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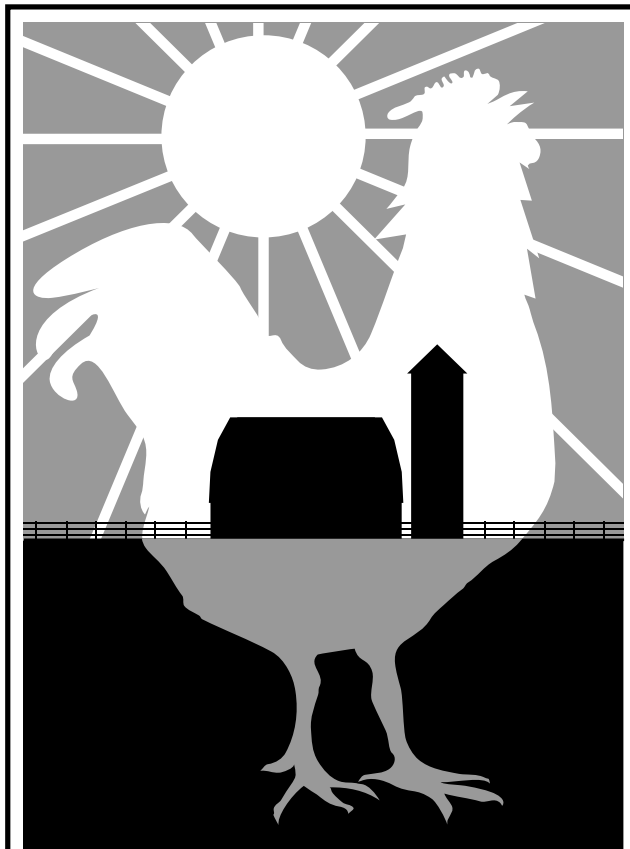
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Farmer's Tax Guide

For use in preparing
1997 Returns

Acknowledgment The valuable advice and assistance given us each year by the National Farm Income Tax Extension Committee is gratefully acknowledged.



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Contents

Introduction	vi
Important Changes for 1997	vii
Important Changes for 1998	viii
Important Reminders	ix
Important Dates	x
Chapter	
1. Importance of Good Records	xi
2. Filing Requirements and Return Forms	xii
3. Accounting Periods and Methods	xiii
4. Farm Income	xiv
5. Farm Business Expenses	xv
6. Soil and Water Conservation Expenses	xvi
7. Basis of Assets	xvii
8. Depreciation, Depletion, and Amortization	xviii
9. General Business Credit	xix
10. Gains and Losses	xx
11. Dispositions of Property Used in Farming	xxi
12. Installment Sales	xxii
13. Casualties, Thefts, and Condemnations	xxiii
14. Alternative Minimum Tax	xxiv
15. Self-Employment Tax	xxv
16. Employment Taxes	xxvi
17. Retirement Plans	xxvii
18. Excise Taxes	xxviii
19. Your Rights as a Taxpayer	xxix
20. Sample Return	xxx
21. How To Get More Information ...	xxxi
Index	xxxii

Introduction

You are in the business of farming if you cultivate, operate, or manage a farm for profit, either as owner or tenant. A farm includes stock, dairy, poultry, fish, fruit, and truck farms. It also includes plantations, ranches, ranges, and orchards.

This publication explains how the federal tax laws apply to farming. Use this publication as a guide to figure your taxes and complete your farm tax return. If you need more information on a subject, get the specific IRS tax publication covering that subject. We refer to many of these free publications throughout this publication. See chapter 21 for information on ordering these publications.

The explanations and examples in this publication reflect the Internal Revenue Service's interpretation of tax laws enacted by Congress, Treasury regulations, and court decisions. However, the information given does not cover every situation and is not intended to replace the law or change its meaning. This publication covers subjects on which a court may have made a decision more favorable to taxpayers than the interpretation of the Service. Until these differing interpretations are resolved by higher court decisions, or in some other way, this publication will continue to present the interpretation of the Service.

