (or any class including such person) does not meet the requirements of this paragraph.

(6) Secretary may provide subsection not to apply in cases of inadequate information exchange

(A) In general

If the Secretary determines that the exchange of information between the United States and a foreign country is inadequate to prevent evasion of the United States income tax by United States persons, the Secretary may provide in writing (and publish a statement) that the provisions of this subsection shall not apply to payments of interest to any person within such foreign country (or payments addressed to, or for the account of, persons within such foreign country) during the period -

(i)

beginning on the date specified by the Secretary, and

(ii)

ending on the date that the Secretary determines that the exchange of information between the United States and the foreign country is adequate to prevent the evasion of United States income tax

by United States persons.

(B) Exception for certain obligations

Subparagraph (A) shall not apply to the payment of interest on any obligation which is issued on or before the date of the publication of the Secretary's determination under such subparagraph.

(7) Registered form

For purposes of this subsection, the term ''registered form'' has the same meaning given such term by section 163(f).

(i) Tax not to apply to certain interest and dividends

(1) In general

No tax shall be imposed under paragraph (1)(A) or (1)(C) of subsection (a) on any amount described in paragraph (2).

(2) Amounts to which paragraph (1) applies

The amounts described in this paragraph are as follows:

(A)

Interest on deposits, if such interest is not effectively connected with the conduct of a trade or business within the United States.

(B)

A percentage of any dividend paid by a domestic corporation meeting the 80-percent foreign business requirements of section 861(c)(1) equal to the percentage determined for purposes of section 861(c)(2)(A).

(C)

Income derived by a foreign central bank of issue from bankers' acceptances.

(3) Deposits

For purposes of paragraph (2), the term ''deposits'' means amounts which are -

(A)

deposits with persons carrying on the banking business,

(B)

deposits or withdrawable accounts with savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, but only to the extent that amounts paid or credited on such deposits or accounts are deductible under section 591 (determined without regard to sections 265 and 291) in computing the taxable income of such institutions, and

(C)

amounts held by an insurance company under an agreement to pay interest thereon.

(j) Exemption for certain gambling winnings

No tax shall be imposed under paragraph (1)(A) of subsection (a) on the proceeds from a wager placed in any of the following games: blackjack, baccarat, craps, roulette, or big-6 wheel. The preceding sentence shall not apply in any case where the Secretary determines by regulation that the collection of the tax is administratively feasible.

(k)

Cross references

(1)

For tax treatment of certain amounts distributed by the United States to nonresident alien individuals, see section 402(e)(2).

(2)

For taxation of nonresident alien individuals who are expatriate United States citizens, see section 877.

(3)

For doubling of tax on citizens of certain foreign countries, see section 891.

(4)

For adjustment of tax in case of nationals or residents of certain foreign countries, see section 896.

(5)

For withholding of tax at source on nonresident alien individuals, see section 1441.

(6)

For election to treat married nonresident alien individual as resident of United States in certain cases, see subsections (g) and (h) of section 6013.

(7)

For special tax treatment of gain or loss from the disposition by a nonresident alien individual of a United States real property interest, see section 897

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[1] See References in Text note below.

Next

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Code **Sec. 1.1441-1 Requirement for the deduction and withholding of tax on payments to foreign persons.**

(a) Purpose and scope.

This section, Secs. 1.1441-2 through 1.1441-9, and 1.1443-1 provide rules for withholding under sections 1441, 1442, and 1443 when a payment is made to a foreign person. This section provides definitions of terms used in chapter 3 of the Internal Revenue Code (Code) and regulations thereunder. It prescribes procedures to determine whether an amount must be withheld under chapter 3 of the Code and documentation that a withholding agent may rely upon to determine the status of a payee or a beneficial owner as a U.S. person or as a foreign person and other relevant characteristics of the payee that may affect a withholding agent's obligation to withhold under chapter 3 of the Code and the regulations thereunder. Special procedures regarding payments to foreign persons that act as intermediaries are also provided. Section 1.1441-2 defines the income subject to withholding under section 1441, 1442, and 1443 and the regulations under these sections. Section 1.1441-3 provides rules regarding the amount subject to withholding. Section 1.1441-4 provides exemptions from withholding for, among other things, certain income effectively connected with the conduct of a trade or business in the United States, including certain compensation for the personal services of an individual. Section 1.1441-5 provides rules for withholding on payments made to flow-through entities and other similar arrangements. Section 1.1441-6 provides rules for claiming a reduced rate of withholding under an income tax treaty. Section 1.1441-7 defines the term withholding agent and provides due diligence rules governing a withholding agent's obligation to withhold. Section 1.1441-8 provides rules for relying on claims of exemption from withholding for payments to a foreign government, an international organization, a foreign central bank of issue, or the Bank for International Settlements. Sections 1.1441-9 and 1.1443-1 provide rules for relying on claims of exemption from withholding for payments to foreign tax exempt organizations and foreign private foundations.

(b) General rules of withholding.

(1) Requirement to withhold on payments to foreign persons.

A withholding agent must withhold 30-percent of any payment of an amount subject to withholding made to a payee that is a foreign person unless it can reliably associate the payment with documentation upon which it can rely to treat the payment as made to a payee that is U.S. person or as made to a beneficial owner that is a foreign person entitled to a reduced rate of withholding. However, a withholding agent making a payment to a foreign person need not

withhold where the foreign person assumes responsibility for withholding on the payment under chapter 3 of the Code and the regulations thereunder as a qualified intermediary (see paragraph (e)(5) of this section), as a U.S. branch of a foreign person (see paragraph (b)(2)(iv) of this section), as a withholding foreign partnership (see Sec. 1.1441-5(c)(2)(i)), or as an authorized foreign agent (see Sec. 1.1441-7(c)(1)). This section (dealing with general rules of withholding and claims of foreign or U.S. status by a payee or a beneficial owner), and Secs. 1.1441-4, 1.1441-5, 1.1441-6, 1.1441-8, 1.1441-9, and 1.1443-1 provide rules for determining whether documentation is required as a condition for reducing the rate of withholding on a payment to a foreign beneficial owner or to a U.S. payee and if so, the nature of the documentation upon which a withholding agent may rely in order to reduce such rate. Paragraph (b)(2) of this section prescribes the rules for determining who the payee is, the extent to which a payment is treated as made to a foreign payee, and reliable association of a payment with documentation. Paragraph (b)(3) of this section describes the applicable presumptions for determining the payee's status as U.S. or foreign and the payee's other characteristics (i.e., as an owner or intermediary, as an individual, partnership, corporation, etc.). Paragraph (b)(4) of this section lists the types of payments for which the 30-percent withholding rate may be reduced. Because the treatment of a payee as a U.S. or a foreign person also has consequences for purposes of making an information return under the provisions of chapter 61 of the Code and for withholding under other provisions of the Code, such as sections 3402, 3405 or 3406, paragraph (b)(5) of this section lists applicable provisions outside chapter 3 of the Code that require certain payees to establish their foreign status (e.g., in order to be exempt from information reporting). Paragraph (b)(6) of this section describes the withholding obligations of a foreign person making a payment that it has received in its capacity as an intermediary. Paragraph (b)(7) of this section describes the liability of a withholding agent that fails to withhold at the required 30-percent rate in the absence of documentation. Paragraph (b)(8) of this section deals with adjustments and refunds in the case of overwithholding. Paragraph (b)(9) of this section deals with determining the status of the payee when the payment is jointly owned. See paragraph (c)(6) of this section for a definition of beneficial owner. See Sec. 1.1441-7(a) for a definition of withholding agent. See Sec. 1.1441-2(a) for the determination of an amount subject to withholding. See Sec. 1.1441-2(e) for the definition of a payment and when it is considered made. Except as otherwise provided, the provisions of this section apply only for purposes of determining a withholding agent's obligation to withhold under chapter 3 of the Code and the regulations thereunder.

(2) Determination of payee and payee's status.

(i) In general.

Except as otherwise provided in this paragraph (b)(2) and Sec. 1.1441- 5(c)(1) and (e)(3), a payee is the person to whom a payment is made, regardless of whether such person is the beneficial owner of the amount (as defined in paragraph (c)(6) of this section). A foreign payee is a payee who is a foreign person. A U.S. payee is a payee who is a U.S. person. Generally, the determination by a withholding agent of the U.S. or foreign status of a payee and of its other relevant characteristics (e.g., as a beneficial owner or intermediary, or as an individual, corporation, or flow-through entity) is made on the basis of a withholding certificate that is a Form W-8 or a Form 8233 (indicating foreign status of the payee or beneficial owner) or a Form W-9 (indicating U.S. status of the payee). The provisions of this paragraph (b)(2), paragraph (b)(3) of this section, and Sec. 1.1441-5 (c), (d), and (e) dealing with determinations of payee and applicable presumptions in the absence of documentation, apply only to payments of amounts subject to withholding under chapter 3 of the Code (within the meaning of Sec. 1.1441-2(a)). Similar payee and presumption provisions are set forth under Sec. 1.6049-5(d) for payments of amounts that are not subject to withholding under chapter 3 of the Code (or the regulations thereunder) but that may be reportable under provisions of chapter 61 of the Code (and the regulations thereunder). See paragraph (d) of this section for documentation upon which the withholding agent may rely in order to treat the payee or beneficial owner as a U.S. person. See paragraph (e) of this section for documentation upon which the withholding agent may rely in order to treat the payee or beneficial owner as a foreign person. For applicable presumptions of status in the absence of documentation, see paragraph (b)(3) of this section and Sec. 1.1441-5(d). For definitions of a foreign person and U.S. person, see paragraph (c)(2) of this section.

(ii) Payments to a U.S. agent of a foreign person.

A withholding agent making a payment to a U.S. person (other than to a U.S. branch that is treated as a U.S. person pursuant to paragraph (b)(2)(iv) of this section) and who has actual knowledge that the U.S. person receives the payment as an agent of a foreign person must treat the payment as made to the foreign person. However, the withholding agent may treat the payment as made to the U.S. person if the U.S. person is a financial institution and the withholding agent has no reason to believe that the financial institution will not comply with its obligation to withhold. See paragraph (c)(5) of this section for the definition of a financial institution.

(iii) Payments to wholly-owned entities

(A) Foreign-owned domestic entity.

A payment to a wholly-owned domestic entity that is disregarded for federal tax purposes under Sec. 301.7701-2(c)(2) of this chapter as an entity separate from its owner and whose single owner is a foreign person shall be treated as a payment to the owner of the entity, subject to the provisions of paragraph (b)(2)(iv) of this section. For purposes of this paragraph (b)(2)(iii)(A), a domestic entity means a person that would be treated as a U.S. person if it had an election in effect under Sec. 301.7701-3(c)(1)(i) of this chapter to be treated as a corporation. For example, a limited liability company, A, organized under the laws of the State of Delaware, opens an account at a U.S. bank. Upon opening of the account, the bank requests A to furnish a Form W-9 as required under section 6049(a) and the regulations under that section. A does not have an election in effect under Sec. 301.7701-3(c)(1)(i) of this chapter and, therefore, is not treated as an organization taxable as a corporation, including for purposes of the exempt recipient provisions in Sec. 1.6049-4(c)(1). If A has a single owner and the owner is a foreign person (as defined in paragraph (c)(2) of this section), then A may not furnish a Form W-9 because it may not represent that it is a U.S. person for purposes of the provisions of chapters 3 and 61 of the Code, and section 3406. Therefore, A must furnish a Form W-8 with the name, address, and taxpayer identifying number (TIN) (if required) of the foreign person who is the single owner in the same manner as if the account were opened directly by the foreign single owner. See Secs. 1.894-1T(d) and 1.1441-6(b)(2) for special rules where the entity's owner is claiming a reduced rate of withholding under an income tax treaty.

(B) Foreign entity.

A payment to a wholly-owned foreign entity that is disregarded under Sec. 301.7701-2(c)(2) of this chapter as an entity separate from its owner shall be treated as a payment to the single owner of the entity, subject to the provisions of paragraph (b)(2)(iv) of this section if the foreign entity has a U.S. branch in the United States. For purposes of this paragraph (b)(2)(iii)(B), a foreign entity means a person that would be treated as a foreign person if it had an election in effect under Sec. 301.7701-3(c)(1)(i) of this chapter to be treated as a corporation. See Secs. 1.894-1T(d) and 1.1441-6(b)(2) for special rules where the foreign entity or its owner is claiming a reduced rate of withholding under an income tax treaty. Thus, for example, if the foreign entity's single

owner is a U.S. person, the payment shall be treated as a payment to a U.S. person. Therefore, based on the saving clause in U.S. income tax treaties, such an entity may not claim benefits under an income tax treaty even if the entity is organized in a country with which the United States has an income tax treaty in effect and treats the entity as a non-fiscally transparent entity. See Sec. 1.894-1T(d)(6), Example 10. Unless it has actual knowledge or reason to know that the foreign entity to whom the payment is made is disregarded under Sec. 301.7701-2(c)(2) of this chapter, a withholding agent may treat a foreign entity as an entity separate from its owner unless it can reliably associate the payment with a withholding certificate from the entity's owner.

(iv) Payments to a U.S. branch of certain foreign banks or foreign insurance companies.

(A) U.S. branch treated as a U.S. person in certain cases.

A payment to a U.S. branch of a foreign person is a payment to a foreign person. However, a U.S. branch described in this paragraph (b)(2)(iv)(A) and a withholding agent (including another U.S. branch described in this paragraph (b)(2)(iv)(A)) may agree to treat the branch as a U.S. person for purposes of withholding on specified payments to the U.S. branch. Notwithstanding the preceding sentence, a withholding agent making a payment to a U.S. branch treated as a U.S. person under this paragraph (b)(2)(iv)(A) shall not treat the branch as a U.S. person for purposes of reporting the payment made to the branch. Therefore, a payment to such U.S. branch shall be reported on Form 1042-S under Sec. 1.1461-1(c). Further, a U.S. branch that is treated as a U.S. person under this paragraph (b)(2)(iv)(A) shall not be treated as a U.S. person for purposes of the withholding certificate it may provide to a withholding agent. Therefore, the U.S. branch must furnish a U.S. branch withholding certificate on Form W-8 as provided in paragraph (e)(3)(v) of this section and not a Form W-9. An agreement to treat a U.S. branch as a U.S. person must be evidenced by a U.S. branch withholding certificate described in paragraph (e)(3)(v) of this section furnished by the U.S. branch to the withholding agent. A U.S. branch described in this paragraph (b)(2)(iv)(A) is any U.S. branch of a foreign bank subject to regulatory supervision by the Federal Reserve Board or a U.S. branch of a foreign insurance company required to file an annual statement on a form approved by the National Association of Insurance Commissioners with the Insurance Department of a State, a Territory, or the District of Columbia. The Internal Revenue Service

(IRS) may approve a list of U.S. branches that may qualify for treatment as a U.S. person under this paragraph (b)(2)(iv)(A) (see Sec. 601.601(d)(2) of this chapter). See Sec. 1.6049-5(c)(5)(vi) for the treatment of U.S. branches as U.S. payors if they make a payment that is subject to reporting under chapter 61 of the Internal Revenue Code. Also see Sec. 1.6049-5(d)(1)(ii) for the treatment of U.S. branches as foreign payees under chapter 61 of the Internal Revenue Code.

(B) Consequences to the withholding agent.

Any person that is otherwise a withholding agent regarding a payment to a U.S. branch described in paragraph (b)(2)(iv)(A) of this section shall treat the payment in one of the following ways--

(1) As a payment to a U.S. person, in which case the withholding agent is not responsible for withholding on such payment to the extent it can reliably associate the payment with a withholding certificate described in paragraph (e)(3)(v) of this section that has been furnished by the U.S. branch under its agreement with the withholding agent to be treated as a U.S. person;

(2) As a payment directly to the persons whose names are on withholding certificates or other appropriate documentation forwarded by the U.S. branch to the withholding agent when no agreement is in effect to treat the U.S. branch as a U.S. person for such payment, to the extent the withholding agent can reliably associate the payment with such certificates or documentation; or

(3) As a payment to a foreign person of income that is effectively connected with the conduct of a trade or business in the United States if the withholding agent cannot reliably associate the payment with a withholding certificate from the U.S. branch or any other certificate or other appropriate documentation from another person. See Sec. 1.1441-4(a)(2)(ii).

(C) Consequences to the U.S. branch.

A U.S. branch that is treated as a U.S. person under paragraph (b)(2)(iv)(A) of this section shall be treated as a separate person solely for purposes of section

1441(a) and all other provisions of chapter 3 of the Internal Revenue Code and the regulations thereunder (other than for purposes of reporting the payment to the U.S. branch under Sec. 1.1461-1(c) or for purposes of the documentation such a branch must furnish under paragraph (e)(3)(v) of this section) for any payment that it receives as such. Thus, the U.S. branch shall be responsible for withholding on the payment in accordance with the provisions under chapter 3 of the Internal Revenue Code and the regulations thereunder and other applicable withholding provisions of the Internal Revenue Code. For this purpose, it shall obtain and retain documentation from payees or beneficial owners of the payments that it receives as a U.S. person in the same manner as if it were a separate entity. For example, if a U.S. branch receives a payment on behalf of its home office and the home office is a qualified intermediary, the U.S. branch must obtain a qualified intermediary withholding certificate described in paragraph (e)(3)(ii) of this section from its home office. In addition, a U.S. branch that has not provided documentation to the withholding agent for a payment that is, in fact, not effectively connected income is a withholding agent with respect to that payment. See paragraph (b)(6) of this section and Sec. 1.1441-4(a)(2)(ii).

(D) Definition of payment to a U.S. branch.

A payment is treated as a payment to a U.S. branch of a foreign bank or foreign insurance company if the payment is credited to an account maintained in the United States in the name of a U.S. branch of the foreign person, or the payment is made to an address in the United States where the U.S. branch is located and the name of the U.S. branch appears on documents (in written or electronic form) associated with the payment (e.g., the check mailed or a letter addressed to the branch).

(E) Payments to other U.S. branches.

Similar withholding procedures may apply to payments to U.S. branches that are not described in paragraph (b)(2)(iv)(A) of this section to the extent permitted by the district director or the Assistant Commissioner (International). Any such branch must establish that its situation is analogous to that of a U.S. branch described in paragraph (b)(2)(iv)(A) of this section regarding its registration with, and regulation by, a U.S. governmental institution, the type and amounts of assets it is required to, or actually maintains in the United States, and

the personnel who carry out the activities of the branch in the United States. In the alternative, the branch must establish that the withholding and reporting requirements under chapter 3 of the Code and the regulations thereunder impose an undue administrative burden and that the collection of the tax imposed by section 871(a) or 881(a) on the foreign person (or its members in the case of a foreign partnership) will not be jeopardized by the exemption from withholding. Generally, an undue administrative burden will be found to exist in a case where the person entitled to the income, such as a foreign insurance company, receives from the withholding agent income on securities issued by a single corporation, some of which is, and some of which is not, effectively connected with conduct of a trade or business within the United States and the criteria for determining the effective connection are unduly difficult to apply because of the circumstances under which such securities are held. No exemption from withholding shall be granted under this paragraph (b)(2)(iv)(E) unless the person entitled to the income complies with such other requirements as may be imposed by the district director or the Assistant Commissioner (International) and unless the district director or the Assistant Commissioner (International) is satisfied that the collection of the tax on the income involved will not be jeopardized by the exemption from withholding. The IRS may prescribe such procedures as are necessary to make these determinations (see Sec. 601.601(d)(2) of this chapter).

(v) Payments to a foreign intermediary.

(A) Payments treated as made to persons for whom the intermediary collects the payment.

Except as otherwise provided in paragraph (b)(2)(v)(B) of this section, the payee of a payment to a person that the withholding agent may treat as a foreign intermediary in accordance with the provisions of paragraph (b)(3)(ii)(C) or (b)(3)(v)(A) of this section is the person or persons for whom the intermediary collects the payment. Thus, for example, the payee of a payment that the withholding agent can reliably associate with a withholding certificate from a qualified intermediary (defined in paragraph (e)(5)(ii) of this section) that does not assume primary withholding responsibility or a payment to a nonqualified intermediary are the persons for whom the qualified intermediary or nonqualified intermediary acts and not to the intermediary itself. See paragraph (b)(3)(v) of this section for presumptions that apply if the payment cannot be reliably

associated with valid documentation. For similar rules for payments to flow-through entities, see Sec. 1.1441-5(c)(1) and (e)(3).

(B) Payments treated as made to foreign intermediary.

he payee of a payment to a person that the withholding agent may treat as a qualified intermediary is the qualified intermediary to the extent that the qualified intermediary assumes primary withholding responsibility under paragraph (e)(5)(iv) of this section for the payment. For example if a qualified intermediary assumes primary withholding responsibility under chapter 3 of the Internal Revenue Code but does not assume primary reporting or withholding responsibility under chapter 61 or section 3406 of the Internal Revenue Code and therefore provides Forms W-9 for U.S. non-exempt recipients, the qualified intermediary is the payee except to the extent the payment is reliably associated with a Form W-9 from a U.S. non-exempt recipient.

(vi) Other payees.

A payment to a person described in Sec. 1.6049-4(c)(1)(ii) that the withholding agent would treat as a payment to a foreign person without obtaining documentation for purposes of information reporting under section 6049 (if the payment were interest) is treated as a payment to a foreign payee for purposes of chapter 3 of the Code and the regulations thereunder (or to a foreign beneficial owner to the extent provided in paragraph (e)(1)(ii)(A) (6) or (7) of this section). Further, payments that the withholding agent can reliably associate with documentary evidence described in Sec. 1.6049-5(c)(1) relating to the payee is treated as a payment to a foreign payee. A payment that the withholding agent may treat as a payment to an authorized foreign agent (as defined in Sec. 1.1441-7(c)(2)) is treated as a payment to the agent and not to the persons for whom the agent collects the payment. See Sec. 1.1441-5 (b)(1) and (c)(1) for payee determinations for payments to partnerships. See Sec. 1.1441-5(e) for payee determinations for payments to foreign trusts or foreign estates.

(vii) Rules for reliably associating a payment with a withholding certificate or other appropriate documentation.

(A) Generally.

The presumption rules of paragraph (b)(3) of this section and Secs. 1.1441-5(d) and (e)(6) and 1.6049-5(d) apply to any payment, or portion of a

payment, that a withholding agent cannot reliably associate with valid documentation. Generally, a withholding agent can reliably associate a payment with valid documentation if, prior to the payment, it holds valid documentation (either directly or through an agent), it can reliably determine how much of the payment relates to the valid documentation, and it has no actual knowledge or reason to know that any of the information, certifications, or statements in, or associated with, the documentation are incorrect. Special rules apply for payments made to intermediaries, flow-through entities, and certain U.S. branches. See paragraph (b)(2)(vii)(B) through (F) of this section. The documentation referred to in this paragraph (b)(2)(vii) is documentation described in paragraphs (c)(16) and (17) of this section upon which a withholding agent may rely to treat the payment as a payment made to a payee or beneficial owner, and to ascertain the characteristics of the payee or beneficial owner that are relevant to withholding or reporting under chapter 3 of the Internal Revenue Code and the regulations thereunder. For purposes of this paragraph (b)(2)(vii), documentation also includes the agreement that the withholding agent has in effect with an authorized foreign agent in accordance with Sec. 1.1441-7(c)(2)(i). A withholding agent that is not required to obtain documentation with respect to a payment is considered to lack documentation for purposes of this paragraph (b)(2)(vii). For example, a withholding agent paying U.S. source interest to a person that is an exempt recipient, as defined in Sec. 1.6049-4(c)(1)(ii), is not required to obtain documentation from that person in order to determine whether an amount paid to that person is reportable under an applicable information reporting provision under chapter 61 of the Internal Revenue Code. The withholding agent must, however, treat the payment as made to an undocumented person for purposes of chapter 3 of the Internal Revenue Code. Therefore, the presumption rules of paragraph (b)(3)(iii) of this section apply to determine whether the person is presumed to be a U.S. person (in which case, no withholding is required under this section), or whether the person is presumed to be a foreign person (in which case 30-percent withholding is required under this section). See paragraph (b)(3)(v) of this section for special reliance rules in the case of a payment to a foreign intermediary and Sec. 1.1441-5(d) and (e)(6) for special reliance rules in the case of a payment to a flow-through entity.

(B) Special rules applicable to a withholding certificate from a nonqualified

intermediary or flow-through entity.

(1) In the case of a payment made to a nonqualified intermediary, a flow-through entity (as defined in paragraph (c)(23) of this section), and a U.S. branch described in paragraph (b)(2)(iv) of this section (other than a branch that is treated as a U.S. person), a withholding agent can reliably associate the payment with valid documentation only to the extent that, prior to the payment, the withholding agent can allocate the payment to a valid nonqualified intermediary, flow-through, or U.S. branch withholding certificate; the withholding agent can reliably determine how much of the payment relates to valid documentation provided by a payee as determined under paragraph (c)(12) of this section (i.e., a person that is not itself an intermediary, flow- through entity, or U.S. branch); and the withholding agent has sufficient information to report the payment on Form 1042-S or Form 1099, if reporting is required. See paragraph (e)(3)(iii) of this section for the requirements of a nonqualified intermediary withholding certificate, paragraph (e)(3)(v) of this section for the requirements of a U.S. branch certificate, and Secs. 1.1441-5(c)(3)(iii) and (e)(5)(iii) for the requirements of a flow-through withholding certificate. Thus, a payment cannot be reliably associated with valid documentation provided by a payee to the extent such documentation is lacking or unreliable, or to the extent that information required to allocate and report all or a portion of the payment to each payee is lacking or unreliable. If a withholding certificate attached to an intermediary, U.S. branch, or flow-through withholding certificate is another intermediary, U.S. branch, or flow-through withholding certificate, the rules of this paragraph (b)(2)(vii)(B) apply by treating the share of the payment allocable to the other intermediary, U.S. branch, or flow-through entity as if the payment were made directly to such other entity. See paragraph (e)(3)(iv)(D) of this section for rules permitting information allocating a payment to documentation to be received after the payment is made.

(2) The rules of paragraph (b)(2)(vii)(B)(1) of this section are illustrated by the following examples:

Example 1. WH, a withholding agent, makes a payment of U.S. source

interest to NQI, an intermediary that is a nonqualified intermediary. NQI provides a valid intermediary withholding certificate under paragraph (e)(3)(iii) of this section. NQI does not, however, provide valid documentation from the persons on whose behalf it receives the interest payment, and, therefore, the interest payment cannot be reliably associated with valid documentation provided by a payee. WH must apply the presumption rules of paragraph (b)(3)(v) of this section to the payment.

Example 2. The facts are the same as in Example 1, except that NQI does attach valid beneficial owner withholding certificates (as defined in paragraph (e)(2)(i) of this section) from A, B, C, and D establishing their status as foreign persons. NQI does not, however, provide WH with any information allocating the payment among A, B, C, and D and, therefore, WH cannot determine the portion of the payment that relates to each beneficial owner withholding certificate. The interest payment cannot be reliably associated with valid documentation from a payee and WH must apply the presumption rules of paragraph (b)(3)(v) of this section to the payment. See, however, paragraph (e)(3)(iv)(D) of this section providing special rules permitting allocation information to be received after a payment is made.

Example 3. The facts are the same as in Example 2, except that NQI does provide allocation information associated with its intermediary withholding certificate indicating that 25 percent of the interest payment is allocable to A and 25 percent to B. NQI does not provide any allocation information regarding the remaining 50 percent of the payment. WH may treat 25 percent of the payment as made to A and 25 percent as made to B. The remaining 50 percent of the payment cannot be reliably associated with valid documentation from a payee, however, since NQI did not provide information allocating the payment. Thus, the remaining 50 percent of the payment is subject to the presumption rules of paragraph (b)(3)(v) of this section.

Example 4. WH makes a payment of U.S. source interest to NQI1, an intermediary that is not a qualified intermediary. NQI1 provides WH with a valid nonqualified intermediary withholding certificate as well a valid beneficial owner withholding certificates from A and B and a valid

nonqualified intermediary withholding certificate from NQI2. NQI2 has provided valid beneficial owner documentation from C sufficient to establish C's status as a foreign person. Based on information provided by NQI1, WH can allocate 20 percent of the interest payment to A, and 20 percent to B. Based on information that NQI2 provided NQI1 and that NQI1 provides to WH, WH can allocate 60 percent of the payment to NQI 2, but can only allocate one half of that payment (30 percent) to C. Therefore, WH cannot reliably associate 30 percent of the payment made to NQI2 with valid documentation and must apply the presumption rules of paragraph (b)(3)(v) of this section to that portion of the payment.

(C) Special rules applicable to a withholding certificate provided by a qualified intermediary that does not assume primary withholding responsibility.

(1) If a payment is made to a qualified intermediary that does not assume primary withholding responsibility under chapter 3 of the Internal Revenue Code or primary Form 1099 reporting and backup withholding responsibility under chapter 61 and section 3406 of the Internal Revenue Code for the payment, a withholding agent can reliably associate the payment with valid documentation only to the extent that, prior to the payment, the withholding agent has received a valid qualified intermediary withholding certificate and the withholding agent can reliably determine the portion of the payment that relates to a withholding rate pool, as defined in paragraph (e)(5)(v)(C) of this section. In the case of a withholding rate pool attributable to a U.S. non-exempt recipient, a payment cannot be reliably associated with valid documentation unless, prior to the payment, the qualified intermediary has provided the U.S. person's Form W-9 (or, in the absence of the form, the name, address, and TIN, if available, of the U.S. person) and sufficient information for the withholding agent to report the payment on Form 1099. See paragraph (e)(5)(v)(C)(2) of this section for special rules regarding allocation of payments among U.S. non-exempt recipients.

(2) The rules of this paragraph (b)(2)(vii)(C) are illustrated by the following examples:

Example 1. WH, a withholding agent, makes a payment of U.S. source dividends to QI. QI provides WH with a valid qualified intermediary withholding certificate on which it indicates that it does not assume primary withholding responsibility under chapter 3 of the Internal Revenue Code or primary Form 1099 reporting and backup withholding responsibility under chapter 61 and section 3406 of the Internal Revenue Code. QI does not provide any information allocating the dividend to withholding rate pools. WH cannot reliably associate the payment with valid payee documentation and therefore must apply the presumption rules of paragraph (b)(3)(v) of this section.

Example 2. WH makes a payment of U.S. source dividends to QI. QI has 5 customers: A, B, C, D, and E. QI has obtained documentation from A and B establishing their entitlement to a 15 percent rate of tax on U.S. source dividends under an income tax treaty. C is a U.S. person that is an exempt recipient as defined in paragraph (c)(20) of this section. D and E are U.S. non-exempt recipients who have provided Forms W-9 to QI. A, B, C, D, and E are each entitled to 20 percent of the dividend payment. QI provides WH with a valid qualified intermediary withholding certificate as described in paragraph (e)(2)(ii) of this section with which it associates the Forms W-9 from D and E. QI associates the following allocation information with its qualified intermediary withholding certificate: 40 percent of the payment is allocable to the 15 percent withholding rate pool, and 20 percent is allocable to each of D and E. QI does not provide any allocation information regarding the remaining 20 percent of the payment. WH cannot reliably associate 20 percent of the payment with valid documentation and, therefore, must apply the presumption rules of paragraph (b)(3)(v) of this section to that portion of the payment. The 20 percent of the payment allocable to the 15 percent withholding rate pool, and the portion of the payments allocable to D and E are payments that can be reliably associated with documentation.

(D) Special rules applicable to a withholding certificate provided by a qualified intermediary that assumes primary withholding responsibility under chapter 3 of the Internal Revenue Code.

(1) In the case of a payment made to a qualified intermediary that

assumes primary withholding responsibility under chapter 3 of the Internal Revenue Code with respect to that payment (but does not assume primary Form 1099 reporting and backup withholding responsibility under chapter 61 and section 3406 of the Internal Revenue Code), a withholding agent can reliably associate the payment with valid documentation only to the extent that, prior to the payment, the withholding agent has received a valid qualified intermediary withholding certificate and the withholding agent can reliably determine the portion of the payment that relates to the withholding rate pool for which the qualified intermediary assumes primary withholding responsibility under chapter 3 of the Internal Revenue Code and the portion of the payment attributable to withholding rate pools for each U.S. non-exempt recipient for whom the qualified intermediary has provided a Form W-9 (or, in absence of the form, the name, address, and TIN, if available, of the U.S. non-exempt recipient). See paragraph (e)(5)(v)(C)(2) of this section for alternative allocation procedures for payments made to U.S. persons that are not exempt recipients.

(2) Examples. The following examples illustrate the rules of paragraph (b)(2)(vii)(D)(1) of this section:

Example 1. WH makes a payment of U.S. source interest to QI, a qualified intermediary. QI provides WH with a withholding certificate that indicates that QI will assume primary withholding responsibility under chapter 3 of the Internal Revenue Code with respect to the payment. In addition, QI attaches a Form W-9 from A, a U.S. non-exempt recipient, as defined in paragraph (c)(21) of this section, and provides the name, address, and TIN of B, a U.S. person that is also a non-exempt recipient but who has not provided a Form W-9. QI associates a withholding statement with its qualified intermediary withholding certificate indicating that 10 percent of the payment is attributable to A, and 10 percent to B, and that QI will assume primary withholding responsibility with respect to the remaining 80 percent of the payment. WH can reliably associate the entire payment with valid documentation. Although under the presumption rule of paragraph (b)(3)(v) of this section, an undocumented person receiving U.S. source interest is generally presumed to be a foreign person, WH has actual

knowledge that B is a U.S. non-exempt recipient and therefore must report the payment on Form 1099 and backup withhold on the interest payment under section 3406.

Example 2. The facts are the same as in Example 1, except that no Forms W-9 or other information have been provided for the 20 percent of the payment that is allocable to A and B. Thus, QI has accepted withholding responsibility for 80 percent of the payment, but has provided no information for the remaining 20 percent. In this case, 20 percent of the payment cannot be reliably associated with valid documentation, and WH must apply the presumption rule of paragraph (b)(3)(v) of this section.

(E) Special rules applicable to a withholding certificate provided by a qualified intermediary that assumes primary Form 1099 reporting and backup withholding responsibility but not primary withholding under chapter 3.

(1) If a payment is made to a qualified intermediary that assumes primary Form 1099 reporting and backup withholding responsibility for the payment (but does not assume primary withholding responsibility under chapter 3 of the Internal Revenue Code), a withholding agent can reliably associate the payment with valid documentation only to the extent that, prior to the payment, the withholding agent has received a valid qualified intermediary withholding certificate and the withholding agent can reliably determine the portion of the payment that relates to a withholding rate pool or pools provided as part of the qualified intermediary's withholding statement and the portion of the payment for which the qualified intermediary assumes primary Form 1099 reporting and backup withholding responsibility.

(2) The following example illustrates the rules of paragraph (b)(2)((vii)(D)(1) of this section:

Example. WH makes a payment of U.S. source dividends to QI, a qualified intermediary. QI has provided WH with a valid qualified intermediary withholding certificate. QI states on its withholding statement accompanying the certificate that it assumes primary Form 1099 reporting and backup withholding responsibility but does not

assume primary withholding responsibility under chapter 3 of the Internal Revenue Code. QI represents that 15 percent of the dividend is subject to a 30 percent rate of withholding, 75 percent of the dividend is subject to a 15 percent rate of withholding, and that QI assumed primary Form 1099 reporting and backup withholding for the remaining 10 percent of the payment. The entire payment can be reliably associated with valid documentation.

(F) Special rules applicable to a withholding certificate provided by a qualified intermediary that assumes primary withholding responsibility under chapter 3 and primary Form 1099 reporting and backup withholding responsibility and a withholding certificate provided by a withholding foreign partnership. If a payment is made to a qualified intermediary that assumes both primary withholding responsibility under chapter 3 of the Internal Revenue Code and primary Form 1099 reporting and backup withholding responsibility under chapter 61 and section 3406 of the Internal Revenue Code for the payment, a withholding agent can reliably associate a payment with valid documentation provided that it receives a valid qualified intermediary withholding certificate as described in paragraph (e)(3)(ii) of this section. In the case of a payment made to a withholding foreign partnership, the withholding agent can reliably associate the payment with valid documentation to the extent it can associate the payment with a valid withholding certificate described in Sec. 1.1441- 5(c)(2)(iv).