Comments and recommendations. In compiling this *Farmer's Tax Guide*, we have adopted a number of suggestions that readers sent to us. We welcome your suggestions for future editions.



Please send your comments and recommendations to us at the following address:

Internal Revenue Service
Technical Publications Branch T:FP:P
1111 Constitution Avenue N.W.
Washington, DC 20224

We respond to many letters by telephone. It would be helpful to include your area code and daytime phone number with your return address.

Farm tax classes. Many state Cooperative Extension Services conduct farm tax workshops in conjunction with the IRS. Please contact your county extension office for more information.

Important Changes for 1997

The following items highlight a number of administrative and tax law changes for 1997. They are discussed in more detail throughout the publication. Changes are also discussed in Publication 553, *Highlights of 1997 Tax Changes*.

Private delivery services. You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing and paying" rule for tax returns and payments. See your income tax package for the list of designated services.



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.

Deferred payment (installment) sales and alternative minimum tax. Cash basis farmers can now use the installment method to report income from sales of property used or produced in the business of farming for both regular income tax and alternative minimum tax purposes. Previously, they could not use the installment method for alternative minimum tax purposes. See Form 6251.

Generally, this change applies to sales after 1987. You should file Form 1040X to amend any prior year income tax return affected by this retroactive change. However, you must generally file Form 1040X by the **later** of the following:

- 1) Three years after the date you filed your original return, or
- 2) Two years after the date you paid the tax.

Weather-related sales of livestock. Sales or exchanges of livestock after 1996 because of flood or other weather-related conditions may qualify for special tax treatment. Previously, only sales or exchanges due to drought conditions qualified. See chapters 4 and 13.

Standard mileage rate. The standard mileage rate for the cost of operating your car, van, pickup, or panel truck in 1997 is increased to 31.5 cents per mile for all business miles. See chapter 5.

Self-employed health insurance deduction. The part of your self-employed health insurance premiums that you can deduct as an adjustment to income increased to 40% for 1997. See chapter 5.

Net operating loss (NOL) deduction. For an NOL occurring in a tax year beginning after August 5, 1997, the carryback period is reduced to 2 years and the carryforward period is increased to 20 years. However, the carryback period remains 3 years for the part of an NOL that:

- 1) Is from a casualty or theft, or
- 2) In the case of a farm business or other qualified small business, is attributable to a Presidentially declared disaster.

See chapter 5.

Limits on depreciation of business cars. The total section 179 deduction and depreciation you can take on a car you use in your business and first place in service in 1997 is increased to \$3,160. Special rules apply to certain clean-fuel vehicles placed in service after August 5, 1997. See chapter 8.

Increased section 179 deduction. For 1997, the total cost you can elect to deduct under section 179 of the Internal Revenue Code is increased to \$18,000. See chapter 8.

Lower tax rate on certain capital gains. For individuals, the maximum capital gain tax rate is generally reduced for sales of certain property after May 6, 1997. See chapter 10.

Sale of main home. You may be able to exclude up to \$250,000 of gain (\$500,000 if married filing a joint return) if you sell your main home after May 6, 1997. See chapter 10.

Gain on involuntary conversions. You cannot postpone reporting gain on an involuntary conversion occurring after June 8, 1997, if you acquire replacement property or stock from a related party and your total realized gain from involuntary conversions during the tax year is more than \$100,000. See chapter 13.

Tax rates and maximum net earnings for self-employment tax. For 1997, the maximum net self-employment earnings subject to the social security part (12.4%) of the self-employment tax is \$65,400. There is no maximum limit on earnings subject to the Medicare part (2.9%). See chapter 15.

SIMPLE retirement plan. Beginning in 1997, you may be able to set up a savings incentive match plan for employees (SIMPLE). You can set up a SIMPLE plan if you have 100 or fewer employees and meet other requirements. See chapter 17.

Higher earned income credit. The maximum earned income credit has been increased to \$3,656 for 1997. To claim the credit, you must have earned income (including net earnings from self-employment) and modified adjusted gross income of less than \$29,290 and meet certain other requirements. For more information, including what counts as earned income, see Publication 596, *Earned Income Credit*.