(3) Presumptions regarding payee's status in the absence of documentation.

(i) General rules.

A withholding agent that cannot, prior to the payment, reliably associate (within the meaning of paragraph (b)(2)(vii) of this section) a payment of an amount subject to withholding (as described in Sec. 1.1441-2(a)) with valid documentation may rely on the presumptions of this paragraph (b)(3) to determine the status of the payee as a U.S. or a foreign person and the payee's other relevant characteristics (e.g., as an owner or intermediary, as an individual, trust, partnership, or corporation). The determination of withholding and reporting requirements applicable to payments to a person presumed to be a foreign person is governed only by the provisions of chapter 3 of the Code and the regulations thereunder. For the determination of withholding and reporting requirements applicable to payments to a person presumed to be a U.S. person, see chapter 61 of the Code, section 3402, 3405, or 3406, and the regulations under these provisions. A

presumption that a payee is a foreign payee is not a presumption that the payee is a foreign beneficial owner. Therefore, the provisions of this paragraph (b)(3) have no effect for purposes of reducing the withholding rate if associating the payment with documentation of foreign beneficial ownership is required as a condition for such rate reduction. See paragraph (b)(3)(ix) of this section for consequences to a withholding agent that fails to withhold in accordance with the presumptions set forth in this paragraph (b)(3) or if the withholding agent has actual knowledge or reason to know of facts that are contrary to the presumptions set forth in this paragraph (b)(3). See paragraph (b)(2)(vii) of this section for rules regarding the extent which a withholding agent can reliably associate a payment with documentation.

(ii) Presumptions of classification as individual, corporation, partnership, etc.

(A) In general.

A withholding agent that cannot reliably associate a payment with a valid withholding certificate or that has received valid documentary evidence under Secs. 1.1441- 1(e)(1)(ii)(2) and 1.6049-5(c)(1) or (4) but cannot determine a payee's classification from the documentary evidence must apply the rules of this paragraph (b)(3)(ii) to determine the payee's classification as an individual, trust, estate, corporation, or partnership. The fact that a payee is presumed to have a certain status under the provisions of this paragraph (b)(3)(ii) does not mean that it is excused from furnishing documentation if documentation is otherwise required to obtain a reduced rate of withholding under this section. For example, if, for purposes of this paragraph (b)(3)(ii), a payee is presumed to be a tax- exempt organization based on Sec. 1.6049-4(c)(1)(ii)(B), the withholding agent cannot rely on this presumption to reduce the rate of withholding on payments to such person (if such person is also presumed to be a foreign person under paragraph (b)(3)(iii)(A) of this section) because a reduction in the rate of withholding for payments to a foreign tax-exempt organization generally requires that a valid Form W- 8 described in Sec. 1.1441-9(b)(2) be furnished to the withholding agent.

(B) No documentation provided.

If the withholding agent cannot reliably associate a payment with a valid withholding certificate or valid documentary evidence, it must presume that the payee is an individual, a trust, or an estate, if the payee appears to be such

person (e.g., based on the payee's name or other indications). In the absence of reliable indications that the payee is an individual, trust, or an estate, the withholding agent must presume that the payee is a corporation or one of the persons enumerated under Sec. 1.6049- 4(c)(1)(ii)(B) through (Q) if it can be so treated under Sec. 1.6049- 4(c)(1)(ii)(A)(1) or any one of the paragraphs under Sec. 1.6049- 4(c)(1)(ii)(B) through (Q) without the need to furnish documentation. If the withholding agent cannot treat a payee as a person described in Sec. 1.6049-4(c)(1)(ii)(A)(1) through (Q), then the payee shall be presumed to be a partnership. If such a partnership is presumed to be foreign, it is not the beneficial owner of the income paid to it. See paragraph (c)(6) of this section. If such a partnership is presumed to be domestic, it is a U.S. non-exempt recipient for purposes of chapter 61 of the Internal Revenue Code.

(C) Documentary evidence furnished for offshore account.

If the withholding agent receives valid documentary evidence, as described in Sec. 1.6049-5(c)(1) or (4), with respect to an offshore account from an entity but the documentary evidence does not establish the entity's classification as a corporation, trust, estate, or partnership, the withholding agent may presume (in the absence of actual knowledge otherwise) that the entity is the type of person enumerated under Sec. 1.6049-4 (c)(1)(ii)(B) through (Q) if it can be so treated under any one of those paragraphs without the need to furnish documentation. If the withholding agent cannot treat a payee as a person described in Sec. 1.6049-4(c)(1)(ii)(B) through (Q), then the payee shall be presumed to be a corporation unless the withholding agent knows, or has reason to know, that the entity is not classified as a corporation for U.S. tax purposes. If a payee is, or is presumed to be, a corporation under this paragraph (b)(3)(ii)(C) and a foreign person under paragraph (b)(3)(iii) of this section, a withholding agent shall not treat the payee as the beneficial owner of income if the withholding agent knows, or has reason to know, that the payee is not the beneficial owner of the income. For this purpose, a withholding agent shall have reason to know that the payee is not a beneficial owner if the documentary evidence indicates that the payee is a bank, broker, intermediary, custodian, or other agent, or is treated under Sec. 1.6049- 4(c)(1)(ii)(B) through (Q) as such a person. A withholding agent may, however, treat such a person as a beneficial owner if the foreign person provides a statement, in writing and signed by a person with authority to sign the statement, that is

attached to the documentary evidence stating it is the beneficial owner of the income.

(iii) Presumption of U.S. or foreign status.

A payment that the withholding agent cannot reliably associate with documentation is presumed to be made to a U.S. person, except as otherwise provided in this paragraph (b)(3)(iii), in paragraphs (b)(3) (iv) and (v) of this section, or in Sec. 1.1441-5 (d) or (e).

(A) Payments to exempt recipients.

If a withholding agent cannot reliably associate a payment with documentation from the payee and the payee is an exempt recipient (as determined under the provisions of Sec. 1.6049-4(c)(1)(ii) in the case of interest, or under similar provisions under chapter 61 of the Code applicable to the type of payment involved, but not including a payee that the withholding agent may treat as a foreign intermediary in accordance with paragraph (b)(3)(v) of this section), the payee is presumed to be a foreign person and not a U.S. person--

(1) If the withholding agent has actual knowledge of the payee's employer identification number and that number begins with the two digits ``98";

(2) If the withholding agent's communications with the payee are mailed to an address in a foreign country;

(3) If the name of the payee indicates that the entity is the type of entity that is on the per se list of foreign corporations contained in Sec. 301.7701-2(b)(8)(i) of this chapter; or

(4) If the payment is made outside the United States (as defined in Sec. 1.6049-5(e)).

(B) Scholarships and grants.

A payment representing taxable scholarship or fellowship grant income that does not represent compensation for services (but is not excluded from tax under section 117) and that a withholding agent cannot reliably associate with documentation is presumed to be made to a foreign person if the withholding agent has a record that the payee has a U.S. visa that is not an immigrant visa.

See section 871(c) and Sec. 1.1441-4(c) for applicable tax rate and withholding rules.

(C) Pensions, annuities, etc.

A payment from a trust described in section 401(a), an annuity plan described in section 403(a), a payment with respect to any annuity, custodial account, or retirement income account described in section 403(b), or a payment from an individual retirement account or individual retirement annuity described in section 408 that a withholding agent cannot reliably associate with documentation is presumed to be made to a U.S. person only if the withholding agent has a record of a Social Security number for the payee and relies on a mailing address described in the following sentence. A mailing address is an address used for purposes of information reporting or otherwise communicating with the payee that is an address in the United States or in a foreign country with which the United States has an income tax treaty in effect and the treaty provides that the payee, if an individual resident in that country, would be entitled to an exemption from U.S. tax on amounts described in this paragraph (b)(3)(iii)(C). Any payment described in this paragraph (b)(3)(iii)(C) that is not presumed to be made to a U.S. person is presumed to be made to a foreign person. A withholding agent making a payment to a person presumed to be a foreign person may not reduce the 30-percent amount of withholding required on such payment unless it receives a withholding certificate described in paragraph (e)(2)(i) of this section furnished by the beneficial owner. For reduction in the 30-percent rate, see Secs. 1.1441-4(e) or 1.1441-6(b).

(D) Certain payments to offshore accounts.

A payment is presumed made to a foreign payee if the payment is made outside the United States (as defined in Sec. 1.6049-5(e)) to an offshore account (as defined in Sec. 1.6049-5(c)(1)) and the withholding agent does not have actual knowledge that the payee is a U.S. person. See Sec. 1.6049- 5(d)(2) and (3) for exceptions to this rule.

(iv) Grace period.

A withholding agent may choose to apply the provisions of Sec. 1.6049-5(d)(2)(ii) regarding a 90-day grace period for purposes of this paragraph (b)(3) (by applying the term withholding agent instead of the term payor) to amounts described in Sec. 1.1441-

6(c)(2) and to amounts covered by a Form 8233 described in Sec. 1.1441- 4(b)(2)(ii). Thus, for these amounts, a withholding agent may choose to treat an account holder as a foreign person and withhold under chapter 3 of the Internal Revenue Code (and the regulations thereunder) while awaiting documentation. For purposes of determining the rate of withholding under this section, the withholding agent must withhold at the unreduced 30-percent rate at the time that the amounts are credited to an account. However, a withholding agent who can reliably associate the payment with a withholding certificate that is otherwise valid within the meaning of the applicable provisions except for the fact that it is transmitted by facsimile may rely on that facsimile form for purposes of withholding at the claimed reduced rate. For reporting of amounts credited both before and after the grace period, see Sec. 1.1461-1(c)(4)(i)(A). The following adjustments shall be made at the expiration of the grace period:

(A) If, at the end of the grace period, the documentation is not furnished in the manner required under this section and the account holder is presumed to be a U.S. non-exempt recipient, then backup withholding applies to amounts credited to the account after the expiration of the grace period only. Amounts credited to the account during the grace period shall be treated as owned by a foreign payee and adjustments must be made to correct any underwithholding on such amounts in the manner described in Sec. 1.1461-2.

(B) If, at the end of the grace period, the documentation is not furnished in the manner required under this section, or if documentation is furnished that does not support the claimed rate reduction, and the account holder is presumed to be a foreign person then adjustments must be made to correct any underwithholding on amounts credited to the account during the grace period, based on the adjustment procedures described in Sec. 1.1461-2.

(v) Special rules applicable to payments to foreign intermediaries.

(A) Reliance on claim of status as foreign intermediary.

The presumption rules of paragraph (b)(3)(v)(B) of this section apply to a payment made to an intermediary (whether the intermediary is a qualified or nonqualified intermediary) that has provided a valid withholding certificate under paragraph (e)(3)(ii) or (iii) of this section (or has provided documentary evidence described in paragraph (b)(3)(ii)(C) of this section that indicates it is a bank, broker, custodian, intermediary, or other agent) to the extent the

withholding agent cannot treat the payment as being reliably associated with valid documentation under the rules of paragraph (b)(2)(vii) of this section. For this purpose, a U.S. person's foreign branch that is a qualified intermediary defined in paragraph (e)(5)(ii) of this section shall be treated as a foreign intermediary. A payee that the withholding agent may not reliably treat as a foreign intermediary under this paragraph (b)(3)(v)(A) is presumed to be a payee other than an intermediary whose classification as an individual, corporation, partnership, etc., must be determined in accordance with paragraph (b)(3)(ii) of this section to the extent relevant. In addition, such payee is presumed to be a U.S. or a foreign payee based upon the presumptions described in paragraph (b)(3)(iii) of this section. The provisions of paragraph (b)(3)(v)(B) of this section are not relevant to a withholding agent that can reliably associate a payment with a withholding certificate from a person representing to be a qualified intermediary to the extent the qualified intermediary has assumed primary withholding responsibility in accordance with paragraph (e)(5)(iv) of this section.

(B) Beneficial owner documentation or allocation information is lacking or unreliable.

Any portion of a payment that the withholding agent may treat as made to a foreign intermediary (whether a nonqualified or a qualified intermediary) but that the withholding agent cannot treat as reliably associated with valid documentation under the rules of paragraph (b)(2)(vii) of this section is presumed made to an unknown, undocumented foreign payee. As a result, a withholding agent must deduct and withhold 30 percent from any payment of an amount subject to withholding. If a withholding certificate attached to an intermediary certificate is another intermediary withholding certificate or a flow-through withholding certificate, the rules of this paragraph (b)(3)(v)(B) (or Sec. 1.1441-5(d)(3) or (e)(6)(iii)) apply by treating the share of the payment allocable to the other intermediary or flow-through entity as if it were made directly to the other intermediary or flow-through entity. Any payment of an amount subject to withholding that is presumed made to an undocumented foreign person must be reported on Form 1042-S. See Sec. 1.1461-1(c). See Sec. 1.6049-5(d) for payments that are not subject to withholding.

(vi) U.S. branches. The rules of paragraph (b)(3)(v)(B) of this section shall apply to payments to a U.S. branch described in paragraph (b)(2)(iv)(A) of this section that has

provided a withholding certificate as described in paragraph (e)(3)(v) of this section on which it has not agreed to be treated as a U.S. person.

(vii) Joint payees.

(A) In general.

Except as provided in paragraph (b)(3)(vii)(B) of this section, if a withholding agent makes a payment to joint payees and cannot reliably associate a payment with valid documentation from all payees, the payment is presumed made to an unidentified U.S. person. However, if one of the joint payees provides a Form W-9 furnished in accordance with the procedures described in Secs. 31.3406(d)-1 through 31.3406(d)-5 of this chapter, the payment shall be treated as made to that payee. See Sec. 31.3406(h)-2 of this chapter for rules to determine the relevant payee if more than one Form W-9 is provided. For purposes of applying this paragraph (b)(3), the grace period rules in paragraph (b)(3)(iv) of this section shall apply only if each payee meets the conditions described in paragraph (b)(3)(iv) of this section.

(B) Special rule for offshore accounts.

If a withholding agent makes a payment to joint payees and cannot reliably associate a payment with valid documentation from all payees, the payment is presumed made to an unknown foreign payee if the payment is made outside the United States (as defined in Sec. 1.6049-5(e)) to an offshore account (as defined in Sec. 1.6049-5(c)(1)).

(viii) Rebuttal of presumptions.

A payee or beneficial owner may rebut the presumptions described in this paragraph (b)(3) by providing reliable documentation to the withholding agent or, if applicable, to the IRS.

(ix) Effect of reliance on presumptions and of actual knowledge or reason to know otherwise.

(A) General rule.

Except as otherwise provided in paragraph (b)(3)(ix)(B) of this section, a withholding agent that withholds on a payment under section 3402, 3405 or 3406 in accordance with the presumptions set forth in this paragraph (b)(3)

shall not be liable for withholding under this section even it is later established that the beneficial owner of the payment is, in fact, a foreign person. Similarly, a withholding agent that withholds on a payment under this section in accordance with the presumptions set forth in this paragraph (b)(3) shall not be liable for withholding under section 3402 or 3405 or for backup withholding under section 3406 even if it is later established that the payee or beneficial owner is, in fact, a U.S. person. A withholding agent that, instead of relying on the presumptions described in this paragraph (b)(3), relies on its own actual knowledge to withhold a lesser amount, not withhold, or not report a payment, even though reporting of the payment or withholding a greater amount would be required if the withholding agent relied on the presumptions described in this paragraph (b)(3) shall be liable for tax, interest, and penalties to the extent provided under section 1461 and the regulations under that section. See paragraph (b)(7) of this section for provisions regarding such liability if the withholding agent fails to withhold in accordance with the presumptions described in this paragraph (b)(3).

(B) Actual knowledge or reason to know that amount of withholding is greater than is required under the presumptions or that reporting of the payment is required.

Notwithstanding the provisions of paragraph (b)(3)(ix)(A) of this section, a withholding agent may not rely on the presumptions described in this paragraph (b)(3) to the extent it has actual knowledge or reason to know that the status or characteristics of the payee or of the beneficial owner are other than what is presumed under this paragraph (b)(3) and, if based on such knowledge or reason to know, it should withhold (under this section or another withholding provision of the Code) an amount greater than would be the case if it relied on the presumptions described in this paragraph (b)(3) or it should report (under this section or under another provision of the Code) an amount that would not otherwise be reportable if it relied on the presumptions described in this paragraph (b)(3). In such a case, the withholding agent must rely on its actual knowledge or reason to know rather than on the presumptions set forth in this paragraph (b)(3). Failure to do so and, as a result, failure to withhold the higher amount or to report the payment, shall result in liability for tax, interest, and penalties to the extent provided under sections 1461 and 1463 and the regulations under those sections.

(x) Examples.

The provisions of this paragraph (b)(3) are illustrated by the following examples:

Example 1. A withholding agent, W, makes a payment of U.S. source dividends to person X, Inc. at an address outside the United States. W cannot reliably associate the payment to X with documentation. Under Secs. 1.6042-3(b)(1)(vii) and 1.6049-4(c)(1)(ii)(A)(1), W may treat X as a corporation. Thus, under the presumptions described in paragraph (b)(3)(iii) of this section, W must presume that X is a foreign person (because the payment is made outside the United States). However, W knows that X is a U.S. person who is an exempt recipient. W may not rely on its actual knowledge to not withhold under this section. If W's knowledge is, in fact, incorrect, W would be liable for tax, interest, and, if applicable, penalties, under section 1461. W would be permitted to reduce or eliminate its liability for the tax by establishing, in accordance with paragraph (b)(7) of this section, that the tax is not due or has been satisfied. If W's actual knowledge is, in fact, correct, W may nevertheless be liable for tax, interest, or penalties under section 1461 for the amount that W should have withheld based upon the presumptions. W would be permitted to reduce or eliminate its liability for the tax by establishing, in accordance with paragraph (b)(7) of this section, that its actual knowledge was, in fact, correct and that no tax or a lesser amount of tax was due.

Example 2. A withholding agent, W, makes a payment of U.S. source dividends to Y who does not qualify as an exempt recipient under Secs. 1.6042-3(b)(1)(vii) and 1.6049-4(c)(1)(ii). W cannot reliably associate the payment to Y with documentation. Under the presumptions described in paragraph (b)(3)(iii) of this section, W must presume that Y is a U.S. person who is not an exempt recipient for purposes of section 6042. However, W knows that Y is a foreign person. W may not rely on its actual knowledge to withhold under this section rather than backup withhold under section 3406. If W's knowledge is, in fact, incorrect, W would be liable for tax, interest, and, if applicable, penalties, under section 3403. If W's actual knowledge is, in fact, correct, W may nevertheless be liable for tax, interest, or penalties under section 3403 for the amount that W should have withheld based upon the presumptions. Paragraph (b)(7) of this section does not apply to provide relief from liability under section 3403.

Example 3. A withholding agent, W, makes a payment of U.S. source dividends to X, Inc. W cannot reliably associate the payment to X, Inc. with documentation. X, Inc. presents none of the indicia of foreign status described in paragraph (b)(3)(iii)(A) of this

section, but W has actual knowledge that X, Inc. is a foreign corporation. W may treat X, Inc. as an exempt recipient under Sec. 1.6042-3(b)(1)(vii). Because there are no indicia of foreign status, W would, absent actual knowledge or reason to know otherwise, be permitted to treat X, Inc. as a domestic corporation in accordance with the presumptions of paragraph (b)(3)(iii) of this section. However, under paragraph (b)(3)(ix)(B) of this section, W may not rely on the presumption of U.S. status since reliance on its actual knowledge requires that it withhold an amount greater than would be the case under the presumptions.

Example 4. A withholding agent, W, is a plan administrator who makes pension payments to person X with a mailing address in a foreign country with which the United States has an income tax treaty in effect. Under that treaty, the type of pension income paid to X is taxable solely in the country of residence. The plan administrator has a record of X's U.S. social security number. W has no actual knowledge or reason to know that X is a foreign person. W may rely on the presumption of paragraph (b)(3)(iii)(C) of this section in order to treat X as a U.S. person. Therefore, any withholding and reporting requirements for the payment are governed by the provisions of section 3405 and the regulations under that section.

(4) List of exemptions from, or reduced rates of, withholding under chapter 3 of the Code.

A withholding agent that has determined that the payee is a foreign person for purposes of paragraph (b)(1) of this section must determine whether the payee is entitled to a reduced rate of withholding under section 1441, 1442, or 1443. This paragraph (b)(4) identifies items for which a reduction in the rate of withholding may apply and whether the rate reduction is conditioned upon documentation being furnished to the withholding agent. Documentation required under this paragraph (b)(4) is documentation that a withholding agent must be able to associate with a payment upon which it can rely to treat the payment as made to a foreign person that is the beneficial owner of the payment in accordance with paragraph (e)(1)(ii) of this section. This paragraph (b)(4) also cross-references other sections of the Code and applicable regulations in which some of these exceptions, exemptions, or reductions are further explained. See, for example, paragraph (b)(4)(viii) of this section, dealing with effectively connected income, that cross-references Sec. 1.1441-4(a); see paragraph (b)(4)(xv) of this section, dealing with exemptions from, or reductions of, withholding under an income tax treaty, that cross-references Sec. 1.1441-6. This paragraph (b)(4) is not an exclusive list of items to which a reduction of the rate of withholding may apply and, thus, does not preclude an exemption from, or reduction in, the rate of withholding that may otherwise be allowed under the regulations under the provisions of chapter 3 of the Code for a particular item of income

identified in this paragraph (b)(4).

(i) Portfolio interest described in section 871(h) or 881(c) and substitute interest payments described in Sec. 1.871-7(b)(2) or 1.881-2(b)(2) are exempt from withholding under section 1441(a). See Sec. 1.871-14 for regulations regarding portfolio interest and section 1441(c)(9) for exemption from withholding. Documentation establishing foreign status is required for interest on an obligation in registered form to qualify as portfolio interest. See section 871(h)(2)(B)(ii) and Sec. 1.871-14(c)(1)(ii)(C). For special documentation rules regarding foreign-targeted registered obligations described in Sec. 1.871-14(e)(2), see Sec. 1.871-14(e) (3) and (4) and, in particular, Sec. 1.871-14(e)(4)(i)(A) and (ii)(A) regarding the time when the withholding agent must receive the documentation. The documentation furnished for purposes of qualifying interest as portfolio interest serves as the basis for the withholding exemption for purposes of this section and for purposes of establishing foreign status for purposes of section 6049. See Sec. 1.6049-5(b)(8). Documentation establishing foreign status is not required for qualifying interest on an obligation in bearer form described in Sec. 1.871-14(b)(1) as portfolio interest. However, in certain cases, documentation for portfolio interest on a bearer obligation may have to be furnished in order to establish foreign status for purposes of the information reporting provisions of section 6049 and backup withholding under section 3406. See Sec. 1.6049-5(b)(7).

(ii) Bank deposit interest and similar types of deposit interest (including original issue discount) described in section 871(i)(2)(A) or 881(d) that are from sources within the United States are exempt from withholding under section 1441(a). See section 1441(c)(10). Documentation establishing foreign status is not required for purposes of this withholding exemption but may have to be furnished for purposes of the information reporting provisions of section 6049 and backup withholding under section 3406. See Sec. 1.6049-5(d)(3)(iii) for exceptions to the foreign payee and exempt recipient rules regarding this type of income. See also Sec. 1.6049-5(b)(11) for applicable documentation exemptions for certain bank deposit interest paid on obligations in bearer form.

(iii) Bank deposit interest (including original issue discount) described in section 861(a)(1)(B) is exempt from withholding under sections 1441(a) as income that is not from U.S. sources. Documentation establishing foreign status is not required for purposes of this withholding exemption but may have to be furnished for purposes of the information reporting provisions of section 6049 and backup withholding under section 3406. Reporting requirements for payments of such interest are governed by section

6049 and the regulations under that section. See Sec. 1.6049-5(b)(12) and alternative documentation rules under Sec. 1.6049-5(c)(1).

(iv) Interest or original issue discount from sources within the United States on certain short-term obligations described in section 871(g)(1)(B) or 881(a)(3) is exempt from withholding under sections 1441(a). Documentation establishing foreign status is not required for purposes of this withholding exemption but may have to be furnished for purposes of the information reporting provisions of section 6049 and backup withholding under section 3406. See Sec. 1.6049-5(b)(12) for applicable documentation for establishing foreign status and Sec. 1.6049-5(d)(3)(iii) for exceptions to the foreign payee and exempt recipient rules regarding this type of income. See also Sec. 1.6049-5(b)(10) for applicable documentation exemptions for certain obligations in bearer form.

(v) Income from sources without the United States is exempt from withholding under sections 1441(a). Documentation establishing foreign status is not required for purposes of this withholding exemption but may have to be furnished for purposes of the information reporting provisions of section 6049 or other applicable provisions of chapter 61 of the Code and backup withholding under section 3406. See, for example, Sec. 1.6049-5(b) (6) and (12) and alternative documentation rules under Sec. 1.6049-5(c). See also paragraph (b)(5) of this section for cross references to other applicable provisions of the regulations under chapter 61 of the Code.

(vi) Distributions from certain domestic corporations described in section 871(i)(2)(B) or 881(d) are exempt from withholding under section 1441(a). See section 1441(c)(10). Documentation establishing foreign status is not required for purposes of this withholding exemption but may have to be furnished for purposes of the information reporting provisions of section 6042 and backup withholding under section 3406. See Sec. 1.6042-3(b)(1) (iii) through (vi).

(vii) Dividends paid by certain foreign corporations that are treated as income from sources within the United States by reason of section 861(a)(2)(B) are exempt from withholding under section 884(e)(3) to the extent that the distributions are paid out of earnings and profits in any taxable year that the corporation was subject to branch profits tax for that year. Documentation establishing foreign status is not required for purposes of this withholding exemption but may have to be furnished for purposes of the information reporting provisions of section 6042 and backup withholding under section

3406. See Sec. 1.6042-3(b)(1) (iii) through (vii).

(viii) Certain income that is effectively connected with the conduct of a U.S. trade or business is exempt from withholding under section 1441(a). See section 1441(c)(1). Documentation establishing foreign status and status of the income as effectively connected must be furnished for purposes of this withholding exemption to the extent required under the provisions of Sec. 1.1441-4(a). Documentation furnished for this purpose also serves as documentation establishing foreign status for purposes of applicable information reporting provisions under chapter 61 of the Code and for backup withholding under section 3406. See, for example, Sec. 1.6041-4(a)(1).

(ix) Certain income with respect to compensation for personal services of an individual that are performed in the United States is exempt from withholding under section 1441(a). See section 1441(c)(4) and Sec. 1.1441-4(b). However, such income may be subject to withholding as wages under section 3402. Documentation establishing foreign status must be furnished for purposes of any withholding exemption or reduction to the extent required under Sec. 1.1441-4(b) or 31.3401(a)(6)-1 (e) and (f) of this chapter. Documentation furnished for this purpose also serves as documentation establishing foreign status for purposes of information reporting under section 6041. See Sec. 1.6041-4(a)(1).

(x) Amounts described in section 871(f) that are received as annuities from certain qualified plans are exempt from withholding under section 1441(a). See section 1441(c)(7). Documentation establishing foreign status must be furnished for purposes of the withholding exemption as required under Sec. 1.1441-4(d). Documentation furnished for this purpose also serves as documentation establishing foreign status for purposes of information reporting under section 6041. See Sec. 1.6041-4(a)(1).

(xi) Payments to a foreign government (including a foreign central bank of issue) that are excludable from gross income under section 892(a) are exempt from withholding under section 1442. See Sec. 1.1441-8(b). Documentation establishing status as a foreign government is required for purposes of this withholding exemption. Payments to a foreign government are exempt from information reporting under chapter 61 of the Code (see Sec. 1.6049-4(c)(1)(ii)(F)).

(xii) Payments of certain interest income to a foreign central bank of issue or the Bank for International Settlements that are exempt from tax under section 895 are exempt from withholding under section 1442. Documentation establishing eligibility for such

exemption is required to the extent provided in Sec. 1.1441-8(c)(1). Payments to a foreign central bank of issue or to the Bank for International Settlements are exempt from information reporting under chapter 61 of the Code (see Sec. 1.6049-4(c)(1)(ii)(H) and (M)).

(xiii) Amounts derived by a foreign central bank of issue from bankers' acceptances described in section 871(i)(2)(C) or 881(d) are exempt from tax and, therefore, from withholding. See section 1441(c)(10). Documentation establishing foreign status is not required for purposes of this withholding exemption if the name of the payee and other facts surrounding the payment reasonably indicate that the beneficial owner of the payment is a foreign central bank of issue as defined in Sec. 1.861-2(b)(4). See Sec. 1.1441-8(c)(2) for withholding procedures. See also Secs. 1.6049-4(c)(1)(ii)(H) and 1.6041-3(q)(8) for a similar exemption from information reporting.

(xiv) Payments to an international organization from investments in the United States of stocks, bonds, or other domestic securities or from interest on deposits in banks in the United States of funds belonging to such international organization are exempt from tax under section 892(b) and, thus, from withholding. Documentation establishing status as an international organization is not required if the name of the payee and other facts surrounding the payment reasonably indicate that the beneficial owner of the payment is an international organization within the meaning of section 7701(a)(18). See Sec. 1.1441-8(d). Payments to an international organization are exempt from information reporting under chapter 61 of the Code (see Sec. 1.6049-4(c)(1)(ii)(G)).

(xv) Amounts may be exempt from, or subject to a reduced rate of, withholding under an income tax treaty. Documentation establishing eligibility for benefits under an income tax treaty is required for this purpose as provided under Secs. 1.1441-6. Documentation furnished for this purpose also serves as documentation establishing foreign status for purposes of applicable information reporting provisions under chapter 61 of the Code and for backup withholding under section 3406. See, for example, Sec. 1.6041-4(a)(1).

(xvi) Amounts of scholarships and grants paid to certain exchange or training program participants that do not represent compensation for services but are not excluded from tax under section 117 are subject to a reduced rate of withholding of 14-percent under section 1441(b). Documentation establishing foreign status is required for purposes of this reduction in rate as provided under Sec. 1.1441-4(c). This income is not subject to information reporting under chapter 61 of the Code nor to backup withholding under

section 3406. The compensatory portion of a scholarship or grant is reportable as wage income. See Sec. 1.6041-3(o).

(xvii) Amounts paid to a foreign organization described in section 501(c) are exempt from withholding under section 1441 to the extent that the amounts are not income includible under section 512 in computing the organization's unrelated business taxable income and are not subject to the tax imposed by section 4948(a). Documentation establishing status as a tax-exempt organization is required for purposes of this exemption to the extent provided in Sec. 1.1441-9. Amounts includible under section 512 in computing the organization's unrelated business taxable income are subject to withholding to the extent provided in section 1443(a) and Sec. 1.1443-1(a). Gross investment income (as defined in section 4940(c)(2)) of a private foundation is subject to withholding at a 4-percent rate to the extent provided in section 1443(b) and Sec. 1.1443-1(b). Payments to a tax-exempt organization are exempt from information reporting under chapter 61 of the Code and the regulations thereunder (see Sec. 1.6049-4(c)(1)(ii)(B)(1)).

(xviii) Per diem amounts for subsistence paid by the U.S. government to a nonresident alien individual who is engaged in any program of training in the United States under the Mutual Security Act of 1954 are exempt from withholding under section 1441(a). See section 1441(c)(6). Documentation of foreign status is not required under Sec. 1.1441-4(e) for purposes of establishing eligibility for this exemption. See Sec. 1.6041-3(p).

(xix) Interest with respect to tax-free covenant bonds issued prior to 1934 is subject to special withholding procedures set forth in Sec. 1.1461-1 in effect prior to January 1, 2001 (see Sec. 1.1461-1 as contained in 26 CFR part 1, revised April 1, 1999).

(xx) Income from certain gambling winnings of a nonresident alien individual is exempt from tax under section 871(j) and from withholding under section 1441(a). See section 1441(c)(11). Documentation establishing foreign status is not required for purposes of this exemption but may have to be furnished for purposes of the information reporting provisions of section 6041 and backup withholding under section 3406. See Secs. 1.6041-1 and 1.6041-4(a)(1).

(xxi) Any payments not otherwise mentioned in this paragraph (b)(4) shall be subject to withholding at the rate of 30-percent if it is an amount subject to withholding (as defined in Sec. 1.1441-2(a)) unless and to the extent the IRS may otherwise prescribe in

published guidance (see Sec. 601.601(d)(2) of this chapter) or unless otherwise provided in regulations under chapter 3 of the Code.

(5) Establishing foreign status under applicable provisions of chapter 61 of the Code.

This paragraph (b)(5) identifies relevant provisions of the regulations under chapter 61 of the Code that exempt payments from information reporting, and therefore, from backup withholding under section 3406, based on the payee's status as a foreign person. Many of these exemptions require that the payee's foreign status be established in order for the exemption to apply. The regulations under applicable provisions of chapter 61 of the Code generally provide that the documentation described in this section may be relied upon for purposes of determining foreign status.

(i) Payments to a foreign person that are governed by section 6041 (dealing with certain trade or business income) are exempt from information reporting under Sec. 1.6041-4(a).

(ii) Payments to a foreign person that are governed by section 6041A (dealing with remuneration for services and certain sales) are exempt from information reporting under Sec. 1.6041A-1(d)(3).

(iii) Payments to a foreign person that are governed by section 6042 (dealing with dividends) are exempt from information reporting under Sec. 1.6042-3(b)(1) (iii) through (vi).

(iv) Payments to a foreign person that are governed by section 6044 (dealing with patronage dividends) are exempt from information reporting under Sec. 1.6044-3(c)(1).

(v) Payments to a foreign person that are governed by section 6045 (dealing with broker proceeds) are exempt from information reporting under Sec. 1.6045-1(g).

(vi) Payments to a foreign person that are governed by section 6049 (dealing with interest) to a foreign person are exempt from information reporting under Sec. 1.6049-5(b) (6) through (15).

(vii) Payments to a foreign person that are governed by section 6050N (dealing with royalties) are exempt from information reporting under Sec. 1.6050N-1(c).

(viii) Payments to a foreign person that are governed by section 6050P (dealing with income from cancellation of debt) are exempt from information reporting under section 6050P or the regulations under that section except to the extent provided in Notice

96-61 (1996-2 C.B. 227); see also Sec. 601.601(b)(2) of this chapter.

(6) Rules of withholding for payments by a foreign intermediary or certain U.S. branches.

(i) In general.

A foreign intermediary described in paragraph (e)(3)(i) of this section or a U.S. branch described in paragraph (b)(2)(iv) of this section that receives an amount subject to withholding (as defined in Sec. 1.1441-2(a)) shall be required to withhold (if another withholding agent has not withheld the full amount required) and report such payment under chapter 3 of the Internal Revenue Code and the regulations thereunder except as otherwise provided in this paragraph (b)(6). A nonqualified intermediary or U.S. branch described in paragraph (b)(2)(iv) of this section (other than a branch that is treated as a U.S. person) shall not be required to withhold or report if it has provided a valid nonqualified intermediary withholding certificate or a U.S. branch withholding certificate, it has provided all of the information required by paragraph (e)(3)(iv) of this section (withholding statement), and it does not know, and has no reason to know, that another withholding agent failed to withhold the correct amount or failed to report the payment correctly under Sec. 1.1461-1(c). A qualified intermediary's obligations to withhold and report shall be determined in accordance with its qualified intermediary withholding agreement.

(ii) Examples.

The following examples illustrate the rules of paragraph (b)(6)(i) of this section:

Example 1. FB, a foreign bank, acts as intermediary for five different persons, A, B, C, D, and E, each of whom owns U.S. securities that generate U.S. source dividends. The dividends are paid by USWA, a U.S. withholding agent. FB furnished USWA with a nonqualified intermediary withholding certificate, described in paragraph (e)(3)(iii) of this section, to which it attached the withholding certificates of each of A, B, C, D, and E. The withholding certificates from A and B claim a 15 percent reduced rate of withholding under an income tax treaty. C, D, and E claim no reduced rate of withholding. FB provides a withholding statement that meets all of the requirements of paragraph (e)(3)(iv) of this section, including information allocating 20 percent of each dividend payment to each of A, B, C, D, and E. FB does not have actual knowledge or reason to know that USWA did not withhold the correct amounts or report the dividends on Forms 1042-S to each of A, B, C, D, and E. FB is not required to

withhold or to report the dividends to A, B, C, D, and E.

Example 2. The facts are the same as in Example 1, except that FB did not provide any information for USWA to determine how much of the dividend payments were made to A, B, C, D, and E. Because USWA could not reliably associate the dividend payments with documentation under paragraph (b)(2)(vii) of this section, USWA applied the presumption rules of paragraph (b)(3)(v) of this section and withheld 30 percent from all dividend payments. In addition, USWA filed a single Form 1042-S reporting the payment to an unknown foreign payee. FB is deemed to know that USWA did not report the payment to A, B, C, D, and E because it did not provide all of the information required on a withholding statement under paragraph (e)(3)(iv) of this section (i.e., allocation information). Although FB is not required to withhold on the payment because the full 30 percent withholding was imposed by USWA, it is required to report the payments on Forms 1042-S to A, B, C, D, and E. FB's intentional failure to do so will subject it to intentional disregard penalties under sections 6721 and 6722.

(7) Liability for failure to obtain documentation timely or to act in accordance with applicable presumptions.

(i) General rule.

A withholding agent that cannot reliably associate a payment with documentation on the date of payment and that does not withhold under this section, or withholds at less than the 30-percent rate prescribed under section 1441(a) and paragraph (b)(1) of this section, is liable under section 1461 for the tax required to be withheld under chapter 3 of the Code and the regulations thereunder, without the benefit of a reduced rate unless--

(A) The withholding agent has appropriately relied on the presumptions described in paragraph (b)(3) of this section (including the grace period described in paragraph (b)(3)(iv) of this section) in order to treat the payee as a U.S. person or, if applicable, on the presumptions described in Sec. 1.1441-4(a)(2)(ii) or (3)(i) to treat the payment as effectively connected income; or

(B) The withholding agent can demonstrate to the satisfaction of the district director or the Assistant Commissioner (International) that the proper amount of tax, if any, was in fact paid to the IRS; or

(C) No documentation is required under section 1441 or this section in order for a reduced rate of withholding to apply.

(ii) Proof that tax liability has been satisfied.

Proof of payment of tax may be established for purposes of paragraph (b)(7)(i)(B) of this section on the basis of a Form 4669 (or such other form as the IRS may prescribe in published guidance (see Sec. 601.601(d)(2) of this chapter)), establishing the amount of tax, if any, actually paid by or for the beneficial owner on the income. Proof that a reduced rate of withholding was, in fact, appropriate under the provisions of chapter 3 of the Code and the regulations thereunder may also be established after the date of payment by the withholding agent on the basis of a valid withholding certificate or other appropriate documentation furnished after that date. However, in the case of a withholding certificate or other appropriate documentation received after the date of payment (or after the grace period specified in paragraph (b)(3)(iv) of this section), the district director or the Assistant Commissioner (International) may require additional proof if it is determined that the delays in obtaining the withholding certificate affect its reliability.

(iii) Liability for interest and penalties.

A withholding agent that has failed to withhold other than based on appropriate reliance on the presumptions described in paragraph (b)(3) of this section or in Sec. 1.1441-4(a)(2)(ii) or (3)(i) is not relieved from liability for interest under section 6601. Such liability exists even if there is no underlying tax liability due. The interest on the amount that should have been withheld shall be imposed as prescribed under section 6601 beginning on the last date for paying the tax due under section 1461 (which, under section 6601, is the due date for filing the withholding agent's return of tax). The interest shall stop accruing on the earlier of the date that the required withholding certificate or other documentation is provided to the withholding agent and to the extent of the amount of tax that is determined not to be due based on documentation provided, or the date, and to the extent, that the unpaid tax liability under section 871, 881 or under section 1461 is satisfied. Further, in the event that a tax liability is assessed against the beneficial owner under section 871, 881, or 882 and interest under section 6601(a) is assessed against, and collected from, the beneficial owner, the interest charge imposed on the withholding agent shall be abated to that extent so as to avoid the imposition of a double interest charge. However, the withholding agent is not relieved of any applicable

penalties. See section 1464.

(iv) Special effective date.

See paragraph (f)(2)(ii) of this section for the special effective date applicable to this paragraph (b)(7).

(v) Examples.

The provisions of paragraph (b)(7) of this section are illustrated by the following examples:

Example 1. On June 15, 2001, a withholding agent pays U.S. source interest on an obligation in registered form (issued after July 18, 1984) to a foreign corporation that it cannot reliably associate with a Form W-8 or other appropriate documentation upon which to rely to treat the beneficial owner as a foreign person. The withholding agent does not withhold from the payment. On September 30, 2003, the withholding agent receives from the foreign corporation a valid Form W-8 described in paragraph (e)(2)(ii) of this section. Thus, the interest qualifies as portfolio interest retroactively to June 15, 2001 (the date of payment). See Sec. 1.871-14(c)(3). The foreign corporation does not file a U.S. federal income tax return and does not pay the tax owed. The withholding agent is not liable under section 1461 for the 30-percent tax on the interest income because the receipt of the Form W-8 exempts the interest from tax for purposes of sections 881(a) and 1461. The withholding agent, however, is liable for interest on the amount of withholding that should have been deducted from the payment on June 15, 2001 and deposited. Under paragraph (b)(7)(iii) of this section, the period during which interest may be assessed against the withholding agent runs from March 15, 2002 (the due date for the Form 1042 relating to the payment) until September 30, 2003 (i.e., the date that appropriate documentation is furnished to the withholding agent).

Example 2. On June 15, 2001, a withholding agent pays U.S. source dividends to a foreign corporation that it cannot reliably associate with a Form W-8 or other appropriate documentation upon which to rely to treat the beneficial owner as a foreign person. The withholding agent does not withhold from the payment. On September 30, 2003, the withholding agent receives from the foreign corporation a valid Form W-8 described in paragraph (e)(2)(ii) of this section claiming a reduced 15-percent rate of withholding under a U.S. income tax treaty. The dividend qualifies for the reduced treaty rate retroactively to June 15, 2001 (the date of payment). The foreign corporation does

not file a U.S. federal income tax return and does not pay the tax owed. Under section 1461, the withholding agent is liable only for a 15-percent tax on the dividend income because the receipt of the Form W-8 allows the tax rate to be reduced for purposes of sections 881(a) and 1461 from 30 percent to 15 percent. The withholding agent, however, is liable for interest on the full 30-percent amount that should have been deducted and withheld from the payment on June 15, 2001, and deposited, over a period running from March 15, 2002 (the due date for the Form 1042 relating to the payment) until September 30, 2003 (the date that the appropriate documentation is furnished to the withholding agent supporting a reduction in rate under a tax treaty). Additional interest may be assessed relating to the outstanding 15-percent tax liability (i.e., the portion of the 30-percent total tax liability that is not reduced under the treaty). Such additional interest runs from March 15, 2002, until such date as that 15-percent tax liability is satisfied by the withholding agent or the taxpayer (subject to abatement in order to avoid a double interest charge).

(8) Adjustments, refunds, or credits of overwithheld amounts.

If the amount withheld under section 1441, 1442, or 1443 is greater than the tax due by the withholding agent or the taxpayer, adjustments may be made in accordance with the procedures described in Sec. 1.1461-2(a). Alternatively, refunds or credits may be claimed in accordance with the procedures described in Sec. 1.1464-1, relating to refunds or credits claimed by the beneficial owner, or Sec. 1.6414-1, relating to refunds or credits claimed by the withholding agent. If an amount was withheld under section 3406 or is subsequently determined to have been paid to a foreign person, see paragraph (b)(3)(vii) of this section and Sec. 31.6413(a)-3(a)(1) of this chapter.

(9) Payments to joint owners.

A payment to joint owners that requires documentation in order to reduce the rate of withholding under chapter 3 of the Code and the regulations thereunder does not qualify for such reduced rate unless the withholding agent can reliably associate the payment with documentation from each owner. Notwithstanding the preceding sentence, a payment to joint owners qualifies as a payment exempt from withholding under this section if any one of the owners provides a certificate of U.S. status on a Form W-9 in accordance with paragraph (d)(2) or (3) of this section or the withholding agent can associate the payment with an intermediary or flow-through withholding certificate upon which it can rely to treat the payment as made to a U.S. payee under paragraph (d)(4) of this section. See Sec.

31.3406(h)-2(a)(3)(i)(B) of this chapter.

(c) Definitions

(1) Withholding.

The term withholding means the deduction and withholding of tax at the applicable rate from the payment.

(2) Foreign and U.S. person.

The term foreign person means a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust, a foreign estate, and any other person that is not a U.S. person described in the next sentence. Solely for purposes of the regulations under chapter 3 of the Internal Revenue Code, the term foreign person also means, with respect to a payment by a withholding agent, a foreign branch of a U.S. person that furnishes an intermediary withholding certificate described in paragraph (e)(3)(ii) of this section. Such a branch continues to be a U.S. payor for purposes of chapter 61 of the Internal Revenue Code. See Sec. 1.6049-5(c)(4). A U.S. person is a person described in section 7701(a)(30), the U.S. government (including an agency or instrumentality thereof), a State (including an agency or instrumentality thereof), or the District of Columbia (including an agency or instrumentality thereof).

(3) Individual.

(i) Alien individual.

The term alien individual means an individual who is not a citizen or a national of the United States. See Sec. 1.1-1(c).

(ii) Nonresident alien individual.

The term nonresident alien individual means a person described in section 7701(b)(1)(B), an alien individual who is a resident of a foreign country under the residence article of an income tax treaty and Sec. 301.7701(b)-7(a)(1) of this chapter, or an alien individual who is a resident of Puerto Rico, Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, or American Samoa as determined under Sec. 301.7701(b)-1(d) of this chapter. An alien individual who has made an election under section 6013 (g) or (h) to be treated as a resident of the United States is nevertheless treated as a nonresident alien individual for purposes of withholding under chapter 3 of the Code and the regulations thereunder.

(4) Certain foreign corporations.

For purposes of this section, a corporation created or organized in Guam, the Commonwealth of Northern Mariana Islands, the U.S. Virgin Islands, and American Samoa, is not treated as a foreign corporation if the requirements of sections 881(b)(1) (A), (B), and (C) are met for such corporation. Further, a payment made to a foreign government or an international organization shall be treated as a payment made to a foreign corporation for purposes of withholding under chapter 3 of the Code and the regulations thereunder.

(5) Financial institution and foreign financial institution.

For purposes of the regulations under chapter 3 of the Code, the term financial institution means a person described in Sec. 1.165-12(c)(1)(iv) (not including a person providing pension or other similar benefits or a regulated investment company or other mutual fund, unless otherwise indicated) and the term foreign financial institution means a financial institution that is a foreign person, as defined in paragraph (c)(2) of this section.

(6) Beneficial owner.

(i) General rule.

This paragraph (c)(6) defines the term beneficial owner for payments of income other than a payment for which a reduced rate of withholding is claimed under an income tax treaty. The term beneficial owner means the person who is the owner of the income for tax purposes and who beneficially owns that income. A person shall be treated as the owner of the income to the extent that it is required under U.S. tax principles to include the amount paid in gross income under section 61 (determined without regard to an exclusion or exemption from gross income under the Internal Revenue Code). Beneficial ownership of income is determined under the provisions of section 7701(l) and the regulations under that section and any other applicable general U.S. tax principles, including principles governing the determination of whether a transaction is a conduit transaction. Thus, a person receiving income in a capacity as a nominee, agent, or custodian for another person is not the beneficial owner of the income. In the case of a scholarship, the student receiving the scholarship is the beneficial owner of that scholarship. In the case of a payment of an amount that is not income, the beneficial owner determination shall be made under this paragraph (c)(6) as if the amount were income.

(ii) Special rules.

(A) General rule.

The beneficial owners of income paid to an entity described in this paragraph (c)(6)(ii) are those persons described in paragraphs (c)(6)(ii)(B) through (D) of this section.

(B) Foreign partnerships.

The beneficial owners of income paid to a foreign partnership (whether a nonwithholding or a withholding foreign partnership) are the partners in the partnership, unless they themselves are not the beneficial owners of the income under this paragraph (c)(6). For example, a partnership (first tier) that is a partner in another partnership (second tier) is not the beneficial owner of income paid to the second tier partnership since the first tier partnership is not the owner of the income under U.S. tax principles. Rather, the partners of the first tier partnership are the beneficial owners (to the extent they are not themselves persons that are not beneficial owners under this paragraph (c)(6)). See Sec. 1.1441-5(b) for applicable withholding procedures for payments to a domestic partnership. See also Sec. 1.1441-5(c)(3)(ii) for applicable withholding procedures for payments to a foreign partnership where one of the partners (at any level in the chain of tiers) is a domestic partnership.

(C) Foreign simple trusts and foreign grantor trusts.

The beneficial owners of income paid to a foreign simple trust, as described in paragraph (c)(23) of this section, are the beneficiaries of the trust, unless they themselves are not the beneficial owners of the income under this paragraph (c)(6). The beneficial owners of income paid to a foreign grantor trust, as described in paragraph (c)(26) of this section, are the persons treated as the owners of the trust, unless they themselves are not the beneficial owners of the income under this paragraph (c)(6).

(D) Other foreign trusts and foreign estates.

The beneficial owner of income paid to a foreign complex trust as defined in paragraph (c)(25) of this section or to a foreign estate is the foreign complex trust or estate itself.

(7) Withholding agent.

For a definition of the term withholding agent and applicable rules, see Sec. 1.1441-7.

(8) Person.

For purposes of the regulations under chapter 3 of the Code, the term person shall mean a person described in section 7701(a)(1) and the regulations under that section and a U.S. branch to the extent treated as a U.S. person under paragraph (b)(2)(iv) of this section. For purposes of the regulations under chapter 3 of the Code, the term person does not include a wholly-owned entity that is disregarded for federal tax purposes under Sec. 301.7701-2(c)(2) of this chapter as an entity separate from its owner. See paragraph (b)(2)(iii) of this section for procedures applicable to payments to such entities.

(9) Source of income.

The source of income is determined under the provisions of part I (section 861 and following) , subchapter N, chapter 1 of the Code and the regulations under those provisions.

(10) Chapter 3 of the Code.

For purposes of the regulations under sections 1441, 1442, and 1443, any reference to chapter 3 of the Code shall not include references to sections 1445 and 1446, unless the context indicates otherwise.

(11) Reduced rate.

For purposes of regulations under chapter 3 of the Code, and other withholding provisions of the Code, the term reduced rate, when used in regulations under chapter 3 of the Code, shall include an exemption from tax.

(12) Payee.

For purposes of chapter 3 of the Internal Revenue Code, the term payee of a payment is determined under paragraph (b)(2) of this section, Sec. 1.1441-5(c)(1) (relating to partnerships), and Sec. 1.1441-5(e)(2) and (3) (relating to trusts and estates) and includes foreign persons, U.S. exempt recipients, and U.S. non-exempt recipients. A nonqualified intermediary and a qualified intermediary (to the extent it does not assume primary withholding responsibility) are not payees if they are acting as intermediaries and not the beneficial owner of income. In addition, a flow-through entity is not a payee unless the income is (or is deemed to be) effectively connected with the conduct of a trade or business in the United States. See Sec. 1.6049-5(d)(1) for rules to determine the payee for purposes of chapter 61 of the Internal Revenue Code. See Secs. 1.1441-1(b)(3), 1.1441-5(d), and (e)(6) and 1.6049-5(d)(3) for

presumption rules that apply if a payee's identity cannot be determined on the basis of valid documentation.

(13) Intermediary.

An intermediary means, with respect to a payment that it receives, a person that, for that payment, acts as a custodian, broker, nominee, or otherwise as an agent for another person, regardless of whether such other person is the beneficial owner of the amount paid, a flow-through entity, or another intermediary.

(14) Nonqualified intermediary.

A nonqualified intermediary means any intermediary that is not a U.S. person and not a qualified intermediary, as defined in paragraph (e)(5)(ii) of this section, or a qualified intermediary that is not acting in its capacity as a qualified intermediary with respect to a payment. For example, to the extent an entity that is a qualified intermediary provides another withholding agent with a foreign beneficial owner withholding certificate as defined in paragraph (e)(2)(i) of this section, the entity is not acting in its capacity as a qualified intermediary. Notwithstanding the preceding sentence, a qualified intermediary is acting as a qualified intermediary to the extent it provides another withholding agent with Forms W-9, or other information regarding U.S. non-exempt recipients pursuant to its qualified intermediary agreement with the IRS.

(15) Qualified intermediary.

The term qualified intermediary is defined in paragraph (e)(5)(ii) of this section.

(16) Withholding certificate.

The term withholding certificate means a Form W-8 described in paragraph (e)(2)(i) of this section (relating to foreign beneficial owners), paragraph (e)(3)(i) of this section (relating to foreign intermediaries), Sec. 1.1441-5(c)(2)(iv), (c)(3)(iii), and (e)(3)(iv) (relating to flow-through entities), a Form 8233 described in Sec. 1.1441-4(b)(2), a Form W-9 as described in paragraph (d) of this section, a statement described in Sec. 1.871- 14(c)(2)(v) (relating to portfolio interest), or any other certificates that under the Internal Revenue Code or regulations certifies or establishes the status of a payee or beneficial owner as a U.S. or a foreign person.

(17) Documentary evidence; other appropriate documentation.

The terms documentary evidence or other appropriate documentation refer to documents other than a withholding certificate that may be provided for payments made outside the United States

to offshore accounts or any other evidence that under the Internal Revenue Code or regulations certifies or establishes the status of a payee or beneficial owner as a U.S. or foreign person. See Secs. 1.1441-6(b)(2), (c)(3) and (4) (relating to treaty benefits), and 1.6049-5(c)(1) and (4) (relating to chapter 61 reporting). Also see Sec. 1.1441-4(a)(3)(ii) regarding documentary evidence for notional principal contracts.

(18) Documentation.

The term documentation refers to both withholding certificates, as defined in paragraph (c)(16) of this section, and documentary evidence or other appropriate documentation, as defined in paragraph (c)(17) of this section.

(19) Payor.

The term payor is defined in Sec. 31.3406(a)-2 of this chapter and Sec. 1.6049-4(a)(2) and generally includes a withholding agent, as defined in Sec. 1.1441-7(a). The term also includes any person that makes a payment to an intermediary, flow-through entity, or U.S. branch that is not treated as a U.S. person to the extent the intermediary, flow-through, or U.S. branch provides a Form W-9 or other appropriate information relating to a payee so that the payment can be reported under chapter 61 of the Internal Revenue Code and, if required, subject to backup withholding under section 3406. This latter rule does not preclude the intermediary, flow-through entity, or U.S. branch from also being a payor.

(20) Exempt recipient.

The term exempt recipient means a person that is exempt from reporting under chapter 61 of the Internal Revenue Code and backup withholding under section 3406 and that is described in Secs. 1.6041-3(q), 1.6045-2(b)(2)(i), and 1.6049-4(c)(1)(ii), and Sec. 5f.6045-1(c)(3)(i)(B) of this chapter. Exempt recipients are not exempt from withholding under chapter 3 of the Internal Revenue Code unless they are U.S. persons or foreign persons entitled to an exemption from withholding under chapter 3.

(21) Non-exempt recipient.

A non-exempt recipient is any person that is not an exempt recipient under paragraph (c)(20) of this section.

(22) Reportable amounts.

Reportable amounts are defined in paragraph (e)(3)(vi) of this section.

(23) Flow-through entity.

A flow-through entity means any entity that is described in this paragraph (c)(23) and that may provide documentation on behalf of others to a withholding agent. The entities described in this paragraph are a foreign partnership (other than a withholding foreign partnership), a foreign simple trust (other than a withholding foreign trust) that is described in paragraph (c)(24) of this section, a foreign grantor trust (other than a withholding foreign trust) that is described in paragraph (c)(25) of this section, or, for any payments for which a reduced rate of withholding under an income tax treaty is claimed, any entity to the extent the entity is considered to be fiscally transparent under section 894 with respect to the payment by an interest holder's jurisdiction.

(24) Foreign simple trust.

A foreign simple trust is a foreign trust that is described in section 651(a).

(25) Foreign complex trust.

A foreign complex trust is a foreign trust other than a trust described in section 651(a) or sections 671 through 679.

(26) Foreign grantor trust.

A foreign grantor trust is a foreign trust but only to the extent all or a portion of the income of the trust is treated as owned by the grantor or another person under sections 671 through 679.

(27) Partnership.

The term partnership means any entity treated as a partnership under Sec. 301.7701-2 or -3 of this chapter.

(28) Nonwithholding foreign partnership.

A nonwithholding foreign partnership is a foreign partnership that is not a withholding foreign partnership, as defined in Sec. 1.1441-5(c)(2)(i).

(29) Withholding foreign partnership.

A withholding foreign partnership is defined in Sec. 1.1441-5(c)(2)(i).

(d) Beneficial owner's or payee's claim of U.S. status.

(1) In general.

Under paragraph (b)(1) of this section, a withholding agent is not required to withhold under chapter 3 of the Code on payments to a U.S. payee, to a person presumed to be a U.S. payee in accordance with the provisions of paragraph (b)(3) of this section, or to a person that the withholding agent may treat as a U.S. beneficial owner of the payment. Absent actual knowledge or reason to know otherwise, a withholding agent may rely on the provisions of this paragraph (d) in order to determine whether to treat a payee or beneficial owner as a U.S. person.

(2) Payments for which a Form W-9 is otherwise required.

A withholding agent may treat as a U.S. payee any person who is required to furnish a Form W-9 and who furnishes it in accordance with the procedures described in Secs. 31.3406(d)-1 through 31.3406(d)-5 of this chapter (including the requirement that the payee furnish its taxpayer identifying number (TIN)) if the withholding agent meets all the requirements described in Sec. 31.3406(h)-3(e) of this chapter regarding reliance by a payor on a Form W-9. Providing a Form W-9 or valid substitute form shall serve as a statement that the person whose name is on the form is a U.S. person. Therefore, a foreign person, including a U.S. branch treated as a U.S. person under paragraph (b)(2)(iv) of this section, shall not provide a Form W-9. A U.S. branch of a foreign person may establish its status as a foreign person exempt from reporting under chapter 61 and backup withholding under section 3406 by providing a withholding certificate on Form W-8.

(3) Payments for which a Form W-9 is not otherwise required.

In the case of a payee who is not required to furnish a Form W-9 under section 3406 (e.g., a person exempt from reporting under chapter 61 of the Internal Revenue Code), the withholding agent may treat the payee as a U.S. payee if the payee provides the withholding agent with a Form W-9 or a substitute form described in Sec. 31.3406(h)-3(c)(2) of this chapter (relating to forms for exempt recipients) that contains the payee's name, address, and TIN. The form must be signed under penalties of perjury by the payee if so required by the form or by Sec. 31.3406(h)-3 of this chapter. Providing a Form W-9 or valid substitute form shall serve as a statement that the person whose name is on the certificate is a U.S. person. A Form W-9 or valid substitute form shall not be provided by a foreign person, including any U.S. branch of a foreign person whether or not the branch is treated as a U.S. person under paragraph (b)(2)(iv) of this section. See paragraph (e)(3)(v) of this section for withholding certificates provided by U.S. branches described in paragraph (b)(2)(iv) of this section. The procedures described in

Sec. 31.3406(h)-2(a) of this chapter shall apply to payments to joint payees. A withholding agent that receives a Form W-9 to satisfy this paragraph (d)(3) must retain the form in accordance with the provisions of Sec. 31.3406(h)-3(g) of this chapter, if applicable, or of paragraph (e)(4)(iii) of this section (relating to the retention of withholding certificates) if Sec. 31.3406(h)-3(g) of this chapter does not apply. The rules of this paragraph (d)(3) are only intended to provide a method by which a withholding agent may determine that a payee is a U.S. person and do not otherwise impose a requirement that documentation be furnished by a person who is otherwise treated as an exempt recipient for purposes of the applicable information reporting provisions under chapter 61 of the Internal Revenue Code (e.g., Sec. 1.6049-4(c)(1)(ii) for payments of interest).

(4) When a payment to an intermediary or flow-through entity may be treated as made to a U.S. payee.

A withholding agent that makes a payment to an intermediary (whether a qualified intermediary or nonqualified intermediary), a flow-through entity, or a U.S. branch described in paragraph (b)(2)(iv) of this section may treat the payment as made to a U.S. payee to the extent that, prior to the payment, the withholding agent can reliably associate the payment with a Form W-9 described in paragraph (d)(2) or (3) of this section attached to a valid intermediary, flow-through, or U.S. branch withholding certificate described in paragraph (e)(3)(i) of this section or to the extent the withholding agent can reliably associate the payment with a Form W-8 described in paragraph (e)(3)(v) of this section that evidences an agreement to treat a U.S. branch described in paragraph (b)(2)(iv) of this section as a U.S. person. In addition, a withholding agent may treat the payment as made to a U.S. payee only if it complies with the electronic confirmation procedures described in paragraph (e)(4)(v) of this section, if required, and it has not been notified by the IRS that any of the information on the withholding certificate or other documentation is incorrect or unreliable. In the case of a Form W-9 that is required to be furnished for a reportable payment that may be subject to backup withholding, the withholding agent may be notified in accordance with section 3406(a)(1)(B) and the regulations under that section. See applicable procedures under section 3406(a)(1)(B) and the regulations under that section for payors who have been notified with regard to such a Form W-9. Withholding agents who have been notified in relation to other Forms W-9, including under section 6724(b) pursuant to section 6721, may rely on the withholding certificate or other documentation only to the extent provided under procedures as prescribed by the IRS (see Sec. 601.601(d)(2) of this chapter).

(e) Beneficial owner's claim of foreign status.

(1) Withholding agent's reliance

(i) In general.

Absent actual knowledge or reason to know otherwise, a withholding agent may treat a payment as made to a foreign beneficial owner in accordance with the provisions of paragraph (e)(1)(ii) of this section. See paragraph (e)(4)(viii) of this section for applicable reliance rules. See paragraph (b)(4) of this section for a description of payments for which a claim of foreign status is relevant for purposes of claiming a reduced rate of withholding for purposes of section 1441, 1442, or 1443. See paragraph (b)(5) of this section for a list of payments for which a claim of foreign status is relevant for other purposes, such as claiming an exemption from information reporting under chapter 61 of the Code.

(ii) Payments that a withholding agent may treat as made to a foreign person that is a beneficial owner.

(A) General rule.

The withholding agent may treat a payment as made to a foreign person that is a beneficial owner if it complies with the requirements described in paragraph (e)(1)(ii)(B) of this section and, then, only to the extent--

(1) That the withholding agent can reliably associate the payment with a beneficial owner withholding certificate described in paragraph (e)(2) of this section furnished by the person whose name is on the certificate or attached to a valid foreign intermediary, flow-through, or U.S. branch withholding certificate;

(2) That the payment is made outside the United States (within the meaning of Sec. 1.6049-5(e)) to an offshore account (within the meaning of Sec. 1.6049-5(c)(1)) and the withholding agent can reliably associate the payment with documentary evidence described in Secs. 1.1441-6(c)(3) or (4), or 1.6049-5(c)(1) relating to the beneficial owner;

(3) That the withholding agent can reliably associate the payment with a valid qualified intermediary withholding certificate, as described in paragraph (e)(3)(ii) of this section, and the qualified intermediary has provided sufficient information for the withholding agent to allocate the

payment to a withholding rate pool other than a withholding rate pool or pools established for U.S. non-exempt recipients;

(4) That the withholding agent can reliably associate the payment with a withholding certificate described in Sec. 1.1441-5(c)(3)(iii) or (e)(5)(iii) from a flow-through entity claiming the income is effectively connected income;

(5) That the withholding agent identifies the payee as a U.S. branch described in paragraph (b)(2)(iv) of this section, the payment to which it treats as effectively connected income in accordance with Sec. 1.1441-4(a) (2)(ii) or (3);

(6) That the withholding agent identifies the payee as an international organization (or any wholly-owned agency or instrumentality thereof) as defined in section 7701(a)(18) that has been designated as such by executive order (pursuant to 22 U.S.C. 288 through 288(f)); or

(7) That the withholding agent pays interest from bankers' acceptances and identifies the payee as a foreign central bank of issue (as defined in Sec. 1.861-2(b)(4)).

(B) Additional requirements.

In order for a payment described in paragraph (e)(1)(ii)(A) of this section to be treated as made to a foreign beneficial owner, the withholding agent must hold the documentation (if required) prior to the payment, comply with the electronic confirmation procedures described in paragraph (e)(4)(v) of this section (if required), and must not have been notified by the IRS that any of the information on the withholding certificate or other documentation is incorrect or unreliable. If the withholding agent has been so notified, it may rely on the withholding certificate or other documentation only to the extent provided under procedures prescribed by the IRS (see Sec. 601.601(d)(2) of this chapter). See paragraph (b)(2)(vii) of this section for rules regarding reliable association of a payment with a withholding certificate or other appropriate documentation.

(2) Beneficial owner withholding certificate.

(i) In general.

A beneficial owner withholding certificate is a statement by which the beneficial owner of the payment represents that it is a foreign person and, if applicable, claims a reduced rate of withholding under section 1441. A separate withholding certificate must be submitted to each withholding agent. If the beneficial owner receives more than one type of payment from a single withholding agent, the beneficial owner may have to submit more than one withholding certificate to the single withholding agent for the different types of payments as may be required by the applicable forms and instructions, or as the withholding agent may require (such as to facilitate the withholding agent's compliance with its obligations to determine withholding under this section or the reporting of the amounts under Sec. 1.1461-1 (b) and (c)). For example, if a beneficial owner claims that some but not all of the income it receives is effectively connected with the conduct of a trade or business in the United States, it may be required to submit two separate withholding certificates, one for income that is not effectively connected and one for income that is so connected. See Sec. 1.1441-6(b)(2) for special rules for determining who must furnish a beneficial owner withholding certificate when a benefit is claimed under an income tax treaty. See paragraph (e)(4)(ix) of this section for reliance rules in the case of certificates held by another person or at a different branch location of the same person.

(ii) Requirements for validity of certificate.

A beneficial owner withholding certificate is valid only if it is provided on a Form W-8, or a Form 8233 in the case of personal services income described in Sec. 1.1441-4(b) or certain scholarship or grant amounts described in Sec. 1.1441-4(c) (or a substitute form described in paragraph (e)(4)(vi) of this section, or such other form as the IRS may prescribe). A Form W-8 is valid only if its validity period has not expired, it is signed under penalties of perjury by the beneficial owner, and it contains all of the information required on the form. The required information is the beneficial owner's name, permanent residence address, and TIN (if required), the country under the laws of which the beneficial owner is created, incorporated, or governed (if a person other than an individual), the classification of the entity, and such other information as may be required by the regulations under section 1441 or by the form or accompanying instructions in addition to, or in lieu of, the information described in this paragraph (e)(2)(ii). A person's permanent residence address is an address in the country where the person claims to be a resident for purposes of that country's income tax. In the case of a certificate furnished in order to claim a reduced rate of withholding under an income tax treaty, the residence must be determined in the manner prescribed under the

applicable treaty. See Sec. 1.1441-6(b). The address of a financial institution with which the beneficial owner maintains an account, a post office box, or an address used solely for mailing purposes is not a residence address for this purpose. If the beneficial owner is an individual who does not have a tax residence in any country, the permanent residence address is the place at which the beneficial owner normally resides. If the beneficial owner is not an individual and does not have a tax residence in any country, then the permanent residence address is the place at which the person maintains its principal office. See paragraph (e)(4)(vii) of this section for circumstances in which a TIN is required on a beneficial owner withholding certificate. See paragraph (f)(2)(i) of this section for continued validity of certificates during a transition period.

(3) Intermediary, flow-through, or U.S. branch withholding certificate.

(i) In general.

An intermediary withholding certificate is a Form W-8 by which a payee represents that it is a foreign person and that it is an intermediary (whether a qualified or nonqualified intermediary) with respect to a payment and not the beneficial owner. See paragraphs (e)(3)(ii) and (iii) of this section. A flow-through withholding certificate is a Form W-8 used by a flow-through entity as defined in paragraph (c)(23) of this section. See Sec. 1.1441- 5(c)(3)(iii) (a nonwithholding foreign partnership), Sec. 1.1441- 5(e)(5)(iii) (a foreign simple trust or foreign grantor trust) or Sec. 1.1441-6(b)(2) (foreign entity presenting claims on behalf of its interest holders for a reduced rate of withholding under an income tax treaty). A U.S. branch certificate is a Form W-8 furnished under paragraph (e)(3)(v) of this section by a U.S. branch described in paragraph (b)(2)(iv) of this section. See paragraph (e)(4)(viii) of this section for applicable reliance rules.

(ii) Intermediary withholding certificate from a qualified intermediary.

A qualified intermediary shall provide a qualified intermediary withholding certificate for reportable amounts received by the qualified intermediary. See paragraph (e)(3)(vi) of this section for the definition of reportable amount. A qualified intermediary withholding certificate is valid only if it is furnished on a Form W-8, an acceptable substitute form, or such other form as the IRS may prescribe, it is signed under penalties of perjury by a person with authority to sign for the qualified intermediary, its validity has not expired, and it contains the following information, statement, and certifications--

(A) The name, permanent residence address (as described in paragraph (e)(2)(ii) of this section), qualified intermediary employer identification number

(QI-EIN), and the country under the laws of which the intermediary is created, incorporated, or governed. A qualified intermediary that does not act in its capacity as a qualified intermediary must not use its QI-EIN. Rather the intermediary should provide a nonqualified intermediary withholding certificate, if it is acting as an intermediary, and should use the taxpayer identification number, if any, that it uses for all other purposes;

(B) A certification that, with respect to accounts it identifies on its withholding statement (as described in paragraph (e)(5)(v) of this section), the qualified intermediary is not acting for its own account but is acting as a qualified intermediary;

(C) A certification that the qualified intermediary has provided, or will provide, a withholding statement as required by paragraph (e)(5)(v) of this section; and

(D) Any other information, certifications, or statements as may be required by the form or accompanying instructions in addition to, or in lieu of, the information and certifications described in this paragraph (e)(3)(ii) or paragraph (e)(3)(v) of this section. See paragraph (e)(5)(v) of this section for the requirements of a withholding statement associated with the qualified intermediary withholding certificate.

(iii) Intermediary withholding certificate from a nonqualified intermediary.

A nonqualified intermediary shall provide a nonqualified intermediary withholding certificate for reportable amounts received by the nonqualified intermediary. See paragraph (e)(3)(vi) of this section for the definition of reportable amount. A nonqualified intermediary withholding certificate is valid only to the extent it is furnished on a Form W-8, an acceptable substitute form, or such other form as the IRS may prescribe, it is signed under penalties of perjury by a person authorized to sign for the nonqualified intermediary, it contains the information, statements, and certifications described in this paragraph (e)(3)(iii) and paragraph (e)(3)(iv) of this section, its validity has not expired, and the withholding certificates and other appropriate documentation for all persons to whom the certificate relates are associated with the certificate. Withholding certificates and other appropriate documentation consist of beneficial owner withholding certificates described in paragraph (e)(2)(i) of this section, intermediary and flow-through withholding certificates described in paragraph (e)(3)(i) of this section, withholding foreign partnership certificates described in Sec.