Medical savings accounts. For tax years beginning after 1996, a self-employed individual may be able to take a deduction for contributions made to medical savings accounts (MSAs) to help cover medical expenses for the self-employed individual and his or her employees. See Publication 969, *Medical Savings Accounts (MSAs)*.

Important Changes for 1998

The following items highlight a number of administrative and tax law changes for 1998. More information on these and other changes can be found in Publication 553, *Highlights of 1997 Tax Changes*.

Averaging of farm income. For tax years beginning after 1997, individual farmers can elect to use income averaging to compute tax on farm income. See Publication 553.

Payments to attorneys. Generally, any payments you make after 1997 to an attorney for legal services must be reported to the IRS on an information return. See Publication 553.

Self-employed health insurance deduction. The part of your self-employed health insurance premiums that you can deduct as an adjustment to income is increased to 45% for 1998. See chapter 5.

Increased section 179 deduction. For 1998, the total cost you can elect to deduct under section 179 of the Internal Revenue Code is increased to \$18,500. See chapter 8.

Child credit. Beginning in 1998, you may be able to claim a credit on your tax return for each qualifying child under the age of 17. The credit is \$400 per child in 1998 and \$500 per child in 1999. See Publication 553.

General business credit. The periods to which you carry any excess current year general business credit have been changed. For a credit occurring in tax years beginning after 1997, the carryback period is reduced to one year and the carryforward period is increased to 20 years. See chapter 9.

Welfare-to-work credit. You may be able to claim the new welfare-to-work credit for certain individuals who begin working for you after 1997. See Publication 553.

Tax rates and maximum net earnings for self-employment tax. For 1998, the maximum net self-employment earnings subject to the social security part of the self-employment tax will be published in Publications 533 and 553. There is no maximum limit on earnings subject to the Medicare part. See chapter 15.

Wage limits for social security and Medicare taxes. The maximum wages subject to the social security tax for 1998 will be published in Circular A. There is no wage base limit for wages subject to the Medicare tax. See chapter 16.

Electronic deposit of taxes. If you were not previously required to make electronic deposits and your total deposits of social security, Medicare, and withheld income taxes were more than \$50,000 in 1996, you must begin making electronic deposits for all depository tax liabilities that occur after 1997. However, no penalty will be imposed for any failure to make a required electronic deposit before July 1, 1998, if you are first required to use that method on or after July 1, 1997. See Publication 51 (Circular A).

You can choose to make electronic deposits if you are not required to do so. For information about the Electronic Federal Tax Payment System (EFTPS), see Revenue Procedure 97-33, 1997-I.R.B. 30.

Excise tax on kerosene. Effective July 1, 1998, the excise tax rules that apply to diesel fuel will generally apply to kerosene. This includes the rule that only registered ultimate vendors can claim a credit or refund for excise taxes paid on diesel fuel or kerosene used on a farm for farming purposes.

Important Reminders

The following reminders and other items may help you file your tax return.

Business codes for farmers. You must enter on line B of Schedule F (Form 1040) a code that identifies your principal business. It is important to use the correct code, since this information will identify market segments of the public for IRS Taxpayer Education programs. The U.S. Census Bureau also uses this information for its economic census. See the list of *Principal Agricultural Activity Codes* on page 2 of Schedule F.

Voluntary withholding. You can request income tax withholding from the following payments on Form W4-V, *Voluntary Withholding Request*.

- 1) Commodity Credit Corporation (CCC) loans.
- 2) Certain crop disaster payments received under the Agricultural Act of 1949 or title II of the Disaster Assistance Act of 1988.
- 3) Unemployment compensation.
- 4) Certain other government payments.

See chapter 4 for information on CCC loans and disaster relief payments.

Direct deposit of refund. If you are due a refund on your 1997 tax return, you can have it deposited directly into your account at a bank or other financial institution. See your income tax package for details.

Change of address. If you change your home or business address, you should use Form 8822, *Change of Address*, to notify IRS. Be sure to include your suite, room, or other unit number. Send the form to the Internal Revenue Service Center for your old address.

Written tax questions. You can send written tax questions to your local district director. You should get an answer in about 30 days. Call 1-800-829-1040 if you need the address.

TeleTax. This telephone service of the IRS provides recorded tax information on approximately 150 topics. You can also get copies of these topics by using a fax machine or a personal computer and modem. You can also use TeleTax to check on the status of your refund. For details on how to use this service, see *What Is TeleTax?* in your tax form instructions.

Alternative ways of filing. IRS offers several alternatives to make filing your tax return easier. They are more convenient and accurate and will help us process your return faster.

TeleFile. Taxpayers who were eligible to file Form 1040EZ last year will receive a special TeleFile tax package that allows them to file their 1997 tax returns by phone. TeleFile is easy, fast, free, and available 24 hours a day.

On-line filing. You can file your tax return electronically using a computer, a modem, and IRS-accepted software. This software is available at retail stores and from on-line filing companies. Using the software, you can file your return electronically, for a fee, through the software company or an on-line filing company.

1040PC format. You can print your return in 1040PC format with most tax software packages. The 1040PC is shorter than the regular tax return. There is less paper for your records and it is processed faster when you mail it to the IRS.

Electronic filing (e-file). Many tax professionals can file your return electronically for a fee. You can prepare your own return and have a professional transmit it electronically or you can have a professional prepare your return and transmit it. Look for the "Authorized IRS e-file Provider" sign.

The free IRS Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs may also be able to help you file your return electronically. See your income tax package for information on these programs.

You may be able to file your state tax return electronically with your federal return if you use one of the methods listed above.

More information. TeleTax topic 252 provides more information on your choices. Check your income tax package for information about TeleTax.

Overdue tax bill. If you receive a bill for overdue taxes, do not ignore the tax bill. If you owe the tax shown on the bill, you should make arrangements to pay it. If you believe it is incorrect, contact the IRS immediately to suspend action until the mistake is corrected. See Publication 594, *Understanding the Collection Process*, for more information.

Unresolved tax problems. The **Problem Resolution Program (PRP)**, which is administered by the Taxpayer Advocate, is for

taxpayers who have been unable to resolve their problems with the IRS. If you have a tax problem you cannot clear up through normal channels, you can call the IRS at 1-800-829-1040 for PRP assistance. If you prefer, you can write to the office that last contacted you (or your local district director) and ask for PRP assistance. If you have access to TTY/TDD equipment, you can call 1-800-829-4059 to obtain this assistance.

Although the PRP office cannot change the tax law or a technical tax decision, it can clear up problems that resulted from previous contacts and ensure your case is given a complete and impartial review. For more information, see Publication 1546, *How to Use the Problem Resolution Program of the IRS*.

Comments on IRS enforcement actions. The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the IRS, call 1-888-734-3247.

Publication on employer identification numbers (EIN). Publication 1635, *Understanding Your EIN*, provides general information on employer identification numbers. Topics include how to apply for an EIN and how to complete Form SS-4.

Form W-4 for 1998. You should make new Forms W-4 available to your employees and encourage them to check their income tax withholding for 1998. Those employees who owed a large amount of tax or received a large refund for 1997 may need to file a new Form W-4. See chapter 16.

Earned income credit. You, as an employer, must notify employees who worked for you and from whom you did not withhold income tax about the earned income credit. See chapter 16.

Form 1099-MISC. If you make total payments of \$600 or more during the year to another person, other than an employee or a corporation, in the course of your farm business, you must file information returns to report these payments. See chapter 2.

Children employed by parents. Wages you pay to your children age 18 and older for services in your trade or business are subject to social security and Medicare taxes. See chapter 16.

Farmers and crew leaders must withhold income tax. Farmers and crew leaders must withhold federal income tax from farm workers who are subject to social security and Medicare taxes. See chapter 16.