1.1441-5(c)(2)(iv), documentary evidence described in Secs. 1.1441-6(c)(3) or (4) and 1.6049-5(c)(1), and any other documentation or certificates applicable under other provisions of the Internal Revenue Code or regulations that certify or establish the status of the payee or beneficial owner as a U.S. or a foreign person. If a nonqualified intermediary is acting on behalf of another nonqualified intermediary or a flow-through entity, then the nonqualified intermediary must associate with its own withholding certificate the other nonqualified intermediary withholding certificate or the flow-through withholding certificate and separately identify all of the withholding certificates and other appropriate documentation that are associated with the withholding certificate of the other nonqualified intermediary or flow-through entity. Nothing in this paragraph (e)(3)(iii) shall require an intermediary to furnish original documentation. Copies of certificates or documentary evidence may be transmitted to the U.S. withholding agent, in which case the nonqualified intermediary must retain the original documentation for the same time period that the copy is required to be retained by the withholding agent under paragraph (e)(4)(iii) of this section and must provide it to the withholding agent upon request. For purposes of this paragraph (e)(3)(iii), a valid intermediary withholding certificate also includes a statement described in Sec. 1.871-14(c)(2)(v) furnished for interest to qualify as portfolio interest for purposes of sections 871(h) and 881(c). The information and certifications required on a Form W-8 described in this paragraph (e)(3)(iii) are as follows--

(A) The name and permanent resident address (as described in paragraph (e)(2)(ii) of this section) of the nonqualified intermediary, and the country under the laws of which the nonqualified intermediary is created, incorporated, or governed;

(B) A certification that the nonqualified intermediary is not acting for its own account;

(C) If the nonqualified intermediary withholding certificate is used to transmit withholding certificates or other appropriate documentation for more than one person on whose behalf the nonqualified intermediary is acting, a withholding statement associated with the Form W-8 that provides all the information required by paragraph (e)(3)(iv) of this section; and

(D) Any other information, certifications, or statements as may be required by the form or accompanying instructions in addition to, or in lieu of, the information, certifications, and statements described in this paragraph (e)(3)(iii)

or paragraph (e)(5)(iv) of this section.

(iv) Withholding statement provided by nonqualified intermediary--

(A) In general.

A nonqualified intermediary shall provide a withholding statement required by this paragraph (e)(3)(iv) to the extent the nonqualified intermediary is required to furnish, or does furnish, documentation for payees on whose behalf it receives reportable amounts (as defined in paragraph (e)(3)(vi) of this section) or to the extent it otherwise provides the documentation of such payees to a withholding agent. A nonqualified intermediary is not required to disclose information regarding persons for whom it collects reportable amounts unless it has actual knowledge that any such person is a U.S. non- exempt recipient as defined in paragraph (c)(21) of this section. Information regarding U.S. non-exempt recipients required under this paragraph (e)(3)(iv) must be provided irrespective of any requirement under foreign law that prohibits the disclosure of the identity of an account holder of a nonqualified intermediary or financial information relating to such account holder. Although a nonqualified intermediary is not required to provide documentation and other information required by this paragraph (e)(3)(iv) for persons other than U.S. non-exempt recipients, a withholding agent that does not receive documentation and such information must apply the presumption rules of paragraph (b) of this section, Secs. 1.1441-5(d) and (e)(6) and 1.6049-5(d) or the withholding agent shall be liable for tax, interest, and penalties. A withholding agent must apply the presumption rules even if it is not required under chapter 61 of the Internal Revenue Code to obtain documentation to treat a payee as an exempt recipient and even though it has actual knowledge that the payee is a U.S. person. For example, if a nonqualified intermediary fails to provide a withholding agent with a Form W-9 for an account holder that is a U.S. exempt recipient, the withholding agent must presume (even if it has actual knowledge that the account holder is a U.S. exempt recipient), that the account holder is an undocumented foreign person with respect to amounts subject to withholding. See paragraph (b)(3)(v) of this section for applicable presumptions. Therefore, the withholding agent must withhold 30 percent from the payment even though if a Form W-9 had been provided, no withholding or reporting on the payment attributable to a U.S. exempt recipient would apply. Further, a nonqualified intermediary that fails to provide the documentation and the information under

this paragraph (e)(3)(iv) for another withholding agent to report the payments on Forms 1042-S and Forms 1099 is not relieved of its responsibility to file information returns. See paragraph (b)(6) of this section. Therefore, unless the nonqualified intermediary itself files such returns and provides copies to the payees, it shall be liable for penalties under sections 6721 (failure to file information returns), and 6722 (failure to furnish payee statements), including the penalties under those sections for intentional failure to file information returns. In addition, failure to provide either the documentation or the information required by this paragraph (e)(3)(iv) results in a payment not being reliably associated with valid documentation. Therefore, the beneficial owners of the payment are not entitled to reduced rates of withholding and if the full amount required to be held under the presumption rules is not withheld by the withholding agent, the nonqualified intermediary must withhold the difference between the amount withheld by the withholding agent and the amount required to be withheld. Failure to withhold shall result in the nonqualified intermediary being liable for tax under section 1461, interest, and penalties, including penalties under section 6656 (failure to deposit) and section 6672 (failure to collect and pay over tax).

(B) General requirements.

A withholding statement must be provided prior to the payment of a reportable amount and must contain the information specified in paragraph (e)(3)(iv)(C) of this section. The statement must be updated as often as required to keep the information in the withholding statement correct prior to each subsequent payment. The withholding statement forms an integral part of the withholding certificate provided under paragraph (e)(3)(iii) of this section, and the penalties of perjury statement provided on the withholding certificate shall apply to the withholding statement. The withholding statement may be provided in any manner the nonqualified intermediary and the withholding agent mutually agree, including electronically. If the withholding statement is provided electronically, there must be sufficient safeguards to ensure that the information received by the withholding agent is the information sent by the nonqualified intermediary and all occasions of user access that result in the submission or modification of the withholding statement information must be recorded. In addition, an electronic system must be capable of providing a hard copy of all withholding statements provided by the nonqualified intermediary. A withholding agent will be liable for

tax, interest, and penalties in accordance with paragraph (b)(7) of this section to the extent it does not follow the presumption rules of paragraph (b)(3) of this section or Secs. 1.1441-5(d) and (e)(6), and 1.6049-5(d) for any payment of a reportable amount, or portion thereof, for which it does not have a valid withholding statement prior to making a payment.

(C) Content of withholding statement.

The withholding statement provided by a nonqualified intermediary must contain the information required by this paragraph (e)(3)(iv)(C).

(1) The withholding statement must contain the name, address, TIN (if any) and the type of documentation (documentary evidence, Form W-9, or type of Form W-8) for every person from whom documentation has been received by the nonqualified intermediary and provided to the withholding agent and whether that person is a U.S. exempt recipient, a U.S. non-exempt recipient, or a foreign person. See paragraphs (c)(2), (20), and (21) of this section for the definitions of foreign person, U.S. exempt recipient, and U.S. non-exempt recipient. In the case of a foreign person, the statement must indicate whether the foreign person is a beneficial owner or an intermediary, flow-through entity, or U.S. branch described in paragraph (b)(2)(iv) of this section and include the type of recipient, based on recipient codes used for filing Forms 1042-S, if the foreign person is a recipient as defined in Sec. 1.1461- 1(c)(1)(ii).

(2) The withholding statement must allocate each payment, by income type, to every payee (including U.S. exempt recipients) for whom documentation has been provided. Any payment that cannot be reliably associated with valid documentation from a payee shall be treated as made to an unknown payee in accordance with the presumption rules of paragraph (b) of this section and Secs. 1.1441-5(d) and (e)(6) and 1.6049-5(d). For this purpose, a type of income is determined by the types of income required to be reported on Forms 1042-S or 1099, as appropriate. Notwithstanding the preceding sentence, deposit interest (including original issue discount) described in section 871(i)(2)(A) or 881(d) and interest or original issue discount on short-term obligations as described in section 871(g)(1)(B) or 881(e) is only required to be

allocated to the extent it is required to be reported on Form 1099 or Form 1042-S. See Sec. 1.6049-8 (regarding reporting of bank deposit interest to certain foreign persons). If a payee receives income through another nonqualified intermediary, flow-through entity, or U.S. branch described in paragraph (e)(2)(iv) of this section (other than a U.S. branch treated as a U.S. person), the withholding statement must also state, with respect to the payee, the name, address, and TIN, if known, of the other nonqualified intermediary or U.S. branch from which the payee directly receives the payment or the flow-through entity in which the payee has a direct ownership interest. If another nonqualified intermediary, flow-through entity, or U.S. branch fails to allocate a payment, the name of the nonqualified intermediary, flow-through entity, or U.S. branch that failed to allocate the payment shall be provided with respect to such payment.

(3) If a payee is identified as a foreign person, the nonqualified intermediary must specify the rate of withholding to which the payee is subject, the payee's country of residence and, if a reduced rate of withholding is claimed, the basis for that reduced rate (e.g., treaty benefit, portfolio interest, exempt under section 501(c)(3), 892, or 895). The allocation statement must also include the taxpayer identification numbers of those foreign persons for whom such a number is required under paragraph (e)(4)(vii) of this section or Sec. 1.1441-6(b)(1) (regarding claims for treaty benefits). In the case of a claim of treaty benefits, the nonqualified intermediary's withholding statement must also state whether the limitation on benefits and section 894 statements required by Sec. 1.1441-6(c)(5) have been provided, if required, in the beneficial owner's Form W-8 or associated with such owner's documentary evidence.

(4) The withholding statement must also contain any other information the withholding agent reasonably requests in order to fulfill its obligations under chapter 3, chapter 61 of the Internal Revenue Code, and section 3406.

(D) Alternative procedures.

(1) In general.

Under the alternative procedures of this paragraph (e)(3)(iv)(D), a nonqualified intermediary may provide information allocating a payment of a reportable amount to each payee (including U.S. exempt recipients) otherwise required under paragraph (e)(3)(iv)(B)(2) of this section after a payment is made. To use the alternative procedure of this paragraph (e)(3)(iv)(D), the nonqualified intermediary must inform the withholding agent on a statement associated with its nonqualified intermediary withholding certificate that it is using the procedure under this paragraph (e)(3)(iv)(D) and the withholding agent must agree to the procedure. If the requirements of the alternative procedure are met, a withholding agent, including the nonqualified intermediary using the procedures, can treat the payment as reliably associated with documentation and, therefore, the presumption rules of paragraph (b)(3) of this section and Secs. 1.1441-5(d) and (e)(6) and 1.6049-5(d) do not apply even though information allocating the payment to each payee has not been received prior to the payment. See paragraph (e)(3)(iv)(D)(7) of this section, however, for a nonqualified intermediary's liability for tax and penalties if the requirements of this paragraph (e)(3)(iv)(D) are not met. These alternative procedures shall not be used for payments that are allocable to U.S. non-exempt recipients. Therefore, a nonqualified intermediary is required to provide a withholding agent with information allocating payments of reportable amounts to U.S. non- exempt recipients prior to the payment being made by the withholding agent.

(2) Withholding rate pools.

In place of the information required in paragraph (e)(3)(iv)(C)(2) of this section allocating payments to each payee, the nonqualified intermediary must provide a withholding agent with withholding rate pool information prior to the payment of a reportable amount. The withholding statement must contain all other information required by paragraph (e)(3)(iv)(C) of this section. Further, each payee listed in the withholding statement must be assigned to an identified withholding rate pool. To the extent a nonqualified intermediary is required to, or does provide, documentation, the alternative procedures do not relieve the nonqualified intermediary from the requirement to provide

documentation prior to the payment being made. Therefore, withholding certificates or other appropriate documentation and all information required by paragraph (e)(3)(iv)(C) of this section (other than allocation information) must be provided to a withholding agent before any new payee receives a reportable amount. In addition, the withholding statement must be updated by assigning a new payee to a withholding rate pool prior to the payment of a reportable amount. A withholding rate pool is a payment of a single type of income, determined in accordance with the categories of income used to file Form 1042-S, that is subject to a single rate of withholding. A withholding rate pool may be established by any reasonable method to which the nonqualified intermediary and a withholding agent agree (e.g., by establishing a separate account for a single withholding rate pool, or by dividing a payment made to a single account into portions allocable to each withholding rate pool). The nonqualified intermediary shall determine withholding rate pools based on valid documentation or, to the extent a payment cannot be reliably associated with valid documentation, the presumption rules of paragraph (b)(3) of this section and Secs. 1.1441-5(d) and (e)(6) and 1.6049-5(d).

(3) Allocation information.

The nonqualified intermediary must provide the withholding agent with sufficient information to allocate the income in each withholding rate pool to each payee (including U.S. exempt recipients) within the pool no later than January 31 of the year following the year of payment. Any payments that are not allocated to payees for whom documentation has been provided shall be allocated to an undocumented payee in accordance with the presumption rules of paragraph (b)(3) of this section and Secs. 1.1441-5(d) and (e)(6) and 1.6049-5(d). Notwithstanding the preceding sentence, deposit interest (including original issue discount) described in section 871(i)(2)(A) or 881(d) and interest or original issue discount on short-term obligations as described in section 871(g)(1)(B) or 881(e) is not required to be allocated to a U.S. exempt recipient or a foreign payee, except as required under Sec. 1.6049-8 (regarding reporting of deposit interest paid to certain foreign persons).

(4) Failure to provide allocation information.

If a nonqualified intermediary fails to provide allocation information, if required, by January 31 for any withholding rate pool, a withholding agent shall not apply the alternative procedures of this paragraph (e)(3)(iv)(D) to any payments of reportable amounts paid after January 31 in the taxable year following the calendar year for which allocation information was not given and any subsequent taxable year. Further, the alternative procedures shall be unavailable for any other withholding rate pool even though allocation information was given for that other pool. Therefore, the withholding agent must withhold on a payment of a reportable amount in accordance with the presumption rules of paragraph (b)(3) of this section, and Secs. 1.1441-5(d) and (e)(6) and 1.6049- 5(d), unless the nonqualified intermediary provides all of the information, including information sufficient to allocate the payment to each specific payee, required by paragraph (e)(3)(iv)(A) through (C) of this section prior to the payment. A nonqualified intermediary must allocate at least 90 percent of the income required to be allocated for each withholding rate pool or the nonqualified intermediary will be treated as having failed to provide allocation information for purposes of this paragraph (e)(3)(iv)(D). See paragraph (e)(3)(iv)(D)(7) of this section for liability for tax and penalties if a nonqualified intermediary fails to provide allocation information in whole or in part.

(5) Cure provision.

A nonqualified intermediary may cure any failure to provide allocation information by providing the required allocation information to the withholding agent no later than February 14 following the calendar year of payment. If the withholding agent receives the allocation information by that date, it may apply the adjustment procedures of Sec. 1.1461-2 to any excess withholding for payments made on or after February 1 and on or before February 14. Any nonqualified intermediary that fails to cure by February 14, may request the ability to use the alternative procedures of this paragraph (e)(3)(iv)(D) by submitting a request, in writing, to the Assistant Commissioner (International). The request must state the reason that the nonqualified intermediary did not comply with the alternative procedures of this paragraph (e)(3)(iv)(D) and steps that

the nonqualified intermediary has taken, or will take, to ensure that no failures occur in the future. If the Assistant Commissioner (International) determines that the alternative procedures of this paragraph (e)(3)(iv)(D) may apply, a determination to that effect will be issued by the IRS to the nonqualified intermediary.

(6) Form 1042-S reporting in case of allocation failure.

If a nonqualified intermediary fails to provide allocation information by February 14 following the year of payment for a withholding rate pool, the withholding agent must file Forms 1042-S for payments made to each payee in that pool (other than U.S. exempt recipients) in the prior calendar year by pro rating the payment to each payee (including U.S. exempt recipients) listed in the withholding statement for that withholding rate pool. If the nonqualified intermediary fails to allocate10 percent or less of an amount required to be allocated for a withholding rate pool, a withholding agent shall report the unallocated amount as paid to a single unknown payee in accordance with the presumption rules of paragraph (b) of this section and Secs. 1.1441- 5(d) and (e)(6) and 1.6049-5(d). The portion of the payment that can be allocated to specific recipients, as defined in Sec. 1.1461- 1(c)(1)(ii), shall be reported to each recipient in accordance with the rules of Sec. 1.1461-1(c).

(7) Liability for tax, interest, and penalties.

If a nonqualified intermediary fails to provide allocation information by February 14 following the year of payment for all or a portion of the payments made to any withholding rate pool, the withholding agent from whom the nonqualified intermediary received payments of reportable amounts shall not be liable for any tax, interest, or penalties, due solely to the errors or omissions of the nonqualified intermediary. See Sec. 1.1441- 7(b)(2) through (10) for the due diligence requirements of a withholding agent. Because failure by the nonqualified intermediary to provide allocation information results in a payment not being reliably associated with valid documentation, the beneficial owners for whom the nonqualified intermediary acts are not entitled to a reduced rate of withholding. Therefore, the nonqualified intermediary, as a withholding

agent, shall be liable for any tax not withheld by the withholding agent in accordance with the presumption rules, interest on the under withheld tax if the nonqualified intermediary fails to pay the tax timely, and any applicable penalties, including the penalties under sections 6656 (failure to deposit), 6721 (failure to file information returns) and 6722 (failure to file payee statements). Failure to provide allocation information for more than 10 percent of the payments made to a particular withholding rate pool will be presumed to be an intentional failure within the meaning of sections 6721(e) and 6722(c). The nonqualified intermediary may rebut the presumption.

(8) Applicability to flow-through entities and certain U.S. branches.

See paragraph (e)(3)(v) of this section and Sec. 1.1441- 5(c)(3)(iv) and (e)(5)(iv) for the applicability of this paragraph (e)(3)(iv) to U.S. branches described in paragraph (b)(2)(iv) of this section (other than U.S. branches treated as U.S. persons) and flow- through entities.

(E) Notice procedures.

The IRS may notify a withholding agent that the alternative procedures of paragraph (e)(3)(iv)(D) of this section are not applicable to a specified nonqualified intermediary, a U.S. branch described in paragraph (b)(2)(iv) of this section, or a flow- through entity. If a withholding agent receives such a notice, it must commence withholding in accordance with the presumption rules of paragraph (b)(3) of this section and Secs. 1.1441-5(d) and (e)(6) and 1.6049-5(d) unless the nonqualified intermediary, U.S. branch, or flow-through entity complies with the procedures in paragraphs (e)(3)(iv)(A) through (C) of this section. In addition, the IRS may notify a withholding agent, in appropriate circumstances, that it must apply the presumption rules of paragraph (b)(3) of this section and Secs. 1.1441-5(d) and (e)(6) and 1.6049-5(d) to payments made to a nonqualified intermediary, a U.S. branch, or a flow-through entity even if the nonqualified intermediary, U.S. branch or flow-through entity provides allocation information prior to the payment. A withholding agent that receives a notice under this paragraph (e)(3)(iv)(E) must commence withholding in accordance with the presumption rules within 30 days of the date of the notice. The IRS may withdraw its prohibition against using the alternative procedures of paragraph (e)(3)(iv)(D) of this section, or its requirement to

follow the presumption rules, if the nonqualified intermediary, U.S. branch, or flow-through entity can demonstrate to the satisfaction of the Assistant Commissioner (International) or his delegate that it is capable of complying with the rules under chapter 3 of the Internal Revenue Code and any other conditions required by the Assistant Commissioner (International).

(v) Withholding certificate from certain U.S. branches.

A U.S. branch certificate is a withholding certificate provided by a U.S. branch described in paragraph (b)(2)(iv) of this section that is not the beneficial owner of the income. The withholding certificate is provided with respect to reportable amounts and must state that such amounts are not effectively connected with the conduct of a trade or business in the United States. The withholding certificate must either transmit the appropriate documentation for the persons for whom the branch receives the payment (i.e., as an intermediary) or be provided as evidence of its agreement with the withholding agent to be treated as a U.S. person with respect to any payment associated with the certificate. A U.S. branch withholding certificate is valid only if it is furnished on a Form W-8, an acceptable substitute form, or such other form as the IRS may prescribe, it is signed under penalties of perjury by a person authorized to sign for the branch, its validity has not expired, and it contains the information, statements, and certifications described in this paragraph (e)(3)(v). If the certificate is furnished to transmit withholding certificates and other documentation, it must contain the information, certifications, and statements described in paragraphs (e)(3)(v)(A) through (C) of this section and in paragraphs (e)(3)(iii) and (iv) (alternative procedures) of this section, applying the term U.S. branch instead of the term nonqualified intermediary. If the certificate is furnished pursuant to an agreement to treat the U.S. branch as a U.S. person, the information and certifications required on the withholding certificate are limited to the following--

(A) The name of the person of which the branch is a part and the address of the branch in the United States;

(B) A certification that the payments associated with the certificate are not effectively connected with the conduct of its trade or business in the United States; and

(C) Any other information, certifications, or statements as may be required by the form or accompanying instructions in addition to, or in lieu of, the

information and certification described in this paragraph (e)(3)(v).

(vi) Reportable amounts.

For purposes of chapter 3 of the Internal Revenue Code, a nonqualified intermediary, qualified intermediary, flow-through entity, and U.S. branch described in paragraph (b)(2)(iv) of this section (other than a U.S. branch that agrees to be treated as a U.S. person) must provide a withholding certificate and associated documentation and other information with respect to reportable amounts. For purposes of the regulations under chapter 3 of the Internal Revenue Code, the term reportable amount means an amount subject to withholding within the meaning of Sec. 1.1441-2(a), bank deposit interest (including original issue discount) and similar types of deposit interest described in section 871(i)(2)(A) or 881(d) that are from sources within the United States, and any amount of interest or original issue discount from sources within the United States on the redemption of certain short-term obligations described in section 871(g)(1)(B) or 881(e). Reportable amounts shall not include amounts received on the sale or exchange (other than a redemption) of an obligation described in section 871(g)(1)(B) or 881(e) that is effected at an office outside the United States. See Sec. 1.6045-1(g)(3) to determine whether a sale is effected at an office outside the United States. Reportable amounts also do not include payments with respect to deposits with banks and other financial institutions that remain on deposit for a period of two weeks or less, to amounts of original issue discount arising from a sale and repurchase transaction that is completed within a period of two weeks or less, or to amounts described in Sec. 1.6049-5(b)(7), (10) or (11) (relating to certain obligations issued in bearer form). While short-term OID and bank deposit interest are not subject to withholding under chapter 3 of the Internal Revenue Code, such amounts may be subject to information reporting under section 6049 if paid to a U.S. person who is not an exempt recipient described in Sec. 1.6049-4(c)(1)(ii) and to backup withholding under section 3406 in the absence of documentation. See Sec. 1.6049- 5(d)(3)(iii) for applicable procedures when such amounts are paid to a foreign intermediary.

(4) Applicable rules.

The provisions in this paragraph (e)(4) describe procedures applicable to withholding certificates on Form W-8 or Form 8233 (or a substitute form) or documentary evidence furnished to establish foreign status. These provisions do not apply to Forms W-9 (or their substitutes). For corresponding provisions regrading Form W-9 (or a substitute form), see

section 3406 and the regulations under that section.

(i) Who may sign the certificate.

A withholding certificate (or other acceptable substitute) may be signed by any person authorized to sign a declaration under penalties of perjury on behalf of the person whose name is on the certificate as provided in section 6061 and the regulations under that section (relating to who may sign generally for an individual, estate, or trust, which includes certain agents who may sign returns and other documents), section 6062 and the regulations under that section (relating to who may sign corporate returns), and section 6063 and the regulations under that section (relating to who may sign partnership returns).

(ii) Period of validity.

(A) Three-year period.

A withholding certificate described in paragraph (e)(2)(i) of this section, or a certificate described in Sec. 1.871-14(c)(2)(v) (furnished to qualify interest as portfolio interest for purposes of sections 871(h) and 881(c)), shall remain valid until the earlier of the last day of the third calendar year following the year in which the withholding certificate is signed or the day that a change in circumstances occurs that makes any information on the certificate incorrect. For example, a withholding certificate signed on September 30, 2001, remains valid through December 31, 2004, unless circumstances change that make the information on the form no longer correct. Documentary evidence described in Secs. 1.1441-6(c)(3) or (4) or 1.6049-5(c)(1) shall remain valid until the earlier of the last day of the third calendar year following the year in which the documentary evidence is provided to the withholding agent or the day that a change in circumstances occurs that makes any information on the documentary evidence incorrect.

(B) Indefinite validity period.

Notwithstanding paragraph (e)(4)(ii)(A) of this section, the following certificates or parts of certificates shall remain valid until the status of the person whose name is on the certificate is changed in a way relevant to the certificate or circumstances change that make the information on the certificate no longer correct:

(1) A withholding certificate described in paragraph (e)(2)(ii) of this section that is furnished with a TIN, provided that the withholding agent reports at least one payment annually to the beneficial owner under Sec. 1.1461-1(c) or the TIN furnished on the certificate is reported to the IRS under the procedures described in Sec. 1.1461-1(d). For example, assume a withholding agent receives a Form W-8 in 2001 from a beneficial owner with respect to an account that contains bonds, the interest on which must be reported on Form 1042-S under Sec. 1.1461-1(c). The Form W-8 contains a valid TIN and the withholding agent reports on Forms 1042-S interest to the beneficial owner for 2001 through 2005. In 2005, the beneficial owner sells some of the bonds. For purposes of the exemption from Form 1099 reporting under Sec. 1.6045-1(g), the withholding agent may consider the Form W-8 as valid, even though the payment of the sales proceeds is not reportable on Form 1042-S under Sec. 1.1461- 1(c) and even though the Form W-8 was provided more than three years previously.

(2) A certificate described in paragraph (e)(3)(ii) of this section (a qualified intermediary withholding certificate) but not including the withholding certificates, documentary evidence, statements or other information associated with the certificate.

(3) A certificate described in paragraph (e)(3)(iii) of this section (a nonqualified intermediary certificate), but not including the withholding certificates, documentary evidence, statements or other information associated with the certificate.

(4) A certificate described in paragraph (e)(3)(v) of this section (a U.S. branch withholding certificate), but not including the withholding certificates, documentary evidence, statements or other information associated with the certificate.

(5) A certificate described in Sec. 1.1441-5(c)(2)(iv) (dealing with a certificate from a person representing to be a withholding foreign partnership).

(6) A certificate described in Sec. 1.1441-5(c)(3)(iii) (a withholding certificate from a nonwithholding foreign partnership) but not including

the withholding certificates, documentary evidence, statements or other information required to be associated with the certificate.

(7) A certificate furnished by a person representing to be an integral part of a foreign government (within the meaning of Sec. 1.892-2T(a)(2)) in accordance with Sec. 1.1441-8(b), or by a person representing to be a foreign central bank of issue (within the meaning of Sec. 1.861-2(b)(4)) or the Bank for International Settlements in accordance with Sec. 1.1441-8(c)(1).

(8) A withholding certificate described in Sec. 1.1441-5(e)(5)(iii) provided by a foreign simple trust or a foreign grantor trust to transmit documentation of beneficiaries or owners, but not including the withholding certificates, documentary evidence, statements or other information associated with the certificate.

(C) Withholding certificate for effectively connected income.

Notwithstanding paragraph (e)(4)(ii)(B)(1) of this section, the period of validity of a withholding certificate furnished to a withholding agent to claim a reduced rate of withholding for income that is effectively connected with the conduct of a trade or business within the United States shall be limited to the three-year period described in paragraph (e)(4)(ii)(A) of this section.

(D) Change in circumstances.

If a change in circumstances makes any information on a certificate or other documentation incorrect, then the person whose name is on the certificate or other documentation must inform the withholding agent within 30 days of the change and furnish a new certificate or new documentation. A certificate or documentation becomes invalid from the date that the withholding agent holding the certificate or documentation knows or has reason to know that circumstances affecting the correctness of the certificate or documentation have changed. However, a withholding agent may choose to apply the provisions of paragraph (b)(3)(iv) of this section regarding the 90-day grace period as of that date while awaiting a new certificate or documentation or while seeking information regarding changes, or suspected changes, in the person's circumstances. If an intermediary (including a U.S. branch described in paragraph (b)(2)(iv)(A) of this section that passes through certificates to a

withholding agent) or a flow-through entity becomes aware that a certificate or other appropriate documentation it has furnished to the person from whom it collects the payment is no longer valid because of a change in the circumstances of the person who issued the certificate or furnished the other appropriate documentation, then the intermediary or flow-through entity must notify the person from whom it collects the payment of the change of circumstances. It must also obtain a new withholding certificate or new appropriate documentation to replace the existing certificate or documentation whose validity has expired due to the change in circumstances. If a beneficial owner withholding certificate is used to claim foreign status only (and not, also, residence in a particular foreign country for purposes of an income tax treaty), a change of address is a change in circumstances for purposes of this paragraph (e)(4)(ii)(D) only if it changes to an address in the United States. Further, a change of address within the same foreign country is not a change in circumstances for purposes of this paragraph (e)(4)(ii)(D). A change in the circumstances affecting the withholding information provided to the withholding agent in accordance with the provisions in paragraph (e) (3)(iv) or (5)(v) of this section or in Sec. 1.1441-5(c)(3)(iv) shall terminate the validity of the withholding certificate with respect to the information that is no longer reliable unless the information is updated. A withholding agent may rely on a certificate without having to inquire into possible changes of circumstances that may affect the validity of the statement, unless it knows or has reason to know that circumstances have changed. A withholding agent may require a new certificate at any time prior to a payment, even though the withholding agent has no actual knowledge or reason to know that any information stated on the certificate has changed.

(iii) Retention of withholding certificate.

A withholding agent must retain each withholding certificate and other documentation for as long as it may be relevant to the determination of the withholding agent's tax liability under section 1461 and Sec. 1.1461-1.

(iv) Electronic transmission of information.

(A) In general.

A withholding agent may establish a system for a beneficial owner or payee to

electronically furnish a Form W-8, an acceptable substitute Form W-8, or such other form as the Internal Revenue Service may prescribe. The system must meet the requirements described in paragraph (e)(4)(iv)(B) of this section. A withholding agent may accept Forms W-8 that are furnished electronically on or after January 1, 2000, provided the requirements of paragraph (e)(4)(iv)(B) of this section are met.

(B) Requirements.

(1) In general.

The electronic system must ensure that the information received is the information sent, and must document all occasions of user access that result in the submission renewal, or modification of a Form W-8. In addition, the design and operation of the electronic system, including access procedures, must make it reasonably certain that the person accessing the system and furnishing Form W-8 is the person named in the Form.

(2) Same information as paper Form W-8.

The electronic transmission must provide the withholding agent or payor with exactly the same information as the paper Form W-8.

(3) Perjury statement and signature requirements.

The electronic transmission must contain an electronic signature by the person whose name is on the Form W-8 and the signature must be under penalties of perjury in the manner described in this paragraph (e)(4)(iv)(B)(3).

(i) Perjury statement. The perjury statement must contain the language that appears on the paper Form W-8. The electronic system must inform the person whose name is on the Form W-8 that the person must make the declaration contained in the perjury statement and that the declaration is made by signing the Form W-8. The instructions and the language of the perjury statement must immediately follow the person's certifying statements and immediately precede the person's electronic signature.

(ii) Electronic signature. The act of the electronic signature must be effected by the person whose name is on the electronic Form W-8. The signature must also authenticate and verify the submission. For this purpose, the terms authenticate and verify have the same meanings as they do when applied to a written signature on a paper Form W-8. An electronic signature can be in any form that satisfies the foregoing requirements. The electronic signature must be the final entry in the person's Form W-8 submission.

(4) Requests for electronic Form W-8 data.

Upon request by the Internal Revenue Service during an examination, the withholding agent must supply a hard copy of the electronic Form W-8 and a statement that, to the best of the withholding agent's knowledge, the electronic Form W-8 was filed by the person whose name is on the form. The hard copy of the electronic Form W-8 must provide exactly the same information as, but need not be identical to, the paper Form W-8.

(C) Special requirements for transmission of Forms W-8 by an intermediary.

[Reserved]

(v) Electronic confirmation of taxpayer identifying number on withholding certificate.

The Commissioner may prescribe procedures in a revenue procedure (see Sec. 601.601(d)(2) of this chapter) or other appropriate guidance to require a withholding agent to confirm electronically with the IRS information concerning any TIN stated on a withholding certificate.

(vi) Acceptable substitute form.

A withholding agent may substitute its own form instead of an official Form W-8 or 8233 (or such other official form as the IRS may prescribe). Such a substitute for an official form will be acceptable if it contains provisions that are substantially similar to those of the official form, it contains the same certifications relevant to the transactions as are contained on the official form and these certifications are clearly set forth, and the substitute form includes a signature-under-penalties-of-perjury statement identical to the one stated on the official form. The substitute form is acceptable even if it does not contain all of the provisions contained on the official form, so long as it contains those

provisions that are relevant to the transaction for which it is furnished. For example, a withholding agent that pays no income for which treaty benefits are claimed may develop a substitute form that is identical to the official form, except that it does not include information regarding claim of benefits under an income tax treaty. A withholding agent who uses a substitute form must furnish instructions relevant to the substitute form only to the extent and in the manner specified in the instructions to the official form. A withholding agent may refuse to accept a certificate from a payee or beneficial owner (including the official Form W-8 or 8233) if the certificate is not provided on the acceptable substitute form provided by the withholding agent. However, a withholding agent may refuse to accept a certificate provided by a payee or beneficial owner only if the withholding agent furnishes the payee or beneficial owner with an acceptable substitute form immediately upon receipt of an unacceptable form or within 5 business days of receipt of an unacceptable form from the payee or beneficial owner. In that case, the substitute form is acceptable only if it contains a notice that the withholding agent has refused to accept the form submitted by the payee or beneficial owner and that the payee or beneficial owner must submit the acceptable form provided by the withholding agent in order for the payee or beneficial owner to be treated as having furnished the required withholding certificate.

(vii) Requirement of taxpayer identifying number.

A TIN must be stated on a withholding certificate when required by this paragraph (e)(4)(vii). A TIN is required to be stated on--

(A) A withholding certificate on which a beneficial owner is claiming the benefit of a reduced rate under an income tax treaty (other than for amounts described in Sec. 1.1441-6(c)(2);

(B) A withholding certificate on which a beneficial owner is claiming exemption from withholding because income is effectively connected with a U.S. trade or business;

(C) A withholding certificate on which a beneficial owner is claiming exemption from withholding under section 871(f) for certain annuities received under qualified plans;

(D) A withholding certificate on which a beneficial owner is claiming an exemption based solely on a foreign organization's claim of tax exempt status under section 501(c) or private foundation status (however, a TIN is not

required from a foreign private foundation that is subject to the 4-percent tax under section 4948(a) on income if that income would be exempt from withholding but for section 4948(a) (e.g., portfolio interest));

(E) A withholding certificate from a person representing to be a qualified intermediary described in paragraph (e)(5)(ii) of this section;

(F) A withholding certificate from a person representing to be a withholding foreign partnership described in Sec. 1.1441-5(c)(2)(i));

(G) A withholding certificate from a person representing to be a foreign grantor trust with 5 or fewer grantors;

(H) A withholding certificate provided by a foreign organization that is described in section 501(c);

(I) A withholding certificate from a person representing to be a U.S. branch described in paragraph (b)(2)(iv) of this section.

(viii) Reliance rules.

A withholding agent may rely on the information and certifications stated on withholding certificates or other documentation without having to inquire into the truthfulness of this information or certification, unless it has actual knowledge or reason to know that the same is untrue. In the case of amounts described in Sec. 1.1441-6(c)(2), a withholding agent described in Sec. 1.1441-7(b)(2)(ii) has reason to know that the information or certifications on a certificate are untrue only to the extent provided in Sec. 1.1441-7(b)(2)(ii). See Sec. 1.1441-6(b)(1) for reliance on representations regarding eligibility for a reduced rate under an income tax treaty. Paragraphs (e)(4)(viii) (A) and (B) of this section provide examples of such reliance.