Social security tests for hand-harvest laborers. If you pay hand-harvest laborers less than \$150 in annual cash wages, the wages are not subject to social security and Medicare taxes, even if you pay \$2,500 or more to all your farm workers. The hand-harvest laborer must meet certain tests. See chapter 16.

Important Dates

You should take the action indicated on or before the dates listed. Saturdays, Sundays, and legal holidays have been taken into account, but statewide holidays have not. A statewide legal holiday delays a due date only if the IRS office where you are required to file is located in that state.

Due dates for deposits of withheld income taxes, social security taxes, and Medicare taxes are not listed here. For these dates see, Publication 509, *Tax Calendars for 1998*.

Fiscal year taxpayers. Generally, the due dates listed apply, whether you use a calendar or a fiscal year. However, if you have a fiscal year, refer to Publication 509 for certain exceptions that may apply to you.

1998—Calendar Year

During January

Employers. Give your agricultural employees their copies of Form W-2 for 1997 as soon as possible. The due date is February 2, 1998. Copy A of Form W-2 must be filed by March 2, 1998.

January 15

Farmers. Pay your estimated tax for 1997 using Form 1040-ES. You have until April 15 to file your 1997 income tax return (Form 1040). If you do not pay your estimated tax by this date, you must file your 1997 return and pay any tax due by March 2, 1998.

January 31

Farm employers. File Form 943 to report social security and Medicare taxes and withheld income tax for 1997. Deposit any undeposited tax. (If the total is less than \$500 and not a shortfall, you can pay it with the return.) If you have deposited the tax you owe for the year in full and on time, you have until February 10 to file the return. (Do not report wages for nonagricultural services on Form 943.)

All farm businesses. Give annual information statements to recipients of certain payments you made during 1997. You can use the appropriate version of Form 1099 or other information return. For more information, see *Information Returns* in chapter 2.

Federal unemployment (FUTA) tax. File Form 940 (or 940-EZ) for 1997. If your undeposited tax is \$100 or less, you can either pay it with your return or deposit it. If it is more than \$100, you must deposit it. However, if you have deposited the tax you owe for the year in full and on time, you have until February 10 to file the return. For more information on FUTA tax, see chapter 16.

February 10

Farm employers. File Form 943 to report social security, Medicare, and withheld income tax for 1997. This due date applies only if you had deposited the tax for the year in full and on time.

Federal unemployment (FUTA) tax. File Form 940 (or 940-EZ) for 1997. This due date applies only if you had deposited the tax for the year in full and on time.

March 2

All farm businesses. File information returns (Form 1099) for certain payments you made during 1997. There are different forms for different types of payments. Use a separate Form 1096 to summarize and transmit the forms for different types of payments.

All employers. File Form W-3, *Transmittal of Wage and Tax Statements*, along with Copy A of all the Forms W-2 you issued for 1997. See *Form W-2* in chapter 2.

Farmers. File your 1997 income tax return (Form 1040) and pay any tax due. However, you have until April 15 to file if you paid your 1997 estimated tax by January 15, 1998.

March 16

Corporations. File a 1997 calendar year income tax return, (Form 1120 or 1120-A) and pay any tax due. See Publication 542, *Corporations*.

April 15

Individual farmers. File an income tax return (Form 1040) for 1997 and pay any tax due if you did not file by March 2.

Partnerships. File a 1997 calendar year return (Form 1065). See Publication 541, *Partnerships*.

April 30

Federal unemployment (FUTA) tax. If you are liable for FUTA tax, deposit the tax owed through March, if more than \$100.

July 31

Federal unemployment (FUTA) tax. If you are liable for FUTA tax, deposit the tax owed through June. No deposit is necessary if the liability for the quarter, plus undeposited FUTA tax for the 1st quarter, does not exceed \$100.

November 2

Federal unemployment (FUTA) tax. If you are liable for FUTA tax, deposit the tax owed through September. No deposit is necessary if the liability for the quarter, plus undeposited FUTA tax for previous quarters, does not exceed \$100.

turn and determine the correct amount of tax. This chapter explains why you must keep records, what kinds of records you must keep, and how long you must keep them for federal tax purposes.

Topics

This chapter discusses:

- Why you should keep records
- What records to keep
- How long to keep records

Useful Items

You may want to see:

Publication

- 51** Circular A, Agricultural Employer's Tax Guide
- 463** Travel, Entertainment, Gift, and Car Expenses

See chapter 21 for information about getting these publications.

Why Keep Records?

Everyone in business, including farmers, must keep records. Good records will help you do the following.

Monitor the progress of your farming business. You need good records to monitor the progress of your farming business. Records can show whether your business is improving, which items are selling, or what changes you need to make. Good records can increase the likelihood of business success.

Prepare your financial statements. You need good records to prepare accurate financial statements. These include income (profit and loss) statements and balance sheets. These statements can help you in dealing with your bank or creditors.

Identify source of receipts. You will receive money or property from many sources. Your records can identify the source of your receipts. You need this information to separate farm from nonfarm receipts and taxable from nontaxable income.

Keep track of deductible expenses. You may forget expenses when you prepare your tax return unless you record them when they occur.

Prepare your tax returns. You need good records to prepare your tax return. These records must support the income, expenses, and credits you report. Generally, these are the same records you use to monitor your farming business and prepare your financial statements.

Support items reported on tax returns. You must keep your business records available at all times for inspection by the IRS. If the IRS examines any of your tax returns, you may be asked to explain the items reported. A complete set of records will speed up the examination.

1.

Importance of Good Records

Introduction

A farmer, like other taxpayers, must keep records to prepare an accurate income tax re-

Kinds of Records To Keep

Except in a few cases, the law does not require any special kind of records. You may choose any recordkeeping system suited to your farming business that clearly shows your income.

You should set up your recordkeeping system using an accounting method that clearly shows your income for your tax year. See chapter 3. If you are in more than one business, you should keep a complete and separate set of records for each business. A corporation should keep minutes of board of directors' meetings.

Your recordkeeping system should include a summary of your business transactions. This summary is ordinarily made in accounting journals and ledgers. They must show your gross income, as well as your deductions and credits. In addition, you must keep supporting documents. Purchases, sales, payroll, and other transactions you have in your business generate supporting documents such as invoices and receipts. These documents contain the information you need to record in your journals and ledgers.

It is important to keep these documents because they support the entries in your journals and ledgers and on your tax return. You should keep them in an orderly fashion and in a safe place.

Travel, transportation, entertainment, and gift expenses. Special recordkeeping rules apply to these expenses. For more information, see Publication 463.

Employment taxes. There are specific employment tax records you must keep. For a list, see Publication 51 (Circular A).

Excise taxes. See chapter 18 for the specific records you must keep to verify your claim for credit or refund of excise taxes on certain fuels.

Assets. Assets are the property, such as machinery and equipment, that you own and use in your business. You must keep records to verify certain information about your business assets. You need records to figure the annual depreciation and the gain or loss when you sell the assets. Your records should show:

- When and how you acquired the asset
- The purchase price
- The cost of any improvements
- Section 179 deduction taken
- Deductions taken for depreciation
- Deductions taken for casualty losses, such as fires or storms
- How you used the asset
- When and how you disposed of the asset
- The selling price
- The expenses of sale

Examples of records that may show this information include:

- Purchase invoices
- Real estate closing statements

• Canceled checks

Financial account statements as proof of payment. If you do not have a canceled check, you may be able to prove payment with certain financial account statements prepared by financial institutions. These include account statements prepared for the financial institution by a third party. The following is a list of acceptable account statements.

- 1) An account statement showing a check clearing is accepted as proof if it shows the:
 - a) Check number,
 - b) Amount,
 - c) Payee's name, and
 - d) Date the check amount was posted to the account by the financial institution.
- 2) An account statement showing an electronic funds transfer is accepted as proof if it shows the:
 - a) Amount transferred,
 - b) Payee's name, and
 - c) Date the transfer was posted to the account by the financial institution.
- 3) An account statement showing a credit card charge (an increase to the cardholder's loan balance) is accepted as proof if it shows the:
 - a) Amount charged,
 - b) Payee's name, and
 - c) Date charged (transaction date).