(A) Classification.

A withholding agent may rely on the claim of entity classification indicated on the withholding certificate that it receives from or for the beneficial owner, unless it has actual knowledge or reason to know that the classification claimed is incorrect. A withholding agent may not rely on a person's claim of classification other than as a corporation if the name of the corporation indicates that the person is a per se corporation described in Sec. 301.7701-2(b)(8)(i) of this chapter unless the certificate contains a statement that the person is a

grandfathered per se corporation described in Sec. 301.7701-2(b)(8) of this chapter and that its grandfathered status has not been terminated. In the absence of reliable representation or information regarding the classification of the payee or beneficial owner, see Sec. 1.1441-1(b)(3)(ii) for applicable presumptions.

(B) Status of payee as an intermediary or as a person acting for its own account.

A withholding agent may rely on the type of certificate furnished as indicative of the payee's status as an intermediary or as an owner, unless the withholding agent has actual knowledge or reason to know otherwise. For example, a withholding agent that receives a beneficial owner withholding certificate from a foreign financial institution may treat the institution as the beneficial owner, unless it has information in its records that would indicate otherwise or the certificate contains information that is not consistent with beneficial owner status (e.g., sub-account numbers or names). If the financial institution also acts as an intermediary, the withholding agent may request that the institution furnish two certificates, i.e., a beneficial owner certificate described in paragraph (e)(2)(i) of this section for the amounts that it receives as a beneficial owner, and an intermediary withholding certificate described in paragraph (e)(3)(i) of this section for the amounts that it receives as an intermediary. In the absence of reliable representation or information regarding the status of the payee as an owner or as an intermediary, see paragraph (b)(3)(v)(A) for applicable presumptions.

(ix) Certificates to be furnished for each account unless exception applies.

Unless otherwise provided in this paragraph (e)(4)(ix), a withholding agent that is a financial institution with which a customer may open an account shall obtain withholding certificates or other appropriate documentation on an account-by-account basis.

(A) Coordinated account information system in effect.

A withholding agent may rely on the withholding certificate or other appropriate documentation furnished by a customer for a pre-existing account under any one or more of the circumstances described in this paragraph (e)(4)(ix)(A).

(1) A withholding agent may rely on documentation furnished by a

customer for another account if all such accounts are held at the same branch location.

(2) A withholding agent may rely on documentation furnished by a customer for an account held at another branch location of the same withholding agent or at a branch location of a person related to the withholding agent if the withholding agent and the related person are part of a universal account system that uses a customer identifier that can be used to retrieve systematically all other accounts of the customer. See Sec. 31.3406(c)-1(c)(3)(ii) and (iii)(C) of this chapter for an identical procedure for purposes of backup withholding. For purposes of this paragraph (e)(4)(ix)(A), a withholding agent is related to another person if it is related within the meaning of section 267(b) or 707(b).

(3) A withholding agent may rely on documentation furnished by a customer for an account held at another branch location of the same withholding agent or at a branch location of a person related to the withholding agent if the withholding agent and the related person are part of an information system other than a universal account system and the information system is described in this paragraph (e)(4)(ix)(A)(3). The system must allow the withholding agent to easily access data regarding the nature of the documentation, the information contained in the documentation, and its validity status, and must allow the withholding agent to easily transmit data into the system regarding any facts of which it becomes aware that may affect the reliability of the documentation. The withholding agent must be able to establish how and when it has accessed the data regarding the documentation and, if applicable, how and when it has transmitted data regarding any facts of which it became aware that may affect the reliability of the documentation. In addition, the withholding agent or the related party must be able to establish that any data it has transmitted to the information system has been processed and appropriate due diligence has been exercised regarding the validity of the documentation.

(4) A withholding agent may rely on documentation furnished by a beneficial owner or payee to an agent of the withholding agent. The agent may retain the documentation as part of an information system

maintained for a single or multiple withholding agents provided that the system permits any withholding agent that uses the system to easily access data regarding the nature of the documentation, the information contained in the documentation, and its validity, and must allow the withholding agent to easily transmit data into the system regarding any facts of which it becomes aware that may affect the reliability of the documentation. The withholding agent must be able to establish how and when it has accessed the data regarding the documentation and, if applicable, how and when it has transmitted data regarding any facts of which it became aware that may affect the reliability of the documentation. In addition, the withholding agent must be able to establish that any data it has transmitted to the information system has been processed and appropriate due diligence has been exercised regarding the validity of the documentation.

(B) Family of mutual funds.

An interest in a mutual fund that has a common investment advisor or common principal underwriter with other mutual funds (within the same family of funds) may, in the discretion of the mutual fund, be represented by one single withholding certificate where shares are acquired or owned in any of the funds. See Sec. 31.3406(h)-3(a)(2) of this chapter for an identical procedures for purposes of backup withholding.

(C) Special rule for brokers.

(1) In general.

A withholding agent may rely on the certification of a broker that the broker holds a valid beneficial owner withholding certificate described in paragraph (e)(2)(i) of this section or other appropriate documentation for that beneficial owner with respect to any readily tradable instrument, as defined in Sec. 31.3406(h)-1(d) of this chapter, if the broker is a United States person (including a U.S. branch treated as a U.S. person under paragraph (b)(2)(iv) of this section) that is acting as the agent of a beneficial owner and the U.S. broker has been provided a valid Form W-8 or other appropriate documentation. The certification must be in writing or in electronic form and contain all of the information required

of a nonqualified intermediary under paragraphs (e)(3)(iv)(B) and (C) of this section. If a U.S. broker chooses to use this paragraph (e)(4)(ix)(C), that U.S. broker will be solely responsible for applying the rules of Sec. 1.1441-7(b) to the withholding certificates or other appropriate documentation. For purposes of this paragraph (c)(4)(ix)(C), the term broker means a person treated as a broker under Sec. 1.6045-1(a).

(2) The following example illustrates the rules of this paragraph (e)(4)(ix)(C):

Example. SCO is a U.S. securities clearing organization that provides clearing services for correspondent broker, CB, a U.S. corporation. Pursuant to a fully disclosed clearing agreement, CB fully discloses the identity of each of its customers to SCO. Part of SCO's clearing duties include the crediting of income and gross proceeds of readily tradeable instruments (as defined in Sec. 31.3406(h)-1(d)) to each customer's account. For each disclosed customer that is a foreign beneficial owner, CB provides SCO with information required under paragraphs (e)(3)(iv)(B) and (C) of this section that is necessary to apply the correct rate of withholding and to file Forms 1042-S. SCO may use the representations and beneficial owner information provided by CB to determine the proper amount of withholding and to file Forms 1042-S. CB is responsible for determining the validity of the withholding certificates or other appropriate documentation under Sec. 1.1441-1(b).

(5) Qualified intermediaries.

(i) General rule.

A qualified intermediary, as defined in paragraph (e)(5)(ii) of this section, may furnish a qualified intermediary withholding certificate to a withholding agent. The withholding certificate provides certifications on behalf of other persons for the purpose of claiming and verifying reduced rates of withholding under section 1441 or 1442 and for the purpose of reporting and withholding under other provisions of the Internal Revenue Code, such as the provisions under chapter 61 and section 3406 (and the regulations under those provisions). Furnishing such a certificate is in lieu of transmitting to a

withholding agent withholding certificates or other appropriate documentation for the persons for whom the qualified intermediary receives the payment, including interest holders in a qualified intermediary that is fiscally transparent under the regulations under section 894. Although the qualified intermediary is required to obtain withholding certificates or other appropriate documentation from beneficial owners, payees, or interest holders pursuant to its agreement with the IRS, it is generally not required to attach such documentation to the intermediary withholding certificate. Notwithstanding the preceding sentence a qualified intermediary must provide a withholding agent with the Forms W-9, or disclose the names, addresses, and taxpayer identifying numbers, if known, of those U.S. non-exempt recipients for whom the qualified intermediary receives reportable amounts (within the meaning of paragraph (e)(3)(vi) of this section) to the extent required in the qualified intermediary's agreement with the IRS. A person may claim qualified intermediary status before an agreement is executed with the IRS if it has applied for such status and the IRS authorizes such status on an interim basis under such procedures as the IRS may prescribe.

(ii) Definition of qualified intermediary.

With respect to a payment to a foreign person, the term qualified intermediary means a person that is a party to a withholding agreement with the IRS and such person is--

(A) A foreign financial institution or a foreign clearing organization (as defined in Sec. 1.163-5(c)(2)(i)(D)(8), without regard to the requirement that the organization hold obligations for members), other than a U.S. branch or U.S. office of such institution or organization;

(B) A foreign branch or office of a U.S. financial institution or a foreign branch or office of a U.S. clearing organization (as defined in Sec. 1.163-5(c)(2)(i)(D)(8), without regard to the requirement that the organization hold obligations for members);

(C) A foreign corporation for purposes of presenting claims of benefits under an income tax treaty on behalf of its shareholders; or

(D) Any other person acceptable to the IRS.

(iii) Withholding agreement.

(A) In general.

The IRS may, upon request, enter into a withholding agreement with a foreign person described in paragraph (e)(5)(ii) of this section pursuant to such procedures as the IRS may prescribe in published guidance (see Sec. 601.601(d)(2) of this chapter). Under the withholding agreement, a qualified intermediary shall generally be subject to the applicable withholding and reporting provisions applicable to withholding agents and payors under chapters 3 and 61 of the Internal Revenue Code, section 3406, the regulations under those provisions, and other withholding provisions of the Internal Revenue Code, except to the extent provided under the agreement.

(B) Terms of the withholding agreement.

Generally, the agreement shall specify the type of certifications and documentation upon which the qualified intermediary may rely to ascertain the classification (e.g., corporation or partnership) and status (i.e., U.S. or foreign) of beneficial owners and payees who receive payments collected by the qualified intermediary and, if necessary, entitlement to the benefits of a reduced rate under an income tax treaty. The agreement shall specify if, and to what extent, the qualified intermediary may assume primary withholding responsibility in accordance with paragraph (e)(5)(iv) of this section. It shall also specify the extent to which applicable return filing and information reporting requirements are modified so that, in appropriate cases, the qualified intermediary may report payments to the IRS on an aggregated basis, without having to disclose the identity of beneficial owners and payees. However, the qualified intermediary may be required to provide to the IRS the name and address of those foreign customers who benefit from a reduced rate under an income tax treaty pursuant to the qualified intermediary arrangement for purposes of verifying entitlement to such benefits, particularly under an applicable limitation on benefits provision. Under the agreement, a qualified intermediary may agree to act as an acceptance agent to perform the duties described in Sec. 301.6109-1(d)(3)(iv)(A) of this chapter. The agreement may specify the manner in which applicable procedures for adjustments for underwithholding and overwithholding, including refund procedures, apply in the context of a qualified intermediary arrangement and the extent to which applicable procedures may be modified. In particular, a withholding agreement may allow a qualified intermediary to claim refunds of overwithheld amounts. If relevant, the agreement shall specify the manner in which the qualified intermediary may deal

with payments to other intermediaries and flow-through entities. In addition, the agreement shall specify the manner in which the IRS will verify compliance with the agreement. In appropriate cases, the IRS may agree to rely on audits performed by an intermediary's approved auditor. In such a case, the IRS's audit may be limited to the audit of the auditor's records (including work papers of the auditor and reports prepared by the auditor indicating the methodology employed to verify the entity's compliance with the agreement). For this purpose, the agreement shall specify the auditor or class of auditors that are approved. Generally, an auditor will not be approved if the auditor is not subject to laws, regulations, or rules that impose sanctions for failure to exercise its independence and to perform the audit competently. The agreement may include provisions for the assessment and collection of tax in the event that failure to comply with the terms of the agreement results in the failure by the withholding agent or the qualified intermediary to withhold and deposit the required amount of tax. Further, the agreement may specify the procedures by which deposits of amounts withheld are to be deposited, if different from the deposit procedures under the Internal Revenue Code and applicable regulations. To determine whether to enter a qualified intermediary withholding agreement and the terms of any particular withholding agreement, the IRS will consider appropriate factors including whether or not the foreign person agrees to assume primary withholding responsibility, the type of local know-your-customer laws and practices to which it is subject, the extent and nature of supervisory and regulatory control exercised under the laws of the foreign country over the foreign person, the volume of investments in U.S. securities (determined in dollar amounts and number of account holders), the financial condition of the foreign person, and whether the qualified intermediary is a resident of a country with which the United States has an income tax treaty.

(iv) Assignment of primary withholding responsibility.

Any person who meets the definition of a withholding agent under Sec. 1.1441-7(a) (whether a U.S. person or a foreign person) is required to withhold and deposit any amount withheld under Sec. 1.1461-1(a) and to make the returns prescribed by Sec. 1.1461-1(b) and (c). If permitted by its qualified intermediary agreement, a qualified intermediary agreement may, however, inform a withholding agent from which it receives a payment that it will assume the primary obligation to withhold, deposit, and report amounts under chapter 3 of the Internal Revenue Code and/or under chapter 61

of the Internal Revenue Code and section 3406. If a withholding agent makes a payment of an amount subject to withholding, as defined in Sec. 1.1441-2(a), or a reportable payment, as defined in section 3406(b), to a qualified intermediary that represents to the withholding agent that it has assumed primary withholding responsibility for the payment, the withholding agent is not required to withhold on the payment. The withholding agent is not required to determine that the qualified intermediary agreement actually permits the qualified intermediary to assume primary withholding responsibility. A qualified intermediary that assumes primary withholding responsibility under chapter 3 of the Internal Revenue Code or primary reporting and backup withholding responsibility under chapter 61 and section 3406 is not required to assume primary withholding responsibility for all accounts it has with a withholding agent but must assume primary withholding responsibility for all payments made to any one account that it has with the withholding agent. A qualified intermediary may agree with the withholding agent to assume primary withholding responsibility under chapter 3 and section 3406, only if expressly permitted to do so under its agreement with the IRS.

(v) Withholding statement.

(A) In general.

A qualified intermediary must provide each withholding agent from which it receives reportable amounts, as defined in paragraph (e)(3)(vi) of this section, as a qualified intermediary with a written statement (the withholding statement) containing the information specified in paragraph (e)(5)(v)(B) of this section. A withholding statement is not required, however, if all of the information a withholding agent needs to fulfill its withholding and reporting requirements is contained in the withholding certificate. The qualified intermediary agreement may require, in appropriate circumstances, the qualified intermediary to include information in its withholding statement relating to payments other than payments of reportable amounts. The withholding statement forms an integral part of the qualified intermediary's qualified intermediary withholding certificate and the penalties of perjury statement provided on the withholding certificate shall apply to the withholding statement as well. The withholding statement may be provided in any manner, and in any form, to which qualified intermediary and the withholding agent mutually agree, including electronically. If the withholding statement is provided electronically, there must be sufficient safeguards to ensure that the information received by the withholding agent is the information sent by qualified intermediary and must also document all occasions of user

access that result in the submission or modification of withholding statement information. In addition, the electronic system must be capable of providing a hard copy of all withholding statements provided by the qualified intermediary. The withholding statement shall be updated as often as necessary for the withholding agent to meet its reporting and withholding obligations under chapters 3 and 61 of the Internal Revenue Code and section 3406. A withholding agent will be liable for tax, interest, and penalties in accordance with paragraph (b)(7) of this section to the extent it does not follow the presumption rules of paragraph (b)(3) of this section, Secs. 1.1441-5(d) and (e)(6), and 1.6049-5(d) for any payment, or portion thereof, for which it does not have a valid withholding statement prior to making a payment.

(B) Content of withholding statement.

The withholding statement must contain sufficient information for a withholding agent to apply the correct rate of withholding on payments from the accounts identified on the statement and to properly report such payments on Forms 1042-S and Forms 1099, as applicable. The withholding statement must--

(1) Designate those accounts for which the qualified intermediary acts as a qualified intermediary;

(2) Designate those accounts for which qualified intermediary assumes primary withholding responsibility under chapter 3 of the Internal Revenue Code and/or primary reporting and backup withholding responsibility under chapter 61 and section 3406; and (3) Provide information regarding withholding rate pools, as described in paragraph (e)(5)(v)(C) of this section.

(C) Withholding rate pools.

(1) In general.

Except to the extent it has assumed both primary withholding responsibility under chapter 3 of the Internal Revenue Code and primary reporting and backup withholding responsibility under chapter 61 and section 3406 with respect to a payment, a qualified intermediary shall provide as part of its withholding statement the withholding rate pool information that is required for the withholding agent to meet its

withholding and reporting obligations under chapters 3 and 61 of the Internal Revenue Code and section 3406. A withholding rate pool is a payment of a single type of income, determined in accordance with the categories of income reported on Form 1042-S or Form 1099, as applicable, that is subject to a single rate of withholding. A withholding rate pool may be established by any reasonable method on which the qualified intermediary and a withholding agent agree (e.g., by establishing a separate account for a single withholding rate pool, or by dividing a payment made to a single account into portions allocable to each withholding rate pool). To the extent a qualified intermediary does not assume primary reporting and backup withholding responsibility under chapter 61 and section 3406, a qualified intermediary's withholding statement must establish a separate withholding rate pool for each U.S. non-exempt recipient account holder that the qualified intermediary has disclosed to the withholding agent unless the qualified intermediary uses the alternative procedures in paragraph (e)(5)(v)(C)(2) of this section. A qualified intermediary shall determine withholding rate pools based on valid documentation that it obtains under its withholding agreement with the IRS, or if a payment cannot be reliably associated with valid documentation, under the applicable presumption rules. If a qualified intermediary has an account holder that is another intermediary (whether a qualified intermediary or a nonqualified intermediary) or a flow-through entity, the qualified intermediary may combine the account holder information provided by the intermediary or flow-through entity with the qualified intermediary's direct account holder information to determine the qualified intermediary's withholding rate pools.

(2) Alternative procedure for U.S. non-exempt recipients.

If permitted under its agreement with the IRS, a qualified intermediary may, by mutual agreement with a withholding agent, establish a single zero withholding rate pool that includes U.S. non-exempt recipient account holders for whom the qualified intermediary has provided Forms W-9 prior to the withholding agent paying any reportable payments, as defined in the qualified intermediary agreement, and a separate withholding rate pool (subject to 31-percent withholding) that

includes only U.S. non-exempt recipient account holders for whom a qualified intermediary has not provided Forms W-9 prior to the withholding agent paying any reportable payments. If a qualified intermediary chooses the alternative procedure of this paragraph (e)(5)(v)(C)(2), the qualified intermediary must provide the information required by its qualified intermediary agreement to the withholding agent no later than January 15 of the year following the year in which the payments are paid. Failure to provide such information will result in the application of penalties to the qualified intermediary under sections 6721 and 6722, as well as any other applicable penalties, and may result in the termination of the qualified intermediary's withholding agreement with the IRS. A withholding agent shall not be liable for tax, interest, or penalties for failure to backup withhold or report information under chapter 61 of the Internal Revenue Code due solely to the errors or omissions of the qualified intermediary. If a qualified intermediary fails to provide the allocation information required by this paragraph (e)(5)(v)(C)(2), with respect to U.S. non-exempt recipients, the withholding agent shall report the unallocated amount paid from the withholding rate pool to an unknown recipient, or otherwise in accordance with the appropriate Form 1099 and the instructions accompanying the form.

(f) Effective date.

(1) In general.

This section applies to payments made after December 31, 2000.

(2) Transition rules.

(i) Special rules for existing documentation.

For purposes of paragraphs (d)(3) and (e)(2)(i) of this section, the validity of a withholding certificate (namely, Form W-8, 8233, 1001, 4224, or 1078 , or a statement described in Sec. 1.1441-5 in effect prior to January 1, 2001 (see Sec. 1.1441-5 as contained in 26 CFR part 1, revised April 1, 1999)) that was valid on January 1, 1998 under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999) and expired, or will expire, at any time during 1998, is extended until December 31, 1998. The validity of a withholding certificate that

is valid on or after January 1, 1999, remains valid until its validity expires under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999) but in no event will such withholding certificate remain valid after December 31, 2001. The rule in this paragraph (f)(2)(i), however, does not apply to extend the validity period of a withholding certificate that expires solely by reason of changes in the circumstances of the person whose name is on the certificate. Notwithstanding the first three sentences of this paragraph (f)(2)(i), a withholding agent may choose to not take advantage of the transition rule in this paragraph (f)(2)(i) with respect to one or more withholding certificates valid under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999) and, therefore, to require withholding certificates conforming to the requirements described in this section (new withholding certificates). For purposes of this section, a new withholding certificate is deemed to satisfy the documentation requirement under the regulations in effect prior to January 1, 2001 (see 26 CFR parts 1 and 35a, revised April 1, 1999). Further, a new withholding certificate remains valid for the period specified in paragraph (e)(4)(ii) of this section, regardless of when the certificate is obtained.

(ii) Lack of documentation for past years.

A taxpayer may elect to apply the provisions of paragraphs (b)(7)(i)(B), (ii), and (iii) of this section, dealing with liability for failure to obtain documentation timely, to all of its open tax years, including tax years that are currently under examination by the IRS. The election is made by simply taking action under those provisions in the same manner as the taxpayer would take action for payments made after December 31, 2000.

[T.D. 7385, 40 FR 50263, Oct. 29, 1975, as amended by T.D. 7670, 45 FR 6932, Jan. 31, 1980; T.D. 8734, 62 FR 53387, October 14, 1997, not effective until January 1, 1999; T.D. 8804, Federal Register: December 31, 1998 (Volume 63, Number 251), Page 72183-72189; T.D.8856, Federal Register: December 30, 1999 (Volume 64, Number 250), Page 73408-73413; T.D. 8881, Federal Register: May 22, 2000 (Volume 65, Number 99), Page 32151-32212; corrected by T.D. 8881, Federal Register: April 6, 2001 (Volume 66, Number 67), Page 18187-18190]

Form **1040** Department of the Treasury—Internal Revenue Service **U.S. Individual Income Tax Return** **2001** (99) IRS Use Only—Do not write or staple in this space.

For the year Jan. 1–Dec. 31, 2001, or other tax year beginning , 2001, ending , 20 OMB No. 1545-0074

Label

(See instructions on page 19.)

Use the IRS label. Otherwise, please print or type.

LABEL HERE

Your first name and initial	Last name	**Your social security number**
If a joint return, spouse's first name and initial	Last name	**Spouse's social security number**
Home address (number and street). If you have a P.O. box, see page 19.	Apt. no.	
City, town or post office, state, and ZIP code. If you have a foreign address, see page 19.		

Important! You **must** enter your SSN(s) above.

Presidential Election Campaign (See page 19.)

Note. Checking "Yes" will not change your tax or reduce your refund. Do you, or your spouse if filing a joint return, want $3 to go to this fund? . . . ▶ **You** ☐ **Yes** ☐ **No** **Spouse** ☐ **Yes** ☐ **No**

Filing Status

Check only one box.

1 ☐ Single

2 ☐ Married filing joint return (even if only one had income)

3 ☐ Married filing separate return. Enter spouse's social security no. above and full name here. ▶

4 ☐ Head of household (with qualifying person). (See page 19.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶

5 ☐ Qualifying widow(er) with dependent child (year spouse died ▶). (See page 19.)

Exemptions

6a ☐ **Yourself.** If your parent (or someone else) can claim you as a dependent on his or her tax return, **do not** check box 6a . . . . . .

b ☐ **Spouse** . . . . . .

c **Dependents:**

(1) First name Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) ✓ if qualifying child for child tax credit (see page 20)
			☐
			☐
			☐
			☐
			☐
			☐

If more than six dependents, see page 20.

No. of boxes checked on 6a and 6b

No. of your children on 6c who:
- **lived with you**
- **did not live with you due to divorce or separation (see page 20)**

Dependents on 6c not entered above

Add numbers entered on lines above ▶

d Total number of exemptions claimed . . . . . .

Income

Attach Forms W-2 and W-2G here. Also attach Form(s) 1099-R if tax was withheld.

If you did not get a W-2, see page 21.

Enclose, but do not attach, any payment. Also, please use **Form 1040-V.**

7	Wages, salaries, tips, etc. Attach Form(s) W-2		7
8a	**Taxable** interest. Attach Schedule B if required		8a
b	**Tax-exempt** interest. **Do not** include on line 8a	8b	
9	Ordinary dividends. Attach Schedule B if required		9
10	Taxable refunds, credits, or offsets of state and local income taxes (see page 22)		10
11	Alimony received		11
12	Business income or (loss). Attach Schedule C or C-EZ		12
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐		13
14	Other gains or (losses). Attach Form 4797		14
15a	Total IRA distributions 15a	b Taxable amount (see page 23)	15b
16a	Total pensions and annuities 16a	b Taxable amount (see page 23)	16b
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E		17
18	Farm income or (loss). Attach Schedule F		18
19	Unemployment compensation		19
20a	Social security benefits 20a	b Taxable amount (see page 25)	20b
21	Other income. List type and amount (see page 27)		21
22	Add the amounts in the far right column for lines 7 through 21. This is your **total income** ▶		22

Adjusted Gross Income

23	IRA deduction (see page 27)	23	
24	Student loan interest deduction (see page 28)	24	
25	Archer MSA deduction. Attach Form 8853	25	
26	Moving expenses. Attach Form 3903	26	
27	One-half of self-employment tax. Attach Schedule SE	27	
28	Self-employed health insurance deduction (see page 30)	28	
29	Self-employed SEP, SIMPLE, and qualified plans	29	
30	Penalty on early withdrawal of savings	30	
31a	Alimony paid b Recipient's SSN ▶	31a	
32	Add lines 23 through 31a		32
33	Subtract line 32 from line 22. This is your **adjusted gross income** ▶		33

Tax and Credits

Standard Deduction for—

- People who checked any box on line 35a or 35b **or** who can be claimed as a dependent, see page 31.
- All others:

Single, $4,550

Head of household, $6,650

Married filing jointly or Qualifying widow(er), $7,600

Married filing separately, $3,800

34	Amount from line 33 (adjusted gross income)			34
35a	Check if: ☐ **You** were 65 or older, ☐ Blind; ☐ **Spouse** was 65 or older, ☐ Blind. Add the number of boxes checked above and enter the total here ▶ 35a			
b	If you are married filing separately and your spouse itemizes deductions, or you were a dual-status alien, see page 31 and check here ▶ 35b ☐			
36	**Itemized deductions** (from Schedule A) **or** your **standard deduction** (see left margin)			36
37	Subtract line 36 from line 34			37
38	If line 34 is $99,725 or less, multiply $2,900 by the total number of exemptions claimed on line 6d. If line 34 is over $99,725, see the worksheet on page 32			38
39	**Taxable income.** Subtract line 38 from line 37. If line 38 is more than line 37, enter -0-			39
40	**Tax** (see page 33). Check if any tax is from **a** ☐ Form(s) 8814 **b** ☐ Form 4972			40
41	**Alternative minimum tax** (see page 34). Attach Form 6251			41
42	Add lines 40 and 41 ▶			42
43	Foreign tax credit. Attach Form 1116 if required	43		
44	Credit for child and dependent care expenses. Attach Form 2441	44		
45	Credit for the elderly or the disabled. Attach Schedule R	45		
46	Education credits. Attach Form 8863	46		
47	Rate reduction credit. See the worksheet on page 36	47		
48	Child tax credit (see page 37)	48		
49	Adoption credit. Attach Form 8839	49		
50	Other credits from: **a** ☐ Form 3800 **b** ☐ Form 8396 **c** ☐ Form 8801 **d** ☐ Form (specify) _____	50		
51	Add lines 43 through 50. These are your **total credits**			51
52	Subtract line 51 from line 42. If line 51 is more than line 42, enter -0- ▶			52

Other Taxes

53	Self-employment tax. Attach Schedule SE			53
54	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137			54
55	Tax on qualified plans, including IRAs, and other tax-favored accounts. Attach Form 5329 if required			55
56	Advance earned income credit payments from Form(s) W-2			56
57	Household employment taxes. Attach Schedule H			57
58	Add lines 52 through 57. This is your **total tax** ▶			58

Payments

If you have a qualifying child, attach Schedule EIC.

59	Federal income tax withheld from Forms W-2 and 1099	59		
60	2001 estimated tax payments and amount applied from 2000 return	60		
61a	**Earned income credit (EIC)**	61a		
b	Nontaxable earned income **61b**			
62	Excess social security and RRTA tax withheld (see page 51)	62		
63	Additional child tax credit. Attach Form 8812	63		
64	Amount paid with request for extension to file (see page 51)	64		
65	Other payments. Check if from **a** ☐ Form 2439 **b** ☐ Form 4136	65		
66	Add lines 59, 60, 61a, and 62 through 65. These are your **total payments** ▶			66

Refund

Direct deposit? See page 51 and fill in 68b, 68c, and 68d.

67	If line 66 is more than line 58, subtract line 58 from line 66. This is the amount you **overpaid**			67
68a	Amount of line 67 you want **refunded to you** ▶			68a
▶ b	Routing number ▶ **c** Type: ☐ Checking ☐ Savings			
▶ d	Account number			
69	Amount of line 67 you want **applied to your 2002 estimated tax** ▶	69		

Amount You Owe

70	**Amount you owe.** Subtract line 66 from line 58. For details on how to pay, see page 52 ▶			70
71	Estimated tax penalty. Also include on line 70	71		

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 53)? ☐ **Yes.** Complete the following. ☐ **No**

Designee's name ▶ Phone no. ▶ ( ) Personal identification number (PIN) ▶

Sign Here

Joint return? See page 19.

Keep a copy for your records.

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

Your signature	Date	Your occupation	Daytime phone number
			( )
Spouse's signature. If a joint return, **both** must sign.	Date	Spouse's occupation	

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code		EIN	
		Phone no. ( )	

Form **1040NR**
Department of the Treasury
Internal Revenue Service

U.S. Nonresident Alien Income Tax Return

For the year January 1–December 31, 2000, or other tax year
beginning , 2000, and ending , 20

OMB No. 1545-0089

2000

Please print or type.

Your first name and initial	Last name	**Identifying number (see page 5 of inst.)**
Present home address (number, street, and apt. no., or rural route). If you have a P.O. box, see page 5.		Check if: ☐ Individual ☐ Estate or Trust
City, town or post office, state, and ZIP code. If you have a foreign address, see page 5.		**For Disclosure and Paperwork Reduction Act Notice, see page 18.**
Country ▶	Of what country were you a **citizen** or national during the tax year? ▶	
Give address **outside the United States** to which you want any refund check mailed. If same as above, write "Same."	Give address in the country where you are a **permanent resident.** If same as above, write "Same."	

Attach Forms W-2 and W-2G here. Also attach Form(s) 1099-R if tax was withheld.

Filing Status and Exemptions for Individuals (See page 6.)

	7a Yourself	7b Spouse
Filing status. Check only one box (1–6 below).		
1 ☐ Single resident of Canada or Mexico, or a single U.S. national		
2 ☐ Other single nonresident alien		
3 ☐ Married resident of Canada or Mexico, or a married U.S. national		
4 ☐ Married resident of Japan or the Republic of Korea		
5 ☐ Other married nonresident alien		
6 ☐ Qualifying widow(er) with dependent child (year spouse died ▶). (See page 6.)		

If you check box 7b, enter your spouse's identifying number ▶

Caution: ***Do not*** *check box 7a if your parent (or someone else) can claim you as a dependent.*
Do not *check box 7b if your spouse had any U.S. gross income.*

7c Dependents:* (1) First name / Last name	(2) Dependent's identifying number	(3) Dependent's relationship to you	(4)✓ if qualifying child for child tax credit (see page 6)
			☐
			☐
			☐
			☐
			☐

No. of boxes checked on 7a and 7b ▶
No. of your children on 7c who:
***lived with you** ▶
****did not live with you due to divorce or separation** ▶
****Dependents on 7c not entered above** ▶
Add numbers entered on lines above ▶

***Applies generally only to residents of Canada, Mexico, Japan, and the Republic of Korea and to U.S. nationals.** (See page 6.)
****Applies generally only to residents of Canada and Mexico and to U.S. nationals.** (See page 6.)

d Total number of exemptions claimed

Enclose, but do not attach, any payment.

Income Effectively Connected With U.S. Trade/Business

8	Wages, salaries, tips, etc. Attach Form(s) W-2		8
9a	**Taxable** interest		9a
b	**Tax-exempt** interest. **Do not** include on line 9a	9b	
10	Ordinary dividends		10
11	Taxable refunds, credits, or offsets of state and local income taxes (see page 7)		11
12	Scholarship and fellowship grants. Attach explanation (see page 7)		12
13	Business income or (loss). Attach Schedule C or C-EZ (Form 1040)		13
14	Capital gain or (loss). Attach Schedule D (Form 1040) if required. If not required, check here ☐		14
15	Other gains or (losses). Attach Form 4797		15
16a	Total IRA distributions — 16a	**16b** Taxable amount (see page 7)	16b
17a	Total pensions and annuities — 17a	**17b** Taxable amount (see page 8)	17b
18	Rental real estate, royalties, partnerships, trusts, etc. Attach Schedule E (Form 1040)		18
19	Farm income or (loss). Attach Schedule F (Form 1040)		19
20	Unemployment compensation		20
21	Other income. List type and amount (see page 9)		21
22	Total income exempt by a treaty from page 5, Item M	22	
23	Add lines 8, 9a, 10–15, 16b, and 17b–21. This is your **total effectively connected income** ▶		23

Adjusted Gross Income

24	IRA deduction (see page 9)	24	
25	Student loan interest deduction (see page 9)	25	
26	Medical savings account deduction. Attach Form 8853	26	
27	Moving expenses. Attach Form 3903	27	
28	Self-employed health insurance deduction (see page 10)	28	
29	Self-employed SEP, SIMPLE, and qualified plans	29	
30	Penalty on early withdrawal of savings	30	
31	Scholarship and fellowship grants excluded	31	
32	Add lines 24 through 31		32
33	Subtract line 32 from line 23. Enter here and on line 34. This is your **adjusted gross income** ▶		33

Tax and Credits

34	Amount from line 33 (adjusted gross income)			34	
35	**Itemized deductions** from page 3, Schedule A, line 17			35	
36	Subtract line 35 from line 34			36	
37	Exemptions (see page 11)			37	
38	**Taxable income.** Subtract line 37 from line 36. If line 37 is more than line 36, enter -0-			38	
39	**Tax** (see page 11). Check if any tax is from **a** ☐ Form(s) 8814 **b** ☐ Form 4972.			39	
40	Alternative minimum tax. Attach Form 6251			40	
41	Add lines 39 and 40 ▶			41	
42	Foreign tax credit. Attach Form 1116 if required	42			
43	Credit for child and dependent care expenses. Attach Form 2441	43			
44	Child tax credit (see page 12)	44			
45	Adoption credit. Attach Form 8839	45			
46	Other. Check if from **a** ☐ Form 3800 **b** ☐ Form 8396 **c** ☐ Form 8801 **d** ☐ Form (specify) _____	46			
47	Add lines 42 through 46. These are your **total credits**			47	
48	Subtract line 47 from line 41. If line 47 is more than line 41, enter -0- ▶			48	

Other Taxes

49	Tax on income not effectively connected with a U.S. trade or business from page 4, line 83			49	
50	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137			50	
51	Tax on IRAs, other retirement plans, and MSAs. Attach Form 5329 if required			51	
52	Transportation tax (see page 13)			52	
53	Household employment taxes. Attach Schedule H (Form 1040)			53	
54	Add lines 48 through 53. This is your **total tax** ▶			54	

Payments

55	Federal income tax withheld from Forms W-2, 1099, 1042-S, etc.	55			
56	2000 estimated tax payments and amount applied from 1999 return	56			
57	Excess social security and RRTA tax withheld (see page 13)	57			
58	Additional child tax credit. Attach Form 8812	58			
59	Amount paid with Form 4868 (request for extension)	59			
60	Other payments. Check if from **a** ☐ Form 2439 **b** ☐ Form 4136	60			
61	Credit for amount paid with Form 1040-C	61			
62	U.S. tax withheld at source:				
a	From page 4, line 80	62a			
b	By partnerships under section 1446 (from Form(s) 8805 or 1042-S)	62b			
63	U.S. tax withheld on dispositions of U.S. real property interests:				
a	From Form(s) 8288-A	63a			
b	From Form(s) 1042-S	63b			
64	Add lines 55 through 63b. These are your **total payments** ▶			64	

Refund

65	If line 64 is more than line 54, subtract line 54 from line 64. This is the amount you **overpaid**		65
66a	Amount of line 65 you want **refunded to you.** If you want it directly deposited, see page 14 and fill in 66b, c, and d ▶		66a
b	Routing number ☐☐☐☐☐☐☐☐☐ **c** Type: ☐ Checking ☐ Savings		
d	Account number ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐		
67	Amount of line 65 you want **applied to your 2001 estimated tax** ▶	67	

Amount You Owe

68	If line 54 is more than line 64, subtract line 64 from line 54. This is the **amount you owe.** For details on how to pay, including what to write on your payment, see page 14 ▶		68
69	Estimated tax penalty. Also include on line 68	69	

Sign Here

Keep a copy of this return for your records.