These account statements must be highly legible.



Proof of payment of an amount alone does not establish that you are entitled to a tax deduction. You should also keep other documents, such as credit card sales slips and invoices.

How Long To Keep Records

You must keep your records as long as they may be needed for the administration of any provision of the Internal Revenue Code. Generally, this means you must keep records that support an item of income or deduction on a return until the period of limitations for that return runs out.

The period of limitations is the period of time in which you can amend your return to claim a credit or refund, or the IRS can assess additional tax. The period of time in which you can amend your return to claim a credit or refund is generally the later of:

- 1) 3 years after the date your return is due or filed, or
- 2) 2 years after the date the tax is paid.

Returns filed before the due date are treated as filed on the due date.

The IRS has 3 years from the date you file your return to assess any additional tax. If you file a fraudulent return or no return at all, the IRS has a longer period of time to assess additional tax.



Keep copies of your filed tax returns. They help in preparing future tax returns and making computations if you later file an amended return.

Employment taxes. If you have employees, you must keep all employment tax records for at least 4 years after the date the tax becomes due or is paid, whichever is later.

Assets. Keep records relating to property until the period of limitations expires for the year in which you dispose of the property in a taxable disposition. You must keep these records to figure any depreciation, amortization, or depletion deduction, and to figure your basis for computing gain or loss when you sell or otherwise dispose of the property.

Generally, if you received property in a nontaxable exchange, your basis in that property is the same as the basis of the property you gave up, increased by money you paid. You must keep the records on the old property, as well as on the new property, until the period of limitations expires for the year in which you dispose of the new property in a taxable disposition.

Records for nontax purposes. When your records are no longer needed for tax purposes, do not discard them until you check to see if you have to keep them longer for other purposes. For example, your insurance company or creditors may require you to keep them longer than the IRS does.

2.

Filing Requirements and Return Forms

Important Change for 1997

Businesses taxed as corporations. The rules you must use to determine whether your business is taxed as a corporation changed for businesses formed after 1996. However, if your business was formed before 1997 and taxed as a corporation under the old rules, it will generally continue to be taxed as a corporation. For more information, see *Corporation*, later.

Important Reminders

Form 1099-MISC. File Form 1099-MISC if you pay at least \$600 in rents, services, and other income payments in your farming business to an individual who is not your employee.

Estimated tax. When you figure your estimated tax for 1998, you must include any alternative minimum tax you expect to owe. See chapter 14 and Publication 505, *Tax Withholding and Estimated Tax*.

Introduction

If you are a citizen or resident of the United States, single or married, and your gross income for the tax year is at least the amount shown later in your category, you must file a 1997 federal income tax return, even if no tax is due. This also applies to minor children. If you do not meet the gross income requirement, you may still need to file a tax return if you have self-employment income, are entitled to a complete refund of tax withheld, or are entitled to a refund of the earned income credit. Gross income is explained later.

Topics

This chapter discusses:

- Filing requirements
- Identification number
- Estimated tax
- Main tax forms used by farmers
- Partnership return
- Corporation return
- S corporation return

Useful Items

You may want to see:

Publication

- 505** Tax Withholding and Estimated Tax
- 541** Partnerships
- 542** Corporations

Form (and Instructions)

This chapter discusses various forms you may have to file with the IRS. We have not listed them separately here.

See chapter 21 for information about getting the publications and forms discussed.