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

Your signature ▶ | Your occupation in the United States | Date | May the IRS discuss this return with the preparer shown below (see page 17)? ☐ Yes ☐ No

Paid Preparer's Use Only

Preparer's signature ▶ | Date | Check if self-employed ☐ | Preparer's SSN or PTIN

Firm's name (or yours if self-employed), address, and ZIP code ▶ | EIN | Phone no. ( )

Schedule A—Itemized Deductions (See pages 14, 15, and 16.)

07

State and Local Income Taxes

1 State income taxes 1

2 Local income taxes 2

3 Add lines 1 and 2 3

Gifts to U.S. Charities

Caution: *If you made a gift and received a benefit in return, see page 15.*

4 Gifts by cash or check. If you made any gift of $250 or more, see page 15 4

5 Other than by cash or check. If you made any gift of $250 or more, see page 15. You **must** attach Form 8283 if "the amount of your deduction" (see definition on page 15) is more than $500 5

6 Carryover from prior year 6

7 Add lines 4 through 6 7

Casualty and Theft Losses

8 Casualty or theft loss(es). Attach Form 4684 8

Job Expenses and Most Other Miscellaneous Deductions

9 Unreimbursed employee expenses—job travel, union dues, job education, etc. You **must** attach Form 2106 or Form 2106-EZ if required. See page 15 ▶ 9

10 Tax preparation fees 10

11 Other expenses. See page 16 for expenses to deduct here. List type and amount ▶ 11

12 Add lines 9 through 11 12

13 Enter the amount from Form 1040NR, line 34 13

14 Multiply line 13 by 2% (.02) 14

15 Subtract line 14 from line 12. If line 14 is more than line 12, enter -0- 15

Other Miscellaneous Deductions

16 Other—certain expenses of disabled employees, estate tax on income of decedent, etc. List type and amount ▶ 16

Total Itemized Deductions

17 Is Form 1040NR, line 34, over $128,950 (over $64,475 if you checked filing status box 3, 4, or 5 on page 1 of Form 1040NR)?

No. Your deduction is not limited. Add the amounts in the far right column for lines 3 through 16. Also enter this amount on Form 1040NR, line 35. . . ▶ 17

Yes. Your deduction may be limited. See page 16 for the amount to enter here and on Form 1040NR, line 35.

Tax on Income Not Effectively Connected With a U.S. Trade or Business

Attach Forms 1042-S, SSA-1042S, RRB-1042S, 1001 or similar form.

Nature of income		(a) U.S. tax withheld at source	Enter amount of income under the appropriate rate of tax (see pages 16 and 17) (b) 10%	(c) 15%	(d) 30%	(e) Other (specify) ____%	(e) Other (specify) ____%
70 Dividends paid by:							
a U.S. corporations	70a						
b Foreign corporations	70b						
71 Interest:							
a Mortgage	71a						
b Paid by foreign corporations	71b						
c Other	71c						
72 Industrial royalties (patents, trademarks, etc.)	72						
73 Motion picture or T.V. copyright royalties	73						
74 Other royalties (copyrights, recording, publishing, etc.)	74						
75 Real property income and natural resources royalties	75						
76 Pensions and annuities	76						
77 Social security benefits	77						
78 Gains (include capital gain from line 86 below)	78						
79 Other (specify) ▶	79						
80 **Total U.S. tax withheld at source.** Add column (a) of lines 70a through 79. Enter the total here and on Form 1040NR, line 62a ▶	80						
81 Add lines 70a through 79 in columns (b)–(e)	81						
82 **Multiply line 81 by rate of tax at top of each column**	82						
83 **Tax on income not effectively connected with a U.S. trade or business.** Add columns (b)–(e) of line 82. Enter the total here and on Form 1040NR, line 49 ▶	83						

Capital Gains and Losses From Sales or Exchanges of Property

Enter only the capital gains and losses from property sales or exchanges that are from sources within the United States and not effectively connected with a U.S. business. Do not include a gain or loss on disposing of a U.S. real property interest; report these gains and losses on Schedule D (Form 1040).

Report property sales or exchanges that are effectively connected with a U.S. business on Schedule D (Form 1040), Form 4797, or both.

84 **(a)** Kind of property and description (if necessary, attach statement of descriptive details not shown below)	**(b)** Date acquired (mo., day, yr.)	**(c)** Date sold (mo., day, yr.)	**(d)** Sales price	**(e)** Cost or other basis	**(f) LOSS** If (e) is more than (d), subtract (d) from (e)	**(g) GAIN** If (d) is more than (e), subtract (e) from (d)
85 Add columns (f) and (g) of line 84				85	( )	
86 **Capital gain.** Combine columns (f) and (g) of line 85. Enter the net gain here and on line 78 above (if a loss, enter -0-) ▶					86	

Other Information (If an item does not apply to you, enter "N/A.")

A What country issued your passport? .....

B Were you ever a U.S. citizen? . . . . ☐ Yes ☐ No

C Give the purpose of your visit to the United States ► .....

.....

.....

D Type of entry visa and visa number ► ..... and type of current visa and date of change ► .....

E Date you first entered the United States ► .....

F Did you give up your permanent residence as an immigrant in the United States this year? . . . . . ☐ Yes ☐ No

G Dates you entered and left the United States during the year. Residents of Canada or Mexico entering and leaving the United States at frequent intervals, give name of country only. ► .....

.....

H Give number of days (including vacation and nonwork days) you were present in the United States during: 1998 ....., 1999 ....., and 2000 ..... .

I If you are a resident of Canada, Mexico, Japan, or the Republic of Korea, or a U.S. national, did your spouse contribute to the support of any child claimed on Form 1040NR, line 7c? . . . . . ☐ Yes ☐ No

If "Yes," enter amount ► $.....

If you were a resident of Japan or the Republic of Korea for any part of the tax year, enter in the space below your total foreign source income not effectively connected with a U.S. trade or business. This information is needed so that the exemption for your spouse and dependents residing in the United States (if applicable) may be allowed in accordance with Article 4 of the income tax treaties between the United States and Japan or the United States and the Republic of Korea.

Total foreign source income not effectively connected with a U.S. trade or business ► $.....

J Did you file a U.S. income tax return for any year before 2000? . . . . . ☐ Yes ☐ No

If "Yes," give the latest year and form number ► .....

.....

K To which Internal Revenue office did you pay any amounts claimed on Form 1040NR, lines 56, 59, and 61? .....

.....

L Have you excluded any gross income other than foreign source income not effectively connected with a U.S. trade or business? . ☐ Yes ☐ No

If "Yes," show the amount, nature, and source of the excluded income. Also, give the reason it was excluded. (Do not include amounts shown in item M.) ► .....

.....

M If you are claiming the benefits of a U.S. income tax treaty with a foreign country, give the following information. See page 17 for additional information.

- Country ► .....

- Type and amount of effectively connected income exempt from tax. Also, identify the applicable tax treaty article. Do not enter exempt income on lines 8–15, 16b, and 17b–21 of Form 1040NR:

For 2000 (also, include this exempt income on line 22 of Form 1040NR) ► .....

.....

.....

.....

For 1999 ► .....

.....

.....

- Type and amount of income not effectively connected that is exempt from or subject to a reduced rate of tax. Also, identify the applicable tax treaty article:

For 2000 ► .....

.....

.....

For 1999 ► .....

.....

.....

- Were you subject to tax in that country on any of the income you claim is entitled to the treaty benefits? . . . . . ☐ Yes ☐ No

- Did you have a permanent establishment or fixed base (as defined by the tax treaty) in the United States at any time during 2000? . . . . . ☐ Yes ☐ No

N If you file this return to report community income, give your spouse's name, address, and identifying number.

.....

.....

O If you file this return for a trust, does the trust have a U.S. business? . . . . . ☐ Yes ☐ No

If "Yes," give name and address ► .....

.....

.....

P Is this an "expatriation return" (see page 17)? . . . . . ☐ Yes ☐ No

If "Yes," you must attach Form 8854 **or** attach an explanation as to why you are not submitting that form.

Q During 2000, did you apply for, or take other affirmative steps to apply for, lawful permanent resident status in the United States or have an application pending to adjust your status to that of a lawful permanent resident of the United States? ☐ Yes ☐ No

If "Yes," explain ► .....

.....

LII
legal information institute

US CODE
COLLECTION

collection home search

Sec. 7701. - Definitions

(a)

When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof -

(1) Person

The term ''person'' shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(2) Partnership and partner

The term ''partnership'' includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term ''partner'' includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) Corporation

The term ''corporation'' includes

associations, joint-stock companies, and insurance companies.

(4) Domestic

The term ''domestic'' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

(5) Foreign

The term ''foreign'' when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) Fiduciary

The term ''fiduciary'' means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) Stock

The term ''stock'' includes shares in an association, joint-stock company, or insurance company.

(8) Shareholder

The term ''shareholder'' includes a member in an association, joint-stock company, or insurance company.

(9) United States

The term ''United States'' when used in a geographical sense includes only the States and the District of Columbia.

(10) State

The term ''State'' shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) Secretary of the Treasury and Secretary

(A) Secretary of the Treasury

The term ''Secretary of the Treasury'' means the Secretary of the Treasury, personally, and shall not include any delegate of his.

(B) Secretary

The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(12) Delegate

(A) In general

The term ''or his delegate'' -

(i)

when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform

the function mentioned or described in the context; and

(ii)

when used with reference to any other official of the United States, shall be similarly construed.

(B) Performance of certain functions in Guam or American Samoa

The term ''delegate,'' in relation to the performance of functions in Guam or American Samoa with respect to the taxes imposed by chapters 1, 2, and 21, also includes any officer or employee of any other department or agency of the United States, or of any possession thereof, duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform such functions.

(13) Commissioner

The term ''Commissioner'' means the Commissioner of Internal Revenue.

(14) Taxpayer

The term ''taxpayer'' means any person subject to any internal revenue tax.

(15) Military or naval forces and armed forces of the United States

The term ''military or naval forces of the United States'' and the term ''Armed Forces of the United States'' each includes all

regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, and each term also includes the Coast Guard. The members of such forces include commissioned officers and personnel below the grade of commissioned officers in such forces.

(16) Withholding agent

The term ''withholding agent'' means any person required to deduct and withhold any tax under the provisions of section 1441, 1442, 1443, or 1461.

(17) Husband and wife

As used in sections 152(b)(4), 682, and 2516, if the husband and wife therein referred to are divorced, wherever appropriate to the meaning of such sections, the term ''wife'' shall be read ''former wife'' and the term ''husband'' shall be read ''former husband''; and, if the payments described in such sections are made by or on behalf of the wife or former wife to the husband or former husband instead of vice versa, wherever appropriate to the meaning of such sections, the term ''husband'' shall be read ''wife'' and the term ''wife'' shall be read ''husband.''

(18) International organization

The term ''international organization'' means a public international organization entitled to enjoy privileges, exemptions, and

immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288-288f).

(19) Domestic building and loan association

The term ''domestic building and loan association'' means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association -

(A)

which either

(i)

is an insured institution within the meaning of section 401(a) [1] of the National Housing Act (12 U.S.C., sec. 1724(a)), or

(ii)

is subject by law to supervision and examination by State or Federal authority having supervision over such associations;

(B)

the business of which consists principally of acquiring the savings of the public and investing in loans; and

(C)

at least 60 percent of the amount of the total assets of which (at the close of the

taxable year) consists of -

(i)

cash,

(ii)

obligations of the United States or of a State or political subdivision thereof, and stock or obligations of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof, but not including obligations the interest on which is excludable from gross income under section 103,

(iii)

certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations,

(iv)

loans secured by a deposit or share of a member,

(v)

loans (including redeemable ground rents, as defined in section 1055) secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property or real property used primarily

for church purposes, loans made for the improvement of residential real property or real property used primarily for church purposes, provided that for purposes of this clause, residential real property shall include single or multifamily dwellings, facilities in residential developments dedicated to public use or property used on a nonprofit basis for residents, and mobile homes not used on a transient basis,

(vi)

loans secured by an interest in real property located within an urban renewal area to be developed for predominantly residential use under an urban renewal plan approved by the Secretary of Housing and Urban Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, and loans made for the improvement of any such real property,

(vii)

loans secured by an interest in educational, health, or welfare institutions or facilities, including structures designed or used primarily for residential purposes for students, residents, and persons under care, employees, or members of the staff of

such institutions or facilities,

(viii)

property acquired through the liquidation of defaulted loans described in clause (v), (vi), or (vii),

(ix)

loans made for the payment of expenses of college or university education or vocational training, in accordance with such regulations as may be prescribed by the Secretary,

(x)

property used by the association in the conduct of the business described in subparagraph (B), and

(xi)

any regular or residual interest in a REMIC, and any regular interest in a FASIT, but only in the proportion which the assets of such REMIC or FASIT consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.

At the election of the taxpayer, the percentage specified in this subparagraph shall be applied on the basis of the

average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary. For purposes of clause (v), if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan is deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). For purposes of clause (v), loans made to finance the acquisition or development of land shall be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary, there is reasonable assurance that the property will become residential real property within a period of 3 years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such 3-year period, such land becomes residential real property. For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi).

(20) Employee

For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the

purpose of applying the provisions of sections 104, 105, and 106 with respect to accident and health insurance or accident and health plans, and for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, and for purposes of applying section 125 with respect to cafeteria plans, the term ''employee'' shall include a full-time life insurance salesman who is considered an employee for the purpose of chapter 21, or in the case of services performed before January 1, 1951, who would be considered an employee if his services were performed during 1951.

(21) Levy

The term ''levy'' includes the power of distraint and seizure by any means.

(22) Attorney General

The term ''Attorney General'' means the Attorney General of the United States.

(23) Taxable year

The term ''taxable year'' means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the taxable income is computed under subtitle A. ''Taxable year'' means, in the case of a return made for a fractional part of a year under the provisions of subtitle A or under regulations prescribed by the Secretary, the period for which such return is made.

(24) Fiscal year

The term ''fiscal year'' means an accounting period of 12 months ending on the last day of any month other than December.

(25) Paid or incurred, paid or accrued

The terms ''paid or incurred'' and ''paid or accrued'' shall be construed according to the method of accounting upon the basis of which the taxable income is computed under subtitle A.

(26) Trade or business

The term ''trade or business'' includes the performance of the functions of a public office.

(27) Tax Court

The term ''Tax Court'' means the United States Tax Court.

(28) Other terms

Any term used in this subtitle with respect to the application of, or in connection with, the provisions of any other subtitle of this title shall have the same meaning as in such provisions.

(29) Internal Revenue Code

The term ''Internal Revenue Code of 1986'' means this title, and the term ''Internal Revenue Code of 1939'' means the Internal Revenue Code enacted February 10, 1939, as amended.

(30) United States person

The term ''United States person'' means -

(A)

a citizen or resident of the United States,

(B)

a domestic partnership,

(C)

a domestic corporation,

(D)

any estate (other than a foreign estate, within the meaning of paragraph (31)), and

(E)

any trust if -

(i)

a court within the United States is able to exercise primary supervision over the administration of the trust, and

(ii)

one or more United States persons have the authority to control all substantial decisions of the trust.

(31) Foreign estate or trust

(A) Foreign estate

The term ''foreign estate'' means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

(B) Foreign trust

The term ''foreign trust'' means any trust other than a trust described in subparagraph (E) of paragraph (30).

(32) Cooperative bank

The term ''cooperative bank'' means an institution without capital stock organized and operated for mutual purposes and without profit, which -

(A)

either -

(i)

is an insured institution within the meaning of section 401(a) [2] of the National Housing Act (12 U.S.C., sec. 1724(a)), or

(ii)

is subject by law to supervision and examination by State or Federal authority having supervision over such

institutions, and

(B)

meets the requirements of subparagraphs (B) and (C) of paragraph (19) of this subsection (relating to definition of domestic building and loan association).

In determining whether an institution meets the requirements referred to in subparagraph (B) of this paragraph, any reference to an association or to a domestic building and loan association contained in paragraph (19) shall be deemed to be a reference to such institution.

(33) Regulated public utility

The term ''regulated public utility'' means -

(A)

A corporation engaged in the furnishing or sale of -

(i)

electric energy, gas, water, or sewerage disposal services, or

(ii)

transportation (not included in subparagraph (C)) on an intrastate, suburban, municipal, or interurban electric railroad, on an intrastate, municipal, or suburban trackless trolley system, or on a municipal or suburban bus system, or

(iii)

transportation (not included in clause (ii)) by motor vehicle - if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, by a public service or public utility commission or other similar body of the District of Columbia or of any State or political subdivision thereof, or by a foreign country or an agency or instrumentality or political subdivision thereof.

(B)

A corporation engaged as a common carrier in the furnishing or sale of transportation of gas by pipe line, if subject to the jurisdiction of the Federal Energy Regulatory Commission.

(C)

A corporation engaged as a common carrier

(i)

in the furnishing or sale of transportation by railroad, if subject to the jurisdiction of the Surface Transportation Board, or

(ii)

in the furnishing or sale of transportation of oil or other petroleum products (including shale oil) by pipe line, if subject to the jurisdiction of the Federal Energy Regulatory Commission or if the rates for such furnishing or sale are subject to the jurisdiction of a public service or public utility commission or other similar body of the District of Columbia or of any State.

(D)

A corporation engaged in the furnishing or sale of telephone or telegraph service, if the rates for such furnishing or sale meet the requirements of subparagraph (A).

(E)

A corporation engaged in the furnishing or sale of transportation as a common carrier by air, subject to the jurisdiction of the Secretary of Transportation.

(F)

A corporation engaged in the furnishing or sale of transportation by a water carrier subject to jurisdiction under subchapter II of chapter 135 of title 49.

(G)

A rail carrier subject to part A of subtitle IV of title 49, if

(i)

substantially all of its railroad properties have been leased to another such railroad corporation or corporations by an agreement or agreements entered into before January 1, 1954,

(ii)

each lease is for a term of more than 20 years, and

(iii)

at least 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from such leases and from sources described in subparagraphs (A) through (F), inclusive. For purposes of the preceding sentence, an agreement for lease of railroad properties entered into before January 1, 1954, shall be considered to be a lease including such term as the total number of years of such agreement may, unless sooner terminated, be renewed or continued under the terms of the agreement, and any such renewal or continuance under such agreement shall be considered part of the lease entered into before January 1, 1954.

(H)

A common parent corporation which is a common carrier by railroad subject to part A of subtitle IV of title 49 if at least 80 percent of its gross income (computed

without regard to capital gains or losses) is derived directly or indirectly from sources described in subparagraphs (A) through (F), inclusive. For purposes of the preceding sentence, dividends and interest, and income from leases described in subparagraph (G), received from a regulated public utility shall be considered as derived from sources described in subparagraphs (A) through (F), inclusive, if the regulated public utility is a member of an affiliated group (as defined in section 1504) which includes the common parent corporation.

The term ''regulated public utility'' does not (except as provided in subparagraphs (G) and (H)) include a corporation described in subparagraphs (A) through (F), inclusive, unless 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from sources described in subparagraphs (A) through (F), inclusive. If the taxpayer establishes to the satisfaction of the Secretary that

(i)

its revenue from regulated rates described in subparagraph (A) or (D) and its revenue derived from unregulated rates are derived from the operation of a single interconnected and coordinated system or from the operation of more than one such system, and

(ii)

the unregulated rates have been and are substantially as favorable to users and consumers as are the regulated rates, then such revenue from such unregulated rates shall be considered, for purposes of the preceding sentence, as income derived from sources described in subparagraph (A) or (D).

(34)

Repealed. Pub. L. 98-369, div. A, title IV, Sec. 4112(b)(11), July 18, 1984, 98 Stat. 792)

(35) Enrolled actuary

The term ''enrolled actuary'' means a person who is enrolled by the Joint Board for the Enrollment of Actuaries established under subtitle C of the title III of the Employee Retirement Income Security Act of 1974.

(36) Income tax return preparer

(A) In general

The term ''income tax return preparer'' means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by subtitle A or any claim for refund of tax imposed by subtitle A. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

(B) Exceptions

A person shall not be an ''income tax return preparer'' merely because such person -

(i)

furnishes typing, reproducing, or other mechanical assistance,

(ii)

prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed,

(iii)

prepares as a fiduciary a return or claim for refund for any person, or

(iv)

prepares a claim for refund for a taxpayer in response to any notice of deficiency issued to such taxpayer or in response to any waiver of restriction after the commencement of an audit of such taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.

(37) Individual retirement plan

The term ''individual retirement plan''

means -

(A)

an individual retirement account described in section 408(a), and

(B)

an individual retirement annuity described in section 408(b).

(38) Joint return

The term ''joint return'' means a single return made jointly under section 6013 by a husband and wife.

(39) Persons residing outside United States

If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to -

(A)

jurisdiction of courts, or

(B)

enforcement of summons.

(40) Indian tribal government

(A) In general

The term ''Indian tribal government'' means the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions.

(B) Special rule for Alaska Natives

No determination under subparagraph (A) with respect to Alaska Natives shall grant or defer any status or powers other than those enumerated in section 7871. Nothing in the Indian Tribal Governmental Tax Status Act of 1982, or in the amendments made thereby, shall validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

(41) TIN

The term ''TIN'' means the identifying number assigned to a person under section 6109.

(42) Substituted basis property

The term ''substituted basis property'' means property which is -

(A)

transferred basis property, or

(B)

exchanged basis property.

(43) Transferred basis property

The term ''transferred basis property'' means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to the basis in the hands of the donor, grantor, or other transferor.

(44) Exchanged basis property

The term ''exchanged basis property'' means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to other property held at any time by the person for whom the basis is to be determined.

(45) Nonrecognition transaction

The term ''nonrecognition transaction'' means any disposition of property in a transaction in which gain or loss is not recognized in whole or in part for purposes of subtitle A.

(46) Determination of whether there is a collective bargaining agreement

In determining whether there is a collective bargaining agreement between employee representatives and 1 or more employers, the term ''employee representatives'' shall not include any organization more than one-half of the members of which are employees

who are owners, officers, or executives of the employer. An agreement shall not be treated as a collective bargaining agreement unless it is a bona fide agreement between bona fide employee representatives and 1 or more employers.

(b) Definition of resident alien and nonresident alien

(1) In general

For purposes of this title (other than subtitle B) -

(A) Resident alien

An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):

(i) Lawfully admitted for permanent residence

Such individual is a lawful permanent resident of the United States at any time during such calendar year.

(ii) Substantial presence test

Such individual meets the substantial presence test of paragraph (3).

(iii) First year election

Such individual makes the election provided in paragraph (4).

(B) Nonresident alien

An individual is a nonresident alien if such individual is neither a citizen of the United States nor a resident of the United States (within the meaning of subparagraph (A)).

(2) Special rules for first and last year of residency

(A) First year of residency

(i) In general

If an alien individual is a resident of the United States under paragraph (1)(A) with respect to any calendar year, but was not a resident of the United States at any time during the preceding calendar year, such alien individual shall be treated as a resident of the United States only for the portion of such calendar year which begins on the residency starting date.

(ii) Residency starting date for individuals lawfully admitted for permanent residence

In the case of an individual who is a lawfully permanent resident of the United States at any time during the calendar year, but does not meet the substantial presence test of paragraph (3), the residency starting date shall be the first day in such calendar year on which he was present in the United States while a lawful permanent resident of the United States.

(iii) Residency starting date for individuals meeting substantial presence test

In the case of an individual who meets the substantial presence test of paragraph (3) with respect to any calendar year, the residency starting date shall be the first day during such calendar year on which the individual is present in the United States.

(iv) Residency starting date for individuals making first year election

In the case of an individual who makes the election provided by paragraph (4) with respect to any calendar year, the residency starting date shall be the 1st day during such calendar year on which the individual is treated as a resident of the United States under that paragraph.

(B) Last year of residency

An alien individual shall not be treated as a resident of the United States during a portion of any calendar year if -

(i)

such portion is after the last day in such calendar year on which the individual was present in the United States (or, in the case of an individual described in paragraph (1)(A)(i), the last day on which he was so described),

(ii)

during such portion the individual has a closer connection to a foreign country than to the United States, and

(iii)

the individual is not a resident of the United States at any time during the next calendar year.

(C) Certain nominal presence disregarded

(i) In general

For purposes of subparagraphs (A)(iii) and (B), an individual shall not be treated as present in the United States during any period for which the individual establishes that he has a closer connection to a foreign country than to the United States.

(ii) Not more than 10 days disregarded

Clause (i) shall not apply to more than 10 days on which the individual is present in the United States.

(3) Substantial presence test

(A) In general

Except as otherwise provided in this paragraph, an individual meets the substantial presence test of this paragraph with respect to any calendar year (hereinafter in this subsection referred to as the ''current year'') if -

(i)

such individual was present in the United States on at least 31 days during the calendar year, and

(ii)

the sum of the number of days on which such individual was present in the United States during the current year and the 2 preceding calendar years (when multiplied by the applicable multiplier determined under the following table) equals or exceeds 183 days: The applicable In the case of days in: multiplier is: Current year 1 1st preceding year 1/3 2nd preceding year 1/6

(B) Exception where individual is present in the United States during less than one-half of current year and closer connection to foreign country is established

An individual shall not be treated as meeting the substantial presence test of this paragraph with respect to any current year if -

(i)

such individual is present in the United States on fewer than 183 days during the current year, and

(ii)

it is established that for the current year such individual has a tax home (as

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defined in section 911(d)(3) without regard to the second sentence thereof) in a foreign country and has a closer connection to such foreign country than to the United States.

(C) Subparagraph (B) not to apply in certain cases

Subparagraph (B) shall not apply to any individual with respect to any current year if at any time during such year -

(i)

such individual had an application for adjustment of status pending, or

(ii)

such individual took other steps to apply for status as a lawful permanent resident of the United States.

(D) Exception for exempt individuals or for certain medical conditions

An individual shall not be treated as being present in the United States on any day if -

(i)

such individual is an exempt individual for such day, or

(ii)

such individual was unable to leave the United States on such day because of a

medical condition which arose while such individual was present in the United States.

(4) First-year election

(A)

An alien individual shall be deemed to meet the requirements of this subparagraph if such individual -

(i)

is not a resident of the United States under clause (i) or (ii) of paragraph (1)(A) with respect to a calendar year (hereinafter referred to as the ''election year''),

(ii)

was not a resident of the United States under paragraph (1)(A) with respect to the calendar year immediately preceding the election year,

(iii)

is a resident of the United States under clause (ii) of paragraph (1)(A) with respect to the calendar year immediately following the election year, and

(iv)

is both -

(I)

present in the United States for a period of at least 31 consecutive days in the election year, and

(II)

present in the United States during the period beginning with the first day of such 31-day period and ending with the last day of the election year (hereinafter referred to as the ''testing period'') for a number of days equal to or exceeding 75 percent of the number of days in the testing period (provided that an individual shall be treated for purposes of this subclause as present in the United States for a number of days during the testing period not exceeding 5 days in the aggregate, notwithstanding his absence from the United States on such days).

(B)

An alien individual who meets the requirements of subparagraph (A) shall, if he so elects, be treated as a resident of the United States with respect to the election year.

(C)

An alien individual who makes the election provided by subparagraph (B) shall be treated as a resident of the United States for the portion of the election year which begins on the 1st day

of the earliest testing period during such year with respect to which the individual meets the requirements of clause (iv) of subparagraph (A).

(D)

The rules of subparagraph (D)(i) of paragraph (3) shall apply for purposes of determining an individual's presence in the United States under this paragraph.

(E)

An election under subparagraph (B) shall be made on the individual's tax return for the election year, provided that such election may not be made before the individual has met the substantial presence test of paragraph (3) with respect to the calendar year immediately following the election year.

(F)

An election once made under subparagraph (B) remains in effect for the election year, unless revoked with the consent of the Secretary.

(5) Exempt individual defined

For purposes of this subsection -

(A) In general

An individual is an exempt individual for any day if, for such day, such individual is -

(i)

a foreign government-related individual,

(ii)

a teacher or trainee,

(iii)

a student, or

(iv)

a professional athlete who is temporarily in the United States to compete in a charitable sports event described in section 274(l)(1)(B).

(B) Foreign government-related individual

The term ''foreign government-related individual'' means any individual temporarily present in the United States by reason of -

(i)

diplomatic status, or a visa which the Secretary (after consultation with the Secretary of State) determines represents full-time diplomatic or consular status for purposes of this subsection,

(ii)

being a full-time employee of an international organization, or

(iii)

being a member of the immediate family of an individual described in clause (i) or (ii).

(C) Teacher or trainee

The term ''teacher or trainee'' means any individual -

(i)

who is temporarily present in the United States under subparagraph (J) or (Q) of section 101(15) of the Immigration and Nationality Act (other than as a student), and

(ii)

who substantially complies with the requirements for being so present.

(D) Student

The term ''student'' means any individual -

(i)

who is temporarily present in the United States -

(I)

under subparagraph (F) or (M) of section 101(15) of the Immigration and Nationality Act, or

(II)

as a student under subparagraph (J) or (Q) of such section 101(15), and (ii) who substantially complies with the requirements for being so present.

(E) Special rules for teachers, trainees, and students

(i) Limitation on teachers and trainees

An individual shall not be treated as an exempt individual by reason of clause (ii) of subparagraph (A) for the current year if, for any 2 calendar years during the preceding 6 calendar years, such person was an exempt person under clause (ii) or (iii) of subparagraph (A). In the case of an individual all of whose compensation is described in section 872(b)(3), the preceding sentence shall be applied by substituting ''4 calendar years'' for ''2 calendar years''.

(ii) Limitation on students

For any calendar year after the 5th calendar year for which an individual was an exempt individual under clause (ii) or (iii) of subparagraph (A), such individual shall not be treated as an exempt individual by reason of clause (iii) of subparagraph (A), unless such individual establishes to the satisfaction of the Secretary that such individual does not intend to permanently reside in the United States and that such individual meets the requirements of

subparagraph (D)(ii).

(6) Lawful permanent resident

For purposes of this subsection, an individual is a lawful permanent resident of the United States at any time if -

(A)

such individual has the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, and

(B)

such status has not been revoked (and has not been administratively or judicially determined to have been abandoned).

(7) Presence in the United States

For purposes of this subsection -

(A) In general

Except as provided in subparagraph (B), (C), or (D), an individual shall be treated as present in the United States on any day if such individual is physically present in the United States at any time during such day.

(B) Commuters from Canada or Mexico

If an individual regularly commutes to employment (or self-employment) in the United States from a place of residence in

Canada or Mexico, such individual shall not be treated as present in the United States on any day during which he so commutes.

(C) Transit between 2 foreign points

If an individual, who is in transit between 2 points outside the United States, is physically present in the United States for less than 24 hours, such individual shall not be treated as present in the United States on any day during such transit.

(D) Crew members temporarily present

An individual who is temporarily present in the United States on any day as a regular member of the crew of a foreign vessel engaged in transportation between the United States and a foreign country or a possession of the United States shall not be treated as present in the United States on such day unless such individual otherwise engages in any trade or business in the United States on such day.

(8) Annual statements

The Secretary may prescribe regulations under which an individual who (but for subparagraph (B) or (D) of paragraph (3)) would meet the substantial presence test of paragraph (3) is required to submit an annual statement setting forth the basis on which such individual claims the benefits of subparagraph (B) or (D) of paragraph (3), as the case may be.

(9) Taxable year

(A) In general

For purposes of this title, an alien individual who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

(B) Fiscal year taxpayer

If -

(i)

an individual is treated under paragraph (1) as a resident of the United States for any calendar year, and

(ii)

after the application of subparagraph (A), such individual has a taxable year other than a calendar year,

he shall be treated as a resident of the United States with respect to any portion of a taxable year which is within such calendar year.

(10) Coordination with section 877

If -

(A)

an alien individual was treated as a resident of the United States during any

period which includes at least 3 consecutive calendar years (hereinafter referred to as the ''initial residency period''), and

(B)

such individual ceases to be treated as a resident of the United States but subsequently becomes a resident of the United States before the close of the 3rd calendar year beginning after the close of the initial residency period,

such individual shall be taxable for the period after the close of the initial residency period and before the day on which he subsequently became a resident of the United States in the manner provided in section 877(b). The preceding sentence shall apply only if the tax imposed pursuant to section 877(b) exceeds the tax which, without regard to this paragraph, is imposed pursuant to section 871.

(11) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

(c) Includes and including

The terms ''includes'' and ''including'' when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(d) Commonwealth of Puerto Rico

Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this title to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(e) Treatment of certain contracts for providing services, etc.

For purposes of chapter 1 -

(1) In general

A contract which purports to be a service contract shall be treated as a lease of property if such contract is properly treated as a lease of property, taking into account all relevant factors including whether or not -

(A)

the service recipient is in physical possession of the property,

(B)

the service recipient controls the property,

(C)

the service recipient has a significant economic or possessory interest in the property,

(D)

the service provider does not bear any

risk of substantially diminished receipts or substantially increased expenditures if there is nonperformance under the contract,

(E)

the service provider does not use the property concurrently to provide significant services to entities unrelated to the service recipient, and

(F)

the total contract price does not substantially exceed the rental value of the property for the contract period.

(2) Other arrangements

An arrangement (including a partnership or other pass-thru entity) which is not described in paragraph (1) shall be treated as a lease if such arrangement is properly treated as a lease, taking into account all relevant factors including factors similar to those set forth in paragraph (1).

(3) Special rules for contracts or arrangements involving solid waste disposal, energy, and clean water facilities

(A) In general

Notwithstanding paragraphs (1) and (2), and except as provided in paragraph (4), any contract or arrangement between a service provider and a service recipient -

(i)

with respect to -

(I)

the operation of a qualified solid waste disposal facility,

(II)

the sale to the service recipient of electrical or thermal energy produced at a cogeneration or alternative energy facility, or

(III)

the operation of a water treatment works facility, and

(ii)

which purports to be a service contract,

shall be treated as a service contract.

(B) Qualified solid waste disposal facility

For purposes of subparagraph (A), the term ''qualified solid waste disposal facility'' means any facility if such facility provides solid waste disposal services for residents of part or all of 1 or more governmental units and substantially all of the solid waste processed at such facility is collected from the general public.

(C) Cogeneration facility

For purposes of subparagraph (A), the term ''cogeneration facility'' means a facility which uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy.

(D) Alternative energy facility

For purposes of subparagraph (A), the term ''alternative energy facility'' means a facility for producing electrical or thermal energy if the primary energy source for the facility is not oil, natural gas, coal, or nuclear power.

(E) Water treatment works facility

For purposes of subparagraph (A), the term ''water treatment works facility'' means any treatment works within the meaning of section 212(2) of the Federal Water Pollution Control Act.

(4) Paragraph (3) not to apply in certain cases

(A) In general

Paragraph (3) shall not apply to any qualified solid waste disposal facility, cogeneration facility, alternative energy facility, or water treatment works facility used under a contract or arrangement if -

(i)

the service recipient (or a related entity) operates such facility,

(ii)

the service recipient (or a related entity) bears any significant financial burden if there is nonperformance under the contract or arrangement (other than for reasons beyond the control of the service provider),

(iii)

the service recipient (or a related entity) receives any significant financial benefit if the operating costs of such facility are less than the standards of performance or operation under the contract or arrangement, or

(iv)

the service recipient (or a related entity) has an option to purchase, or may be required to purchase, all or a part of such facility at a fixed and determinable price (other than for fair market value).

For purposes of this paragraph, the term ''related entity'' has the same meaning as when used in section 168(h).

(B) Special rules for application of subparagraph (A) with respect to certain rights and allocations under the contract

For purposes of subparagraph (A), there shall not be taken into account -

(i)

any right of a service recipient to inspect any facility, to exercise any sovereign power the service recipient may possess, or to act in the event of a breach of contract by the service provider, or

(ii)

any allocation of any financial burden or benefits in the event of any change in any law.

(C) Special rules for application of subparagraph (A) in the case of certain events

(i) Temporary shut-downs, etc.

For purposes of clause (ii) of subparagraph (A), there shall not be taken into account any temporary shut-down of the facility for repairs, maintenance, or capital improvements, or any financial burden caused by the bankruptcy or similar financial difficulty of the service provider.

(ii) Reduced costs

For purposes of clause (iii) of subparagraph (A), there shall not be taken into account any significant financial benefit merely because payments by the service recipient under the contract or arrangement are decreased by reason of increased production or efficiency or the recovery of energy or other products.

(5) Exception for certain low-income housing

This subsection shall not apply to any property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B) (relating to low-income housing) if -

(A)

such property is operated by or for an organization described in paragraph (3) or (4) of section 501(c), and

(B)

at least 80 percent of the units in such property are leased to low-income tenants (within the meaning of section 167(k)(3)(B)) (as in effect on the day before the date of the enactment of the Revenue Reconcilation [3] Act of 1990). ''Reconciliation''.

(6) Regulations

The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the provisions of this subsection.

(f) Use of related persons or pass-thru entities

The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of those provisions of this title which deal with -

(1)

the linking of borrowing to investment, or

(2)

diminishing risks,

through the use of related persons, pass-thru entities, or other intermediaries.

(g) Clarification of fair market value in the case of nonrecourse indebtedness

For purposes of subtitle A, in determining the amount of gain or loss (or deemed gain or loss) with respect to any property, the fair market value of such property shall be treated as being not less than the amount of any nonrecourse indebtedness to which such property is subject.

(h) Motor vehicle operating leases

(1) In general

For purposes of this title, in the case of a qualified motor vehicle operating agreement which contains a terminal rental adjustment clause -

(A)

such agreement shall be treated as a lease if (but for such terminal rental adjustment clause) such agreement would be treated as a lease under this title, and

(B)

the lessee shall not be treated as the owner of the property subject to an

agreement during any period such agreement is in effect.

(2) Qualified motor vehicle operating agreement defined

For purposes of this subsection -

(A) In general

The term ''qualified motor vehicle operating agreement'' means any agreement with respect to a motor vehicle (including a trailer) which meets the requirements of subparagraphs (B), (C), and (D) of this paragraph.

(B) Minimum liability of lessor

An agreement meets the requirements of this subparagraph if under such agreement the sum of -

(i)

the amount the lessor is personally liable to repay, and

(ii)

the net fair market value of the lessor's interest in any property pledged as security for property subject to the agreement,

equals or exceeds all amounts borrowed to finance the acquisition of property subject to the agreement. There shall not be taken into account under clause (ii) any property pledged which is property

subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement.

(C) Certification by lessee; notice of tax ownership

An agreement meets the requirements of this subparagraph if such agreement contains a separate written statement separately signed by the lessee -

(i)

under which the lessee certifies, under penalty of perjury, that it intends that more than 50 percent of the use of the property subject to such agreement is to be in a trade or business of the lessee, and

(ii)

which clearly and legibly states that the lessee has been advised that it will not be treated as the owner of the property subject to the agreement for Federal income tax purposes.

(D) Lessor must have no knowledge that certification is false

An agreement meets the requirements of this subparagraph if the lessor does not know that the certification described in subparagraph (C)(i) is false.

(3) Terminal rental adjustment clause defined

(A) In general

For purposes of this subsection, the term ''terminal rental adjustment clause'' means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

(B) Special rule for lessee dealers

The term ''terminal rental adjustment clause'' also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in subparagraph (A).

(i) Taxable mortgage pools

(1) Treated as separate corporations

A taxable mortgage pool shall be treated as a separate corporation which may not be treated as an includible corporation with any other corporation for purposes of section 1501.

(2) Taxable mortgage pool defined

For purposes of this title -

(A) In general

Except as otherwise provided in this

paragraph, a taxable mortgage pool is any entity (other than a REMIC or a FASIT) if -

(i)

substantially all of the assets of such entity consists of debt obligations (or interests therein) and more than 50 percent of such debt obligations (or interests) consists of real estate mortgages (or interests therein),

(ii)

such entity is the obligor under debt obligations with 2 or more maturities, and

(iii)

under the terms of the debt obligations referred to in clause (ii) (or underlying arrangement), payments on such debt obligations bear a relationship to payments on the debt obligations (or interests) referred to in clause (i).

(B) Portion of entities treated as pools

Any portion of an entity which meets the definition of subparagraph (A) shall be treated as a taxable mortgage pool.

(C) Exception for domestic building and loan

Nothing in this subsection shall be construed to treat any domestic building and loan association (or portion thereof) as a taxable mortgage pool.

(D) Treatment of certain equity interests

To the extent provided in regulations, equity interest of varying classes which correspond to maturity classes of debt shall be treated as debt for purposes of this subsection.

(3) Treatment of certain REIT's

If -

(A)

a real estate investment trust is a taxable mortgage pool, or

(B)

a qualified REIT subsidiary (as defined in section 856(i)(2)) of a real estate investment trust is a taxable mortgage pool,

under regulations prescribed by the Secretary, adjustments similar to the adjustments provided in section 860E(d) shall apply to the shareholders of such real estate investment trust.

(j) Tax treatment of Federal Thrift Savings Fund

(1) In general

For purposes of this title -

(A)

the Thrift Savings Fund shall be treated

as a trust described in section 401(a) which is exempt from taxation under section 501(a);

(B)

any contribution to, or distribution from, the Thrift Savings Fund shall be treated in the same manner as contributions to or distributions from such a trust; and

(C)

subject to section 401(k)(4)(B) and any dollar limitation on the application of section 402(e)(3), contributions to the Thrift Savings Fund shall not be treated as distributed or made available to an employee or Member nor as a contribution made to the Fund by an employee or Member merely because the employee or Member has, under the provisions of subchapter III of chapter 84 of title 5, United States Code, and section 8351 of such title 5, an election whether the contribution will be made to the Thrift Savings Fund or received by the employee or Member in cash.

(2) Nondiscrimination requirements

Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section.

(3) Coordination with Social Security Act

Paragraph (1) shall not be construed to provide that any amount of the employee's or Member's basic pay which is contributed to the Thrift Savings Fund shall not be included in the term ''wages'' for the purposes of section 209 of the Social Security Act or section 3121(a) of this title.

(4) Definitions

For purposes of this subsection, the terms ''Member'', ''employee'', and ''Thrift Savings Fund'' shall have the same respective meanings as when used in subchapter III of chapter 84 of title 5, United States Code.

(5) Coordination with other provisions of law

No provision of law not contained in this title shall apply for purposes of determining the treatment under this title of the Thrift Savings Fund or any contribution to, or distribution from, such Fund.

(k) Treatment of certain amounts paid to charity

In the case of any payment which, except for section 501(b) of the Ethics in Government Act of 1978, might be made to any officer or employee of the Federal Government but which is made instead on behalf of such officer or employee to an organization described in section 170(c) -

(1)

such payment shall not be treated as received by such officer or employee for all purposes of this title and for all purposes of

any tax law of a State or political subdivision thereof, and

(2)

no deduction shall be allowed under any provision of this title (or of any tax law of a State or political subdivision thereof) to such officer or employee by reason of having such payment made to such organization.

For purposes of this subsection, a Senator, a Representative in, or a Delegate or Resident Commissioner to, the Congress shall be treated as an officer or employee of the Federal Government.

(l) Regulations relating to conduit arrangements

The Secretary may prescribe regulations recharacterizing any multiple-party financing transaction as a transaction directly among any 2 or more of such parties where the Secretary determines that such recharacterization is appropriate to prevent avoidance of any tax imposed by this title.

(m) Designation of contract markets

Any designation by the Commodity Futures Trading Commission of a contract market which could not have been made under the law in effect on the day before the date of the enactment of the Commodity Futures Modernization Act of 2000 shall apply for purposes of this title except to the extent provided in regulations prescribed by the Secretary.

(n) Cross references

(1) Other definitions For other definitions, see the following sections of Title 1

For other definitions, see the following sections of Title 1 of the United States Code:

(1)

Singular as including plural, section 1.

(2)

Plural as including singular, section 1.

(3)

Masculine as including feminine, section 1.

(4)

Officer, section 1.

(5)

Oath as including affirmation, section 1.

(6)

County as including parish, section 2.

(7)

Vessel as including all means of water transportation, section 3.

(8)

Vehicle as including all means of land transportation, section 4.

(9)

Company or association as including successors and assigns, section 5.

(2) Effect of cross references For effect of cross references in this title, see section

For effect of cross references in this title, see section 7806(a)

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[1] See References in Text note below.

[2] See References in Text note below.

[3] So in original. Probably should be

Next

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UNITED STATES CODE ANNOTATED

TITLE 26. INTERNAL REVENUE CODE

SUBTITLE F--PROCEDURE AND ADMINISTRATION

CHAPTER 79--DEFINITIONS

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Current through P.L. 107-11, approved 5-28-01

§ 7701. Definitions

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof--

(1) Person.--The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(2) Partnership and partner.--The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) Corporation.--The term "corporation" includes associations, joint-stock companies, and insurance companies.

(4) Domestic.--The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

(5) Foreign.--The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) Fiduciary.--The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) Stock.--The term "stock" includes shares in an association, joint-stock company, or insurance company.

(8) Shareholder.--The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(9) United States.--The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

(10) State.--The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) Secretary of the Treasury and Secretary.--

(A) Secretary of the Treasury.--The term "Secretary of the Treasury" means the Secretary of the Treasury, personally, and shall not include any delegate of his.

(B) Secretary.--The term "Secretary" means the Secretary of the Treasury or his delegate.

(12) Delegate.--

(A) In general.--The term "or his delegate"--

(i) when used with reference to the Secretary of the Treasury, means any officer, employee, or agency of the Treasury Department duly authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context; and

(ii) when used with reference to any other official of the United States, shall be similarly construed.

(B) Performance of certain functions in Guam or American Samoa.--The term "delegate", in relation to the performance of functions in Guam or American Samoa with respect to the taxes imposed by chapters 1, 2, and 21, also includes any officer or employee of any other department or agency of the United States, or of any possession thereof, duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform such functions.

(13) Commissioner.--The term "Commissioner" means the Commissioner of Internal Revenue.

(14) Taxpayer.--The term "taxpayer" means any person subject to any internal revenue tax.

(15) Military or naval forces and Armed Forces of the United States.--The term "military or naval forces of the United States" and the term "Armed Forces of the United States" each includes all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, and each term also includes the Coast Guard. The members of such forces include commissioned officers and personnel below the grade of commissioned officers in such forces.

(16) Withholding agent.--The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 1441, 1442, 1443, or 1461.

(17) Husband and wife.--As used in sections 152(b)(4), 682, and 2516, if the husband and wife therein referred to are divorced, wherever appropriate to the meaning of such sections, the term "wife" shall be read "former wife" and the term "husband" shall be read "former husband"; and, if the payments described in such sections are made by or on behalf of the wife or former wife to the husband or former husband instead of vice versa, wherever appropriate to the meaning of such sections, the term "husband" shall be read "wife" and the term "wife" shall be read "husband."

(18) International organization.--The term "international organization" means a public international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288-288f).

(19) Domestic building and loan association.--The term "domestic building and loan

association" means a domestic building and loan association, a domestic savings and loan association, and a Federal savings and loan association--

(A) which either (i) is an insured institution within the meaning of section 401(a) of the National Housing Act (12 U.S.C., sec. 1724(a)), or (ii) is subject by law to supervision and examination by State or Federal authority having supervision over such associations;

(B) the business of which consists principally of acquiring the savings of the public and investing in loans; and

(C) at least 60 percent of the amount of the total assets of which (at the close of the taxable year) consists of--

(i) cash,

(ii) obligations of the United States or of a State or political subdivision thereof, and stock or obligations of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof, but not including obligations the interest on which is excludable from gross income under section 103,

(iii) certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations,

(iv) loans secured by a deposit or share of a member,

(v) loans (including redeemable ground rents, as defined in section 1055) secured by an interest in real property which is (or, from the proceeds of the loan, will become) residential real property or real property used primarily for church purposes, loans made for the improvement of residential real property or real property used primarily for church purposes, provided that for purposes of this clause, residential real property shall include single or multifamily dwellings, facilities in residential developments dedicated to public use or property used on a nonprofit basis for residents, and mobile homes not used on a transient basis,

(vi) loans secured by an interest in real property located within an urban renewal area to be developed for predominantly residential use under an urban renewal plan approved by the Secretary of Housing and Urban Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, and loans made for the improvement of any such real property,

(vii) loans secured by an interest in educational, health, or welfare institutions or facilities, including structures designed or used primarily for residential purposes for students, residents, and persons under care, employees, or members of the staff of such institutions or facilities,

(viii) property acquired through the liquidation of defaulted loans described in clause (v), (vi), or (vii),

(ix) loans made for the payment of expenses of college or university education or vocational training, in accordance with such regulations as may be prescribed by the Secretary,

(x) property used by the association in the conduct of the business described in subparagraph (B), and

(xi) any regular or residual interest in a REMIC, and any regular interest in a FASIT, but only in the proportion which the assets of such REMIC or FASIT consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC or FASIT are assets described in clauses (i) through (x), the entire interest in the REMIC or FASIT shall qualify.

At the election of the taxpayer, the percentage specified in this subparagraph shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary. For purposes of clause (v), if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan is deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). For purposes of clause (v), loans made to finance the acquisition or development of land shall be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary, there is reasonable assurance that the property will become residential real property within a period of 3 years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such 3-year period, such land becomes residential real property. For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi).

(20) Employee.--For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of sections 104, 105, and 106 with respect to accident and health insurance or accident and health plans, and for the purpose of applying the provisions of subtitle A with respect to

contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, and for purposes of applying section 125 with respect to cafeteria plans, the term "employee" shall include a full-time life insurance salesman who is considered an employee for the purpose of chapter 21, or in the case of services performed before January 1, 1951, who would be considered an employee if his services were performed during 1951.

(21) Levy.--The term "levy" includes the power of distraint and seizure by any means.

(22) Attorney General.--The term "Attorney General" means the Attorney General of the United States.

(23) Taxable year.--The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the taxable income is computed under subtitle A. "Taxable year" means, in the case of a return made for a fractional part of a year under the provisions of subtitle A or under regulations prescribed by the Secretary, the period for which such return is made.

(24) Fiscal year.--The term "fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

(25) Paid or incurred, paid or accrued.--The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under subtitle A.

(26) Trade or business.--The term "trade or business" includes the performance of the functions of a public office.

(27) Tax Court.--The term "Tax Court" means the United States Tax Court.

(28) Other terms.--Any term used in this subtitle with respect to the application of, or in connection with, the provisions of any other subtitle of this title shall have the same meaning as in such provisions.

(29) Internal Revenue Code.--The term "Internal Revenue Code of 1986" means this title, and the term "Internal Revenue Code of 1939" means the Internal Revenue Code enacted February 10, 1939, as amended.

(30) United States person.--The term "United States person" means--

(A) a citizen or resident of the United States,

(B) a domestic partnership,

(C) a domestic corporation,

(D) any estate (other than a foreign estate, within the meaning of paragraph (31)), and

(E) any trust if--

(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and

(ii) one or more United States persons have the authority to control all substantial decisions of the trust.

(31) Foreign estate or trust.--

(A) Foreign estate.--The term "foreign estate" means an estate the income of which, from sources without the United States which is not effectively connected with the conduct of a trade or business within the United States, is not includible in gross income under subtitle A.

(B) Foreign trust.--The term "foreign trust" means any trust other than a trust described in subparagraph (E) of paragraph (30).

(32) Cooperative bank.--The term "cooperative bank" means an institution without capital stock organized and operated for mutual purposes and without profit, which--

(A) either--

(i) is an insured institution within the meaning of section 401(a) of the National Housing Act (12 U.S.C., sec. 1724(a)), or

(ii) is subject by law to supervision and examination by State or Federal authority having supervision over such institutions, and

(B) meets the requirements of subparagraphs (B) and (C) of paragraph (19) of this subsection (relating to definition of domestic building and loan association).

In determining whether an institution meets the requirements referred to in subparagraph (B)

of this paragraph, any reference to an association or to a domestic building and loan association contained in paragraph (19) shall be deemed to be a reference to such institution.

(33) Regulated public utility.--The term "regulated public utility" means--

(A) A corporation engaged in the furnishing or sale of--

(i) electric energy, gas, water, or sewerage disposal services, or

(ii) transportation (not included in subparagraph (C)) on an intrastate, suburban, municipal, or interurban electric railroad, on an intrastate, municipal, or suburban trackless trolley system, or on a municipal or suburban bus system, or

(iii) transportation (not included in clause (ii)) by motor vehicle--

if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, by a public service or public utility commission or other similar body of the District of Columbia or of any State or political subdivision thereof, or by a foreign country or an agency or instrumentality or political subdivision thereof.

(B) A corporation engaged as a common carrier in the furnishing or sale of transportation of gas by pipe line, if subject to the jurisdiction of the Federal Energy Regulatory Commission.

(C) A corporation engaged as a common carrier (i) in the furnishing or sale of transportation by railroad, if subject to the jurisdiction of the Surface Transportation Board, or (ii) in the furnishing or sale of transportation of oil or other petroleum products (including shale oil) by pipe line, if subject to the jurisdiction of the Federal Energy Regulatory Commission or if the rates for such furnishing or sale are subject to the jurisdiction of a public service or public utility commission or other similar body of the District of Columbia or of any State.

(D) A corporation engaged in the furnishing or sale of telephone or telegraph service, if the rates for such furnishing or sale meet the requirements of subparagraph (A).

(E) A corporation engaged in the furnishing or sale of transportation as a common carrier by air, subject to the jurisdiction of the Secretary of Transportation.

(F) A corporation engaged in the furnishing or sale of transportation by a water carrier subject to jurisdiction under subchapter II of chapter 135 of title 49.

(G) A rail carrier subject to part A of subtitle IV of title 49, if (i) substantially all of its railroad properties have been leased to another such railroad corporation or corporations by an agreement or agreements entered into before January 1, 1954, (ii) each lease is for a term of more than 20 years, and (iii) at least 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from such leases and from sources described in subparagraphs (A) through (F), inclusive. For purposes of the preceding sentence, an agreement for lease of railroad properties entered into before January 1, 1954, shall be considered to be a lease including such term as the total number of years of such agreement may, unless sooner terminated, be renewed or continued under the terms of the agreement, and any such renewal or continuance under such agreement shall be considered part of the lease entered into before January 1, 1954.

(H) A common parent corporation which is a common carrier by railroad subject to part A of subtitle IV of title 49 if at least 80 percent of its gross income (computed without regard to capital gains or losses) is derived directly or indirectly from sources described in subparagraphs (A) through (F), inclusive. For purposes of the preceding sentence, dividends and interest, and income from leases described in subparagraph (G), received from a regulated public utility shall be considered as derived from sources described in subparagraphs (A) through (F), inclusive, if the regulated public utility is a member of an affiliated group (as defined in section 1504) which includes the common parent corporation.

The term "regulated public utility" does not (except as provided in subparagraphs (G) and (H)) include a corporation described in subparagraphs (A) through (F), inclusive, unless 80 percent or more of its gross income (computed without regard to dividends and capital gains and losses) for the taxable year is derived from sources described in subparagraphs (A) through (F), inclusive. If the taxpayer establishes to the satisfaction of the Secretary that (i) its revenue from regulated rates described in subparagraph (A) or (D) and its revenue derived from unregulated rates are derived from the operation of a single interconnected and coordinated system or from the operation of more than one such system, and (ii) the unregulated rates have been and are substantially as favorable to users and consumers as are the regulated rates, then such revenue from such unregulated rates shall be considered, for purposes of the preceding sentence, as income derived from sources described in subparagraph (A) or (D).

[**(34) Repealed.** Pub.L. 98-369, Div. A. Title IV, § 412(b)(11), July 18, 1984, 98 Stat. 792]

(35) Enrolled actuary.--The term "enrolled actuary" means a person who is enrolled by the Joint Board for the Enrollment of Actuaries established under subtitle C of the title III of the Employee Retirement Income Security Act of 1974.

(36) Income tax return preparer.--

(A) In general.--The term "income tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by subtitle A or any claim for refund of tax imposed by subtitle A. For purposes of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

(B) Exceptions.--A person shall not be an "income tax return preparer" merely because such person--

(i) furnishes typing, reproducing, or other mechanical assistance,

(ii) prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed,

(iii) prepares as a fiduciary a return or claim for refund for any person, or

(iv) prepares a claim for refund for a taxpayer in response to any notice of deficiency issued to such taxpayer or in response to any waiver of restriction after the commencement of an audit of such taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.

(37) Individual retirement plan.--The term "individual retirement plan" means--

(A) an individual retirement account described in section 408(a), and

(B) an individual retirement annuity described in section 408(b).

(38) Joint return.--The term "joint return" means a single return made jointly under section 6013 by a husband and wife.

(39) Persons residing outside United States.--If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to--

(A) jurisdiction of courts, or

(B) enforcement of summons.

(40) Indian tribal government.--

(A) In general.--The term "Indian tribal government" means the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions.

(B) Special rule for Alaska Natives.--No determination under subparagraph (A) with respect to Alaska Natives shall grant or defer any status or powers other than those enumerated in section 7871. Nothing in the Indian Tribal Governmental Tax Status Act of 1982, or in the amendments made thereby, shall validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

(41) TIN.--The term "TIN" means the identifying number assigned to a person under section 6109.

(42) Substituted basis property.--The term "substituted basis property" means property which is--

(A) transferred basis property, or

(B) exchanged basis property.

(43) Transferred basis property.--The term "transferred basis property" means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to the basis in the hands of the donor, grantor, or other transferor.

(44) Exchanged basis property.--The term "exchanged basis property" means property having a basis determined under any provision of subtitle A (or under any corresponding provision of prior income tax law) providing that the basis shall be determined in whole or in part by reference to other property held at any time by the person for whom the basis is to be determined.

(45) Nonrecognition transaction.--The term "nonrecognition transaction" means any disposition of property in a transaction in which gain or loss is not recognized in whole or in part for purposes of subtitle A.

(46) Determination of whether there is a collective bargaining agreement.--In determining whether there is a collective bargaining agreement between employee representatives and 1 or more employers, the term "employee representatives" shall not include any organization more than one-half of the members of which are employees who are owners, officers, or executives of

the employer. An agreement shall not be treated as a collective bargaining agreement unless it is a bona fide agreement between bona fide employee representatives and 1 or more employers.

(b) Definition of resident alien and nonresident alien.--

(1) In general.--For purposes of this title (other than subtitle B)--

(A) Resident alien.--An alien individual shall be treated as a resident of the United States with respect to any calendar year if (and only if) such individual meets the requirements of clause (i), (ii), or (iii):

(i) Lawfully admitted for permanent residence.--Such individual is a lawful permanent resident of the United States at any time during such calendar year.

(ii) Substantial presence test.--Such individual meets the substantial presence test of paragraph (3).

(iii) First year election.--Such individual makes the election provided in paragraph (4).

(B) Nonresident alien.--An individual is a nonresident alien if such individual is neither a citizen of the United States nor a resident of the United States (within the meaning of subparagraph (A)).

(2) Special rules for first and last year of residency.--

(A) First year of residency.--

(i) In general.--If an alien individual is a resident of the United States under paragraph (1)(A) with respect to any calendar year, but was not a resident of the United States at any time during the preceding calendar year, such alien individual shall be treated as a resident of the United States only for the portion of such calendar year which begins on the residency starting date.

(ii) Residency starting date for individuals lawfully admitted for permanent residence.**--In the case of an individual who is a lawfully** permanent resident of the United States at any time during the calendar year, but does not meet the substantial presence test of paragraph (3), the residency starting date shall be the first day in such calendar year on which he was present in the United States while a lawful permanent resident of the United States.

(iii) Residency starting date for individuals meeting substantial presence test.**--In the case of an individual who meets the substantial presence test** of paragraph (3) with respect

to any calendar year, the residency starting date shall be the first day during such calendar year on which the individual is present in the United States.

(iv) Residency starting date for individuals making first year election.-- In the case of an individual who makes the election provided by paragraph (4) with respect to any calendar year, the residency starting date shall be the 1st day during such calendar year on which the individual is treated as a resident of the United States under that paragraph.

(B) Last year of residency.--An alien individual shall not be treated as a resident of the United States during a portion of any calendar year if--

(i) such portion is after the last day in such calendar year on which the individual was present in the United States (or, in the case of an individual described in paragraph (1)(A)(i), the last day on which he was so described),

(ii) during such portion the individual has a closer connection to a foreign country than to the United States, and

(iii) the individual is not a resident of the United States at any time during the next calendar year.

(C) Certain nominal presence disregarded.--

(i) In general.--For purposes of subparagraphs (A)(iii) and (B), an individual shall not be treated as present in the United States during any period for which the individual establishes that he has a closer connection to a foreign country than to the United States.

(ii) Not more than 10 days disregarded.--Clause (i) shall not apply to more than 10 days on which the individual is present in the United States.

(3) Substantial presence test.--

(A) In general.--Except as otherwise provided in this paragraph, an individual meets the substantial presence test of this paragraph with respect to any calendar year (hereinafter in this subsection referred to as the "current year") if--

(i) such individual was present in the United States on at least 31 days during the calendar year, and

(ii) the sum of the number of days on which such individual was present in the United States

during the current year and the 2 preceding calendar years (when multiplied by the applicable multiplier determined under the following table) equals or exceeds 183 days:

In the case of days in:	The applicable multiplier is:
Current year	1
1st preceding year	1/3
2nd preceding year	1/6

(B) Exception where individual is present in the United States during less than one-half of current year and closer connection to foreign country is established.**--An individual shall not be treated as meeting the substantial** presence test of this paragraph with respect to any current year if--

(i) such individual is present in the United States on fewer than 183 days during the current year, and

(ii) it is established that for the current year such individual has a tax home (as defined in section 911(d)(3) without regard to the second sentence thereof) in a foreign country and has a closer connection to such foreign country than to the United States.

(C) Subparagraph (B) not to apply in certain cases.--Subparagraph (B) shall not apply to any individual with respect to any current year if at any time during such year--

(i) such individual had an application for adjustment of status pending, or

(ii) such individual took other steps to apply for status as a lawful permanent resident of the United States.

(D) Exception for exempt individuals or for certain medical conditions.--An individual shall not be treated as being present in the United States on any day if--

(i) such individual is an exempt individual for such day, or

(ii) such individual was unable to leave the United States on such day because of a medical condition which arose while such individual was present in the United States.

(4) First-year election.--

(A) An alien individual shall be deemed to meet the requirements of this subparagraph if such individual--

(i) is not a resident of the United States under clause (i) or (ii) of paragraph (1)(A) with respect to a calendar year (hereinafter referred to as the "election year"),

(ii) was not a resident of the United States under paragraph (1)(A) with respect to the calendar year immediately preceding the election year,

(iii) is a resident of the United States under clause (ii) of paragraph (1)(A) with respect to the calendar year immediately following the election year, and

(iv) is both--

(I) present in the United States for a period of at least 31 consecutive days in the election year, and

(II) present in the United States during the period beginning with the first day of such 31-day period and ending with the last day of the election year (hereinafter referred to as the "testing period") for a number of days equal to or exceeding 75 percent of the number of days in the testing period (provided that an individual shall be treated for purposes of this subclause as present in the United States for a number of days during the testing period not exceeding 5 days in the aggregate, notwithstanding his absence from the United States on such days).

(B) An alien individual who meets the requirements of subparagraph (A) shall, if he so elects, be treated as a resident of the United States with respect to the election year.

(C) An alien individual who makes the election provided by subparagraph (B) shall be treated as a resident of the United States for the portion of the election year which begins on the 1st day of the earliest testing period during such year with respect to which the individual meets the requirements of clause (iv) of subparagraph (A).

(D) The rules of subparagraph (D)(i) of paragraph (3) shall apply for purposes of determining an individual's presence in the United States under this paragraph.

(E) An election under subparagraph (B) shall be made on the individual's tax return for the election year, provided that such election may not be made before the individual has met the substantial presence test of paragraph (3) with respect to the calendar year immediately following the election year.

(F) An election once made under subparagraph (B) remains in effect for the election year, unless revoked with the consent of the Secretary.

(5) Exempt individual defined.--For purposes of this subsection--

(A) In general.--An individual is an exempt individual for any day if, for such day, such individual is--

(i) a foreign government-related individual,

(ii) a teacher or trainee,

(iii) a student, or

(iv) a professional athlete who is temporarily in the United States to compete in a charitable sports event described in section 274(l)(1)(B).

(B) Foreign government-related individual.--The term "foreign government- related individual" means any individual temporarily present in the United States by reason of--

(i) diplomatic status, or a visa which the Secretary (after consultation with the Secretary of State) determines represents full-time diplomatic or consular status for purposes of this subsection,

(ii) being a full-time employee of an international organization, or

(iii) being a member of the immediate family of an individual described in clause (i) or (ii).

(C) Teacher or trainee.--The term "teacher or trainee" means any individual--

(i) who is temporarily present in the United States under subparagraph (J) or (Q) of section 101(15) of the Immigration and Nationality Act (other than as a student), and

(ii) who substantially complies with the requirements for being so present.

(D) Student.--The term "student" means any individual--

(i) who is temporarily present in the United States--

(I) under subparagraph (F) or (M) of section 101(15) of the Immigration and Nationality Act, or

(II) as a student under subparagraph (J) or (Q) of such section 101(15), and

(ii) who substantially complies with the requirements for being so present.

(E) Special rules for teachers, trainees, and students.--

(i) Limitation on teachers and trainees.--An individual shall not be treated as an exempt individual by reason of clause (ii) of subparagraph (A) for the current year if, for any 2 calendar years during the preceding 6 calendar years, such person was an exempt person under clause (ii) or (iii) of subparagraph (A). In the case of an individual all of whose compensation is described in section 872(b)(3), the preceding sentence shall be applied by substituting "4 calendar years" for "2 calendar years".

(ii) Limitation on students.--For any calendar year after the 5th calendar year for which an individual was an exempt individual under clause (ii) or (iii) of subparagraph (A), such individual shall not be treated as an exempt individual by reason of clause (iii) of subparagraph (A), unless such individual establishes to the satisfaction of the Secretary that such individual does not intend to permanently reside in the United States and that such individual meets the requirements of subparagraph (D)(ii).

(6) Lawful permanent resident.--For purposes of this subsection, an individual is a lawful permanent resident of the United States at any time if--

(A) such individual has the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, and

(B) such status has not been revoked (and has not been administratively or judicially determined to have been abandoned).

(7) Presence in the United States.--For purposes of this subsection--

(A) In general.--Except as provided in subparagraph (B), (C), or (D) an individual shall be treated as present in the United States on any day if such individual is physically present in the

United States at any time during such day.

(B) Commuters from Canada or Mexico.--If an individual regularly commutes to employment (or self-employment) in the United States from a place of residence in Canada or Mexico, such individual shall not be treated as present in the United States on any day during which he so commutes.

(C) Transit between 2 foreign points.--If an individual, who is in transit between 2 points outside the United States, is physically present in the United States for less than 24 hours, such individual shall not be treated as present in the United States on any day during such transit.

(D) Crew members temporarily present.--An individual who is temporarily present in the United States on any day as a regular member of the crew of a foreign vessel engaged in transportation between the United States and a foreign country or a possession of the United States shall not be treated as present in the United States on such day unless such individual otherwise engages in any trade or business in the United States on such day.

(8) Annual statements.--The Secretary may prescribe regulations under which an individual who (but for subparagraph (B) or (D) of paragraph (3)) would meet the substantial presence test of paragraph (3) is required to submit an annual statement setting forth the basis on which such individual claims the benefits of subparagraph (B) or (D) of paragraph (3), as the case may be.

(9) Taxable year.--

(A) In general.--For purposes of this title, an alien individual who has not established a taxable year for any prior period shall be treated as having a taxable year which is the calendar year.

(B) Fiscal year taxpayer.--If--

(i) an individual is treated under paragraph (1) as a resident of the United States for any calendar year, and

(ii) after the application of subparagraph (A), such individual has a taxable year other than a calendar year,

he shall be treated as a resident of the United States with respect to any portion of a taxable year which is within such calendar year.

(10) Coordination with section 877.--If--

(A) an alien individual was treated as a resident of the United States during any period which includes at least 3 consecutive calendar years (hereinafter referred to as the "initial residency period"), and

(B) such individual ceases to be treated as a resident of the United States but subsequently becomes a resident of the United States before the close of the 3rd calendar year beginning after the close of the initial residency period,

such individual shall be taxable for the period after the close of the initial residency period and before the day on which he subsequently became a resident of the United States in the manner provided in section 877(b). The preceding sentence shall apply only if the tax imposed pursuant to section 877(b) exceeds the tax which, without regard to this paragraph, is imposed pursuant to section 871.

(11) Regulations.--The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

(c) Includes and including.--The terms "includes" and "including" when used in a definition contained in this title shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(d) Commonwealth of Puerto Rico.--Where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, references in this title to possessions of the United States shall be treated as also referring to the Commonwealth of Puerto Rico.

(e) Treatment of certain contracts for providing services, etc.--For purposes of chapter 1--

(1) In general.--A contract which purports to be a service contract shall be treated as a lease of property if such contract is properly treated as a lease of property, taking into account all relevant factors including whether or not--

(A) the service recipient is in physical possession of the property,

(B) the service recipient controls the property,

(C) the service recipient has a significant economic or possessory interest in the property,

(D) the service provider does not bear any risk of substantially diminished receipts or substantially increased expenditures if there is nonperformance under the contract,

(E) the service provider does not use the property concurrently to provide significant services to entities unrelated to the service recipient, and

(F) the total contract price does not substantially exceed the rental value of the property for the contract period.

(2) Other arrangements.--An arrangement (including a partnership or other pass-thru entity) which is not described in paragraph (1) shall be treated as a lease if such arrangement is properly treated as a lease, taking into account all relevant factors including factors similar to those set forth in paragraph (1).

(3) Special rules for contracts or arrangements involving solid waste disposal, energy, and clean water facilities.--

(A) In general.--Notwithstanding paragraphs (1) and (2), and except as provided in paragraph (4), any contract or arrangement between a service provider and a service recipient--

(i) with respect to--

(I) the operation of a qualified solid waste disposal facility,

(II) the sale to the service recipient of electrical or thermal energy produced at a cogeneration or alternative energy facility, or

(III) the operation of a water treatment works facility, and

(ii) which purports to be a service contract,

shall be treated as a service contract.

(B) Qualified solid waste disposal facility.--For purposes of subparagraph (A), the term "qualified solid waste disposal facility" means any facility if such facility provides solid waste disposal services for residents of part or all of 1 or more governmental units and substantially all of the solid waste processed at such facility is collected from the general public.