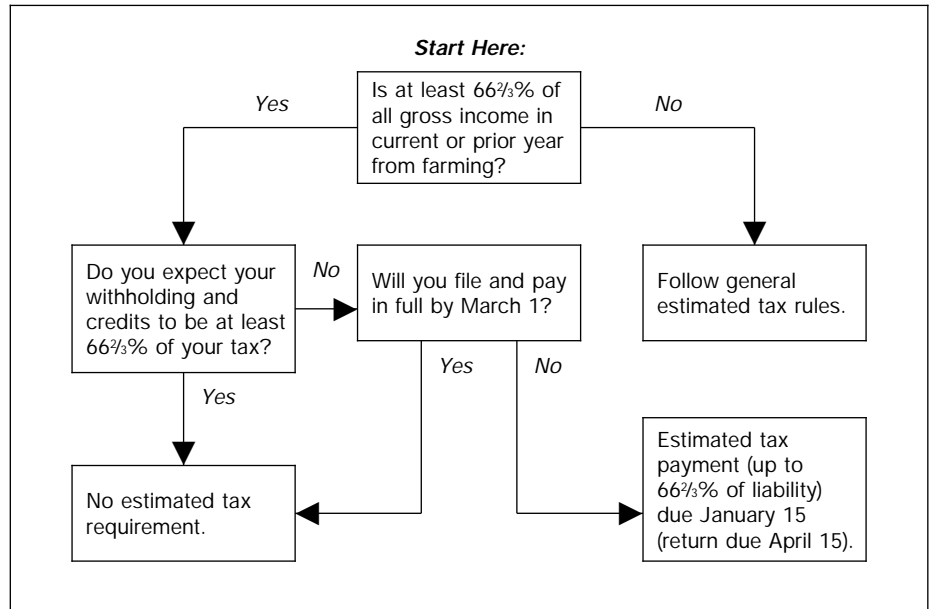
Filing Requirements

When your income reaches a certain level, based on your filing status and age, you must file a tax return.

Who Must File

Filing Status Is:	Income At Least:
Single	
Under 65	\$6,800
65 or older	7,800
Married, filing jointly	
Both under 65	12,200
One spouse 65 or older	13,000
Both 65 or older	13,800
Not living with spouse at end of year (or on date spouse died)	2,650
Married, filing separately	
All (any age)	2,650
Head of household	
Under 65	8,700
65 or older	9,700

Figure 2-A. Estimated Tax for Farmers



Qualifying widow(er) with dependent child	
Under 65	9,550
65 or older	10,350

Dependent's return. If you can claim someone as a dependent on your tax return (for example, your son or daughter), that person must generally also file his or her own tax return if he or she:

- 1) Had only earned income, such as salary or wages, and the total is more than \$4,150, or
- 2) Had only unearned income, such as interest and dividends, and the total is more than \$650, or
- 3) Had both earned and unearned income, and the total is more than \$650.

Self-employed. If you are self-employed, you must file an income tax return if you had net earnings of \$400 or more from self-employment, even though you may not be otherwise required to file a return. See chapter 15.

Earned income credit. You must also file a return to receive a refund of the earned income credit (EIC). Also, you must file if you received any advance EIC payments from your employer.

More information. See the Form 1040 instructions for more information on who must file a return for 1997.


Identification Number


You must show your taxpayer identification number (your social security or employer identification number) on all returns, statements, or documents you are required to file. For example, it must be shown on your federal income tax return, your estimated tax payment voucher, and all information returns, such as Forms 1096 and 1099. A penalty of \$50 may be assessed for each failure to show the number.

Which number to use. If you file an excise, alcohol, tobacco, firearms, or employment tax return, you should have an employer identification number. Use that number on your farm business Schedule F (Form 1040). Otherwise, use your social security number. On your individual income tax return (Form 1040), computation of self-employment tax (Schedule SE), and estimated tax payment voucher (Form 1040-ES), you should use your social security number, regardless of the number used on your business returns.

If you are married, show social security numbers for both you and your spouse on your Form 1040, whether you file jointly or separately. If you are filing a joint return, list the social security numbers in the same order that you show your first names. Also show both social security numbers on your Form 1040-ES if you make joint estimated tax payments.

Application for identification number.

 To apply for a social security number (SSN), use Form SS-5. You can get the form from any social security office or by calling 1-800-772-1213. If you are under 18 years of age, you must furnish evidence of age, identity, and U.S. citizenship with your Form SS-5. If you are 18 or older, you must appear in person with this evidence at a social security office. It usually