(C) Cogeneration facility.--For purposes of subparagraph (A), the term "cogeneration facility" means a facility which uses the same energy source for the sequential generation of electrical or mechanical power in combination with steam, heat, or other forms of useful energy.

(D) Alternative energy facility.--For purposes of subparagraph (A), the term "alternative

energy facility" means a facility for producing electrical or thermal energy if the primary energy source for the facility is not oil, natural gas, coal, or nuclear power.

(E) Water treatment works facility.--For purposes of subparagraph (A), the term "water treatment works facility" means any treatment works within the meaning of section 212(2) of the Federal Water Pollution Control Act.

(4) Paragraph (3) not to apply in certain cases.--

(A) In general.--Paragraph (3) shall not apply to any qualified solid waste disposal facility, cogeneration facility, alternative energy facility, or water treatment works facility used under a contract or arrangement if--

(i) the service recipient (or a related entity) operates such facility,

(ii) the service recipient (or a related entity) bears any significant financial burden if there is nonperformance under the contract or arrangement (other than for reasons beyond the control of the service provider),

(iii) the service recipient (or a related entity) receives any significant financial benefit if the operating costs of such facility are less than the standards of performance or operation under the contract or arrangement, or

(iv) the service recipient (or a related entity) has an option to purchase, or may be required to purchase all or a part of such facility at a fixed and determinable price (other than for fair market value).

For purposes of this paragraph, the term "related entity" has the same meaning as when used in section 168(h).

(B) Special rules for application of subparagraph (A) with respect to certain rights and allocations under the contract.**--For purposes of** subparagraph (A), there shall not be taken into account--

(i) any right of a service recipient to inspect any facility, to exercise any sovereign power the service recipient may possess, or to act in the event of a breach of contract by the service provider, or

(ii) any allocation of any financial burden or benefits in the event of any change in any law.

(C) Special rules for application of subparagraph (A) in the case of certain events.--

(i) Temporary shut-downs, etc.--For purposes of clause (ii) of subparagraph (A), there shall not be taken into account any temporary shut- down of the facility for repairs, maintenance, or capital improvements, or any financial burden caused by the bankruptcy or similar financial difficulty of the service provider.

(ii) Reduced costs.--For purposes of clause (iii) of subparagraph (A), there shall not be taken into account any significant financial benefit merely because payments by the service recipient under the contract or arrangement are decreased by reason of increased production or efficiency or the recovery of energy or other products.

(5) Exception for certain low-income housing.--This subsection shall not apply to any property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B) (relating to low-income housing) if--

(A) such property is operated by or for an organization described in paragraph (3) or (4) of section 501(c), and

(B) at least 80 percent of the units in such property are leased to low- income tenants (within the meaning of section 167(k)(3)(B)) (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).

(6) Regulations.--The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the provisions of this subsection.

(f) Use of related persons or pass-thru entities.--The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of those provisions of this title which deal with--

(1) the linking of borrowing to investment, or

(2) diminishing risks,

through the use of related persons, pass-thru entities, or other intermediaries.

(g) Clarification of fair market value in the case of nonrecourse indebtedness.**--For purposes of subtitle A, in determining the amount of gain or** loss (or deemed gain or loss) with respect to any property, the fair market value of such property shall be treated as being not less than the amount of any nonrecourse indebtedness to which such property is subject.

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(h) Motor vehicle operating leases.--

(1) In general.--For purposes of this title, in the case of a qualified motor vehicle operating agreement which contains a terminal rental adjustment clause--

(A) such agreement shall be treated as a lease if (but for such terminal rental adjustment clause) such agreement would be treated as a lease under this title, and

(B) the lessee shall not be treated as the owner of the property subject to an agreement during any period such agreement is in effect.

(2) Qualified motor vehicle operating agreement defined.--For purposes of this subsection--

(A) In general.--The term "qualified motor vehicle operating agreement" means any agreement with respect to a motor vehicle (including a trailer) which meets the requirements of subparagraphs (B), (C), and (D) of this paragraph.

(B) Minimum liability of lessor.--An agreement meets the requirements of this subparagraph if under such agreement the sum of--

(i) the amount the lessor is personally liable to repay, and

(ii) the net fair market value of the lessor's interest in any property pledged as security for property subject to the agreement,

equals or exceeds all amounts borrowed to finance the acquisition of property subject to the agreement. There shall not be taken into account under clause (ii) any property pledged which is property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement.

(C) Certification by lessee; notice of tax ownership.--An agreement meets the requirements of this subparagraph is such agreement contains a separate written statement separately signed by the lessee--

(i) under which the lessee certifies, under penalty of perjury, that it intends that more than 50 percent of the use of the property subject to such agreement is to be in a trade or business of the lessee, and

(ii) which clearly and legibly states that the lessee has been advised that it will not be treated as the owner of the property subject to the agreement for Federal income tax purposes.

(D) Lessor must have no knowledge that certification is false.--An agreement meets the requirements of this subparagraph is the lessor does not know that the certification described in subparagraph (C)(i) is false.

(3) Terminal rental adjustment clause defined.--

(A) In general.--For purposes of this subsection, the term "terminal rental adjustment clause" means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

(B) Special rule for lessee dealers.--The term "terminal rental adjustment clause" also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in subparagraph (A).

(i) Taxable mortgage pools.--

(1) Treated as separate corporations.--A taxable mortgage pool shall be treated as a separate corporation which may not be treated as an includible corporation with any other corporation for purposes of section 1501.

(2) Taxable mortgage pool defined.--For purposes of this title--

(A) In general.--Except as otherwise provided in this paragraph, a taxable mortgage pool is any entity (other than a REMIC or a FASIT) if--

(i) substantially of all of the assets of such entity consists of debt obligations (or interests therein) and more than 50 percent of such debt obligations (or interests) consists of real estate mortgages (or interests therein),

(ii) such entity is the obligor under debt obligations with 2 or more maturities, and

(iii) under the terms of the debt obligations referred to in clause (ii) (or underlying arrangement), payments on such debt obligations bear a relationship to payments on the debt obligations (or interests) referred to in clause (i).

(B) Portion of entities treated as pools.--Any portion of an entity which meets the definition of subparagraph (A) shall be treated as a taxable mortgage pool.

(C) Exception for domestic building and loan.--Nothing in this subsection shall be construed to treat any domestic building and loan association (or portion thereof) as a taxable mortgage pool.

(D) Treatment of certain equity interests.--To the extent provided in regulations, equity interest of varying classes which correspond to maturity classes of debt shall be treated as debt for purposes of this subsection.

(3) Treatment of certain REIT's.--If--

(A) a real estate investment trust is a taxable mortgage pool, or

(B) a qualified REIT subsidiary (as defined in section 856(i)(2)) of a real estate investment trust is a taxable mortgage pool,

under regulations prescribed by the Secretary, adjustments similar to the adjustments provided in section 860E(d) shall apply to the shareholders of such real estate investment trust.

(j) Tax treatment of Federal Thrift Savings Fund.--

(1) In general.--For purposes of this title--

(A) the Thrift Savings Fund shall be treated as a trust described in section 401(a) which is exempt from taxation under section 501(a);

(B) any contribution to, or distribution from, the Thrift Savings Fund shall be treated in the same manner as contributions to or distributions from such a trust; and

(C) subject to section 401(k)(4)(B) and any dollar limitation on the application of section 402(e)(3), contributions to the Thrift Savings Fund shall not be treated as distributed or made available to an employee or Member nor as a contribution made to the Fund by an employee or Member merely because the employee or Member has, under the provisions of subchapter III of chapter 84 of title 5, United States Code, and section 8351 of such title 5, an election whether the contribution will be made to the Thrift Savings Fund or received by the employee or Member in cash.

(2) Nondiscrimination requirements.--Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section.

(3) Coordination with Social Security Act.--Paragraph (1) shall not be construed to provide that any amount of the employee's or Member's basic pay which is contributed to the Thrift Savings Fund shall not be included in the term "wages" for the purposes of section 209 of the Social Security Act or section 3121(a) of this title.

(4) Definitions.--For purposes of this subsection, the terms "Member", "employee", and "Thrift Savings Fund" shall have the same respective meanings as when used in subchapter III of chapter 84 of title 5, United States Code.

(5) Coordination with other provisions of law.--No provision of law not contained in this title shall apply for purposes of determining the treatment under this title of the Thrift Savings Fund or any contribution to, or distribution from, such Fund.

(k) Treatment of certain amounts paid to charity.--In the case of any payment which, except for section 501(b) of the Ethics in Government Act of 1978, might be made to any officer or employee of the Federal Government but which is made instead on behalf of such officer or employee to an organization described in section 170(c)--

(1) such payment shall not be treated as received by such officer or employee for all purposes of this title and for all purposes of any tax law of a State or political subdivision thereof, and

(2) no deduction shall be allowed under any provision of this title (or of any tax law of a State or political subdivision thereof) to such officer or employee by reason of having such payment made to such organization.

For purposes of this subsection, a Senator, a Representative in, or a Delegate or Resident Commissioner to, the Congress shall be treated as an officer or employee of the Federal Government.

(l) Regulations relating to conduit arrangements.--The Secretary may prescribe regulations recharacterizing any multiple-party financing transaction as a transaction directly among any 2 or more of such parties where the Secretary determines that such recharacterization is appropriate to prevent avoidance of any tax imposed by this title.

(m) Designation of contract markets.--Any designation by the Commodity Futures Trading Commission of a contract market which could not have been made under the law in effect on the day before the date of the enactment of the Commodity Futures Modernization Act of 2000 shall apply for purposes of this title except to the extent provided in regulations prescribed by the Secretary.

(n) Cross references.--

(1) Other definitions.--

For other definitions, see the following sections of Title 1 of the United States Code:

(1) Singular as including plural, section 1.

(2) Plural as including singular, section 1.

(3) Masculine as including feminine, section 1.

(4) Officer, section 1.

(5) Oath as including affirmation, section 1.

(6) County as including parish, section 2.

(7) Vessel as including all means of water transportation, section 3.

(8) Vehicle as including all means of land transportation, section 4.

(9) Company or association as including successors and assigns, section 5.

(2) Effect of cross references.--

For effect of cross references in this title, see section 7806(a).

CREDIT(S)

2001 Electronic Update

(Aug. 16, 1954, c. 736, 68A Stat. 911; June 25, 1959, Pub.L. 86-70, § 22(g), (h), 73 Stat. 146; July 12, 1960, Pub.L. 86-624, § 18(i), (j), 74 Stat. 416; Sept. 13, 1960, Pub.L. 86-778, Title I, § 103(t), 74 Stat. 941; Oct. 16, 1962, Pub.L. 87-834, §§ 6(c), 7(h), 76 Stat. 982, 988; Oct. 23, 1962, Pub.L. 87-870, § 5(a), 76 Stat. 1161; Feb. 26, 1964, Pub.L. 88-272, Title II, §§ 204(a)(3), 234(b)(3), 78 Stat. 36, 114; Mar. 15, 1966, Pub.L. 89-368, Title I, § 102(b)(5), 80 Stat. 64; Nov. 13, 1966, Pub.L. 89-809, Title I, § 103(l)(1), 80 Stat. 1554; June 28, 1968, Pub.L. 90-364, Title I, § 103(e)(6), 82 Stat. 264; Dec. 30, 1969, Pub.L. 91-172, Title IV, § 432(c), (d), Title IX, § 960(j), 83 Stat. 622, 623, 735; Oct. 31, 1972, Pub.L. 92-606, § 1(f)(4), 86 Stat. 1497; Sept. 2,

1974, Pub.L. 93-406, Title III, § 3043, 88 Stat. 1003; Oct. 4, 1976, Pub.L. 94-455, Title XII, § 1203(a), Title XIX, § 1906(a)(57), (b)(13)(A), (c)(3), 90 Stat. 1688, 1832, 1834, 1835; Nov. 6, 1978, Pub.L. 95-600, title I, § 157(k)(2), Title VII, § 701(cc)(2), 92 Stat. 2809, 2923; Aug. 13, 1981, Pub.L. 97-34, Title VII, § 725(c)(4), 95 Stat. 346; Sept. 3, 1982, Pub.L. 97- 248, Title II, § 201(c)(10), Title III, §§ 307(a)(17), 308(a), 336(a), 96 Stat. 421, 590, 591, 628; Sept. 3, 1982, Pub.L. 97-248, Title II, § 201(d)(10), formerly § 201(c)(10), renumbered Jan. 12, 1983, Pub.L. 97-448, Title III, § 306(a)(1)(A)(i), 96 Stat. 2400; Jan. 12, 1983, Pub.L. 97-448, Title III, § 306(b)(3), 96 Stat. 2406; Jan. 12, 1983, Pub.L. 97-449, § 5(e)(1), (2), 96 Stat. 2442; Jan. 14, 1983, Pub.L. 97-473, Title II, § 203, 96 Stat. 2611; Aug. 5, 1983, Pub.L. 98-67, Title I, §§ 102(a), 104(d)(1), 97 Stat. 369, 379; Feb. 14, 1984, Pub.L. 98-216, § 3(c)(2), 98 Stat. 6; July 18, 1984, Pub.L. 98- 369, Div. A, Title I, §§ 31(e), 43(a)(1), 53(c), 75(c), 138(a), Title IV, §§ 412(b)(11), 422(d)(3), 474(r)(29)(K), 491(d)(53), Title V, § 526(c)(1), 98 Stat. 518, 558, 567, 595, 672, 792, 798, 845, 852, 874; Oct. 4, 1984, Pub.L. 98-443, § 9(q), 98 Stat. 1708; Oct. 22, 1986, Pub.L. 99-514, Title II, § 201(c), (d)(14), Title VI, §§ 671(b)(3), 673, Title XI, §§ 1137, 1147(a), 1166(a), Title XVIII, §§ 1802(a)(9)(C), 1810(l)(1) to (5)(A), 1842(d), 1899A(63), (64), 100 Stat. 2095, 2138, 2142, 2317, 2319, 2486, 2493, 2511, 2790, 2830 to 2832, 2853, 2962; Oct. 22, 1986, Pub.L. 99-514, Title II, § 201(d)(14), 100 Stat. 2142, as amended Nov. 10, 1988, Pub.L. 100-647, Title I, § 1002(a)(2), 102 Stat. 3552; Dec. 22, 1987, Pub.L. 100-202, § 101(m), [Title VI, § 624(a)], 101 Stat. 1329-429; Nov. 10, 1988, Pub.L. 100-647, § 1(c), Title I, §§ 1001(d)(2)(D), 1006(t)(12), (25)(A), 1011B(e), 1018(g)(3), 102 Stat. 3342, 3351, 3422, 3426, 3489, 3583; Nov. 30, 1989, Pub.L. 101-194, Title VI, § 602, 103 Stat. 1762; Nov. 5, 1990, Pub.L. 101-508, Title XI, §§ 11704(a)(34), 11812(b)(13), 104 Stat. 1388-519, 1388-554; Aug. 14, 1991, Pub.L. 102-90, Title III, § 314(e), 105 Stat. 470; July 3, 1992, Pub.L. 102- 318, Title V, § 521(b)(43), 106 Stat. 313; Aug. 10, 1993, Pub.L. 103-66, Title XIII, § 13238, 107 Stat. 508; Aug. 15, 1994, Pub.L. 103-296, Title III, § 320(a)(3), 108 Stat. 1535; Dec. 29, 1995, Pub.L. 104-88, Title III, § 304(e), 109 Stat. 944; Aug. 20, 1996, Pub.L. 104-188, Title I, §§ 1402(b)(3), 1621(b)(8), (9), 1907(a)(1), (2), 110 Stat. 1790, 1867, 1916; Aug. 5, 1997, Pub.L. 105-34, Title XI, §§ 1151(a), 1174(b), Title XVI, § 1601(i)(3)(A), 111 Stat. 986, 989, 1093; Dec. 21, 2000, Pub.L. 106-554, § 1(a)(7) [Title IV, § 401(i)], 114 Stat. 2763, 2763-___.)

<General Materials (GM) - References, Annotations, or Tables**>**

Code

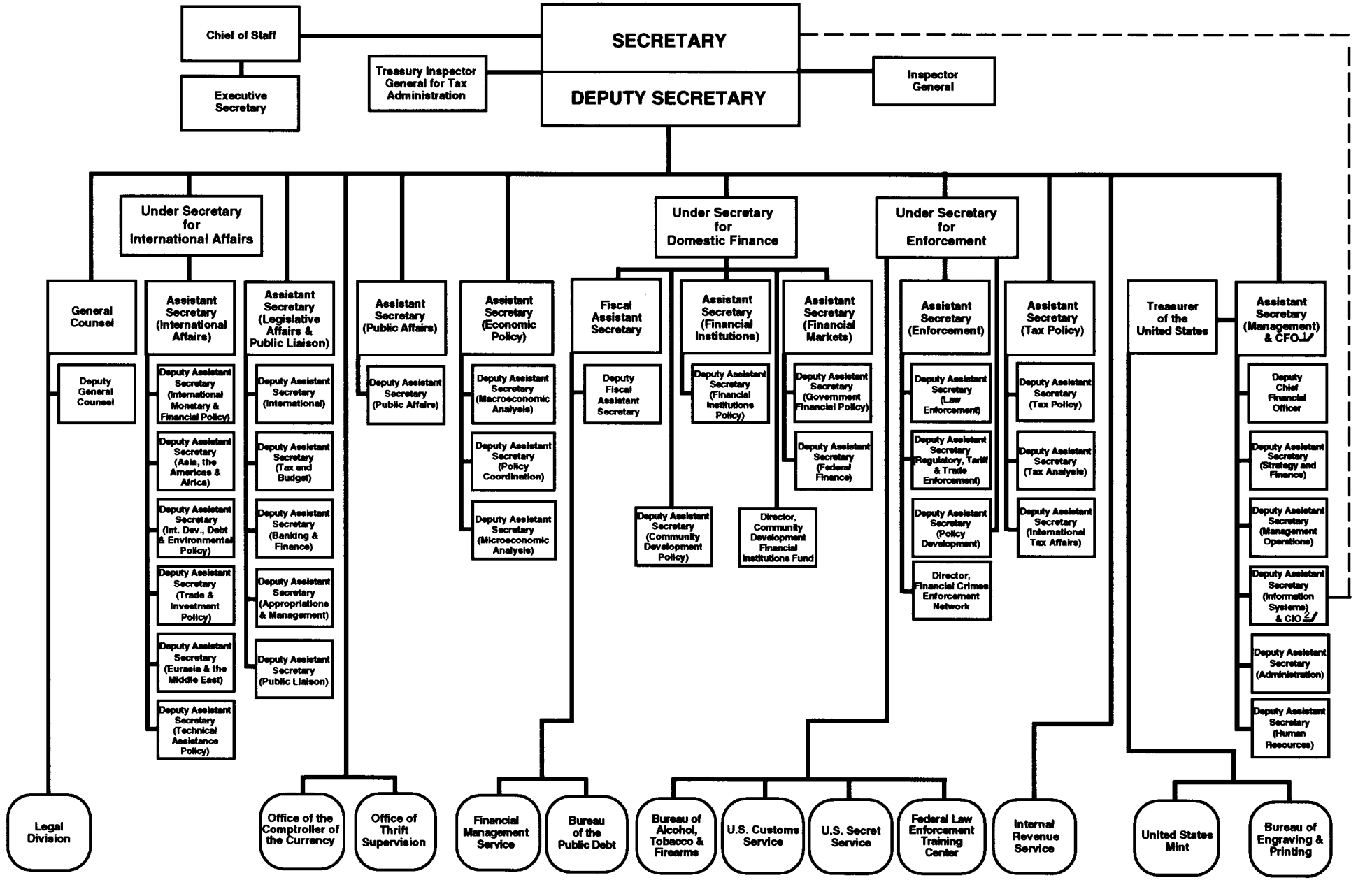
Sec. 31.3121(e)-1 State, United States, and citizen.

(a) When used in the regulations in this subpart, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Territories of Alaska and Hawaii before their admission as States, and (when used with respect to services performed after 1960) Guam and American Samoa.

(b) When used in the regulations in this subpart, the term 'United States', when used in a geographical sense, means the several states (including the Territories of Alaska and Hawaii before their admission as States), the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. When used in the regulations in this subpart with respect to services performed after 1960, the term 'United States' also includes Guam and American Samoa when the term is used in a geographical sense. The term 'citizen of the United States' includes a citizen of the Commonwealth of Puerto Rico or the Virgin Islands, and, effective January 1, 1961, a citizen of Guam or American Samoa.

[T.D. 6744, 29 FR 8314, July 2, 1964]

THE DEPARTMENT OF THE TREASURY



1/ Assistant Secretary (Management) and Chief Financial Officer is Treasury's Chief Operating Officer.

2/ Deputy Assistant Secretary (Information Systems) is the Chief Information Officer (CIO)

Approved: Robert E. Rubin 01-07-99

Robert E. Rubin
Secretary of the Treasury

Date

CITES BY TOPIC: taxpayer

26 U.S.C. Sec. 7701(a)14:

Taxpayer

The term "taxpayer" means any person subject to any internal revenue tax.

C.I.R. v. Trustees of L. Inv. Ass'n, 100 F.2d 18 (1939):

"And by statutory definition, 'taxpayer' includes any person, trust or estate subject to a tax imposed by the revenue act. ...Since the statutory definition of 'taxpayer' is exclusive, the federal courts do not have the power to create nonstatutory taxpayers for the purpose of applying the provisions of the Revenue Acts..."

CLARIFICATION OF "TAXPAYER" vs. "NONTAXPAYER":

As we said in section 3.11.1.20, the the word “taxpayer” is defined as someone who is “liable for” and “subject to” the income tax in Subtitle A and the IRS refers to everyone as “taxpayers” because that is what they want everyone to be. Here is the way one of our readers describes how he reacts to being habitually called “taxpayer” by the IRS:

> *I refuse to allow any IRS or State revenue office to call me or any client a "taxpayer". Just because I may look like one or have the attributes of one does not necessarily make me one. To one IRS lady, and I have no reason to doubt that she fits this category, I use the following example. "Miss you have all of the equipment to be a whore, but that does not make you one by presumption." Until it is proven by a preponderance of evidence I must assume you are a lady and you will be treated as such. Please have the same respect for me, and don't slander my reputation and defame my character by calling me a whore for the government, which is what a "taxpayer" is.*
>
> *(courtesy of Eugene Pringle)*

Funny! But guess what? This is not a new idea. We refer you to the Bible book of

Revelations, Chapter 17, which describes precisely who this whore or harlot is: Babylon the Great! Check out that chapter, keeping in mind that "Babylon the Great" is symbolic of the city full of all the ignorant and idolatrous people who have unwittingly made themselves into government whores by becoming surety for government debts in the pursuit of taxable government privileges and benefits they didn't need to begin with. These idolaters have made government their new god and the their source of man-made security. That is what the "Security" means in "Social Security". The mystery about this woman described in Rev. 17:5 is symbolic of the ignorance and apathy that these people have about the law and their government. For a fascinating read into this subject, we refer you to the free book on the internet entitled *Babylon the Great is Falling* referred to us by one of our readers:

http://www.babylonthegreatisfalling.net/

The IRS DOES NOT have the authority conferred by law to bestow the status of "taxpayer" on anyone who doesn't first volunteer for that "distinctive" title. Below is the cite confirming this from ***Botta v. Scanlon***, 288 F.2d. 504, 508 (1961) held:

> *"A reasonable construction of the taxing statutes does not include vesting any tax official with absolute power of assessment against individuals not specified in the states as a person liable for the tax without an opportunity for judicial review of this status before the appellation of 'taxpayer' is bestowed upon them and their property is seized..."*

Furthermore, 28 U.S.C. §2201 also removes the authority of federal courts to declare that status on a sovereign American as a "taxpayer" also!:

> *United States Code*
>
> *TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE*
>
> *PART VI - PARTICULAR PROCEEDINGS*
>
> *CHAPTER 151 - DECLARATORY JUDGMENTS*
>
> *Sec. 2201. Creation of remedy*
>
> *(a)* ***In a case of actual controversy within its jurisdiction, except with respect to Federal taxes other than actions brought under***

> ***section 7428 of the Internal Revenue Code of 1986****, a proceeding under section 505 or 1146 of title 11, or in any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of merchandise of a free trade area country (as defined in section 516A(f)(10) of the Tariff Act of 1930), as determined by the administering authority,* ***any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration****, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.*
>
> *(b) For limitations on actions brought with respect to drug patents see section 505 or 512 of the Federal Food, Drug, and Cosmetic Act.*
>
> *The federal courts themselves agree that they do not have the jurisdiction to bestow the status of "taxpayer" upon someone who is a "nontaxpayer":*

The federal courts themselves agree that they do not have the jurisdiction to bestow the status of "taxpayer" upon someone who is a "nontaxpayer":

> *"And by statutory definition the term "taxpayer" includes any person, trust or estate* ***subject to*** *a tax imposed by the revenue act. ...Since the statutory definition of taxpayer is exclusive, the federal [and state] courts do not have the power to create nonstatutory taxpayers for the purpose of applying the provisions of the Revenue Acts..."* ***C.I.R. v. Trustees of L. Inv. Ass'n****., 100 F.2d.18 (1939)*

We the people enjoy an especial status as a "nontaxpayer" until such time as we take on the mantle of an artificial entity and by implication of the special privilege we engage in and the special license required we may surrender our sovereign status and become a "taxpayer"....but this event cannot take place without full knowledge and willful participation by the individual. For cases dealing with the term "nontaxpayer" see: ***Long v. Rasmussen***, 281 F. 236, 238 (1922); ***Rothensis v. Ullman***, 110 F.2d. 590(1940); ***Raffaele v. Granger***, 196 F.2d. 620 (1952); ***Bullock v. Latham***, 306 F.2d. 45 (1962); ***Economy Plumbing & Heating v. United States***, 470 F.2d. 585 (1972); and ***South Carolina v. Regan***, 465 U.S. 367 (1984).

> *"The revenue laws are a code or system in regulation of tax assessment and collection. They relate to taxpayers, and not to nontaxpayers. The latter are without their scope. No procedure is prescribed for*

> *nontaxpayers, and no attempt is made to annul any of their rights and remedies in due course of law. With them Congress does not assume to deal, and they are neither of the subject nor of the object of the revenue laws..."*
>
> *"The distinction between persons and things within the scope of the revenue laws and those without is vital."* ***Long v. Rasmussen****, 281 F. 236 @ 238(1922).*

One of our readers is suing the bank and its employees for taking our property and giving it to the IRS. We say this makes them a thief not Robin Hood. As always the defendant's first motion is a motion to dismiss for failure to state a claim. WRONG!!! Taking property without due process of law in violation of the fourth and fifth Amendments is stating a claim. The claim lies in the injury caused by the unlawful activity of the bank employee's. We suffered loss of property with a specific value, it had to be replaced at a specific cost, and it caused public embarrassment and mental stress. "CLAIM"

When the 'attorney' for the bank defendant tries to shield the defendants behind the immunity clause in 6332(e).....WONT WORK!!!!!

> *"A defendant sued as a wrongdoer, who seeks to substitute the State in his place, or to justify by the authority of the State, or defend on the ground that the State has adopted his act and exonerated him, cannot rest on the bare assertion of his defense. He is bound to establish it.*
>
> *The State is a political corporate body, can act only through agents and can command only by laws. It is necessary, therefore, for such a defendant, in order to complete his defense, to produce a law of the State which constitutes his commission as its agent, and a warrant for his act."* ***Poindexter v. Greenhow****, 114 U.S. 270 (1885)*

Absent a valid assessment there is no tax due, and there can be no lawful levy absent an assessment. In order for the agent to claim immunity the law would have to be followed to the letter. As above the agent becomes the deputy of the IRS agent and must have a warrant to cover his action.

No warrant, you are a thief, period. No immunity for thieves, only Citizens. Which brings me to the last case I will discuss at this time. A tax case against a corporation and the bookkeeper of the corporation refused to turn over the books of the corporation to the tax collector. The resulting opinion of the Supreme Court is a good read and a must for tax litigates..... Wow....Almost like "Gladiators" only different

weapons.....

> *"The individual may stand upon his constitutional rights as a citizen. He is entitled to carry on his private business in his own way. His power to contract is unlimited. He owes no duty to the State or to his neighbor to divulge his business, or to open his doors to an investigation, so far as it may tend to criminate him. He owes no such duty to the State, since he receives nothing therefrom, beyond the protection of his life and property. His rights are such as existed by the law of the land long antecedent to the organization of the State, and can only be taken from him by due process of law, and in accordance with the Constitution. Among his rights are a refusal to incriminate himself, and the immunity of himself and his property from arrest or seizure except under a warrant of the law. He owes nothing to the public so long as he does not trespass upon their rights."*
> ***Hale v. Henkel**, 240 U.S. 43, 74 (1906)*

The behavior of the IRS confirms the above conclusions. See the following IRS Internal memo proving that a return that is signed under penalty of perjury and saying "not liable" or words to that effect is treated as a nonreturn:

> *http://familyguardian.tzo.com/TaxFreedom/Evidence/Refunds/1998-053 IRS Memo zero ret..pdf*

Look what the above internal top secret IRS memo says (are they trying to hide something?..cover-up and obstruction of justice!):

> *"A taxpayer can also negate the penalties of perjury statement with an addition. In Schmitt v. U.S., 140 B.R. 571 (Bank W.D. Okl. 1992), the taxpayers filed a return with the following statement at the end of the penalties of perjury statement, "SIGNED UNDER DURESS, SEE STATEMENT ATTACHED." In the addition, the taxpayers denied liability for tax on wages. The Service argued that the statement, added to the "return", qualified the penalties of perjury statement, thus making the penalties of perjury statement ineffective and the return a nullity. Id. at 572.*
>
> *In agreeing with the Service, the court pointed out that the voluntary nature of our tax system requires the Service to rely on a taxpayer's self-assessment and on a taxpayer's assurance that the figures supplied are true to the best of his or her knowledge. Id. Accordingly, the penalties of perjury statement has important*

significance in our tax system. The statement connects the taxpayer's attestation of tax liability (by the signing of the statement) with the Service's statutory ability to summarily assess the tax.

Similarly, in Sloan v. Comm'r, 53 F.3d 799 (7th Cir. 1995), cert. denied, 516 U.S. 897 (1995), the taxpayers submitted a return containing the words "Denial & Disclaimer attached as part of this form" above their signatures. ***In the addition, the taxpayers denied liability for any individual income tax****. In determining the effect of the addition on the penalties of perjury statement, the court reasoned that it is a close question whether the addition negates the penalties of perjury statement or not. The addition, according to the court, could be read just to mean that the taxpayers reserve their right to renew their constitutional challenge to the federal income tax law. However, the court concluded that the addition negated the penalties of perjury statement. Id. at 800.*

In both Schmitt and Sloan the court questioned the purpose of the addition. Both courts found that the addition of qualifying language was intended to deny tax liability. Accordingly, this effect rendered the purported returns invalid."

The reason is clear: If you are a "nontaxpayer" who is "not liable", then you essentially are outside their jurisdiction and can't even ask for a refund of the money you paid in. Instead, they pretend like you don't even exist, that is, until they try to go after you wrongfully and unlawfully for willful failure to file, notice of deficiency, or some other contrived nonsense to scare you into paying and filing again. That's how they make "nontaxpayers" "volunteer" into becoming "taxpayers": with terrorism and treason against the rights of sovereign Americans, starting with "mailing threatening, false, and harassing communications" in violation of 18 U.S.C. §876. Lawyer hypocrites! Jesus was right!

"Woe to you, scribes and Pharisees, hypocrites*! **For you** pay tithe of mint and anise and cummin, and **have neglected the weightier matters of the law: justice and mercy and faith. These you ought to have done, without leaving the others undone**." [Matt. 23:23, Bible]*

Commentary: Use of the Word "Taxpayer" instead of "individual" or

"American":

26 U.S.C. Section 7701(a)(14) defines the word "taxpayer" as:

> *26 U.S.C. Section 7701(a)(14) Definitions*
>
> *Taxpayer*
>
> *The term "taxpayer" means any person subject to any internal revenue tax.*

Now if we look up the definition of "subject to" in Black's Law Dictionary, Sixth Edition, page 1425, we find the following:

> *"Liable, subordinate, subservient, inferior, obedient to; governed or affected by; provided that; provided; answerable for. Homan v. Employers Reinsurance Corp., 345 Mo. 650, 136 S.W.2d 289, 302."*

So being a "taxpayer" means being either someone who is liable to pay tax or who isn't liable but who has chosen to "volunteer" for the tax or be subservient to it. When one volunteers for the tax, they are considered to be liable because they assess themselves and claim they have taxable income, even if their income is not, in fact, taxable. By definition then, a "taxpayer" is someone liable for paying tax no matter how you look at it. Incidentally, this is the term they use to describe EVERYONE, which by implication deceives EVERYONE into thinking they are liable for the tax. They win the war before it ever gets started just by the language they use. You have to watch these weasels!

In most documents you will get form the IRS, the sneaky IRS very carefully uses the word "Taxpayer" instead of "all individuals" or "everyone" to confuse and deceive the reader. The IRS' Truth About Frivolous Tax Arguments publication, for instance, in question III.A, the title of the question is "Taxpayer is not a "citizen" of the United States, thus not subject to the federal income tax laws". This question is a self-fulfilling contradiction. If one is a "taxpayer" then he is liable for tax, which implies that he must be a "person" subject to the Internal Revenue Code. There is no other logical way to look at it. Stupid questions like this show how the IRS corrupts and distorts our language to keep people focused on the wrong questions and arguing about the wrong things. The correct and more revealing and relevant questions, instead, are:

1. Does "taxpayer" mean any American?
2. What does a sovereign citizen living on nonfederal land who does not want to pay tax and refuses to volunteer liable for? It can't be tax on his wages or income if he is not in receipt of government privileges under the indirect excise tax found in Subtitles A or B of the I.R.C.

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CITES BY TOPIC: distraint

Black's Law Dictionary, Sixth Edition, Page 474:

distraint: Seizure; the act of distraining or making a distress. The inchoate right and interest which a landlord has in the property of a tenant located on the demised premises. Upon a tenant's default, a landlord may in some jurisdictions distrain upon the tenant's property, generally by changing the locks and giving notice, and the landlord will then have a lien upon the goods. The priority of the lien will depend on local law. *See* Distress.

Flora v. United States, 362 U.S. 145, 1959:

"Our system of taxation is based upon voluntary assessment and payment, not upon distraint."

TITLE 26 > Subtitle F > CHAPTER 64 > Subchapter D > PART II > Sec. 6331.

26 U.S.C. Sec. 6331. Levy and distraint

(a) Authority of Secretary

(a) If any person liable to pay any tax neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the Secretary to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) by levy upon all property and rights to property (except such property as is exempt under section 6334) belonging to such person or on which there is a lien provided in this chapter for the payment of such tax. **Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer (as defined in section 3401(d)) of such officer, employee, or elected official.** If the Secretary makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the Secretary and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in this section.

(b) Seizure and sale of property

The term "levy" as used in this title includes the power of distraint and seizure by any means. Except as otherwise provided in subsection (e), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

Mortimer Caplin, Internal Revenue Audit Manual (1975)

"Our tax system is based on individual self-assessment and voluntary compliance".

Dwight E. Avis, former head of the Alcohol and Tobacco Tax Division of the IRS, testifying before a House Ways and Means subcommittee in 1953

"Let me point this out now. Your income tax is 100 percent voluntary tax, and your liquor tax is 100 percent enforced tax. Now, the situation is as different as night and day. Consequently, your same rules just will not apply...".

Internal Revenue Manual, Chapter 1100, section 1111.1

"The purpose of the IRS is to collect the proper amount of tax revenues at the least cost to the public, and in a manner that warrants the highest degree of public confidence in our integrity, efficiency and fairness. To achieve that purpose, we will encourage and achieve the highest possible degree of voluntary compliance in accordance with the tax laws and regulations...".

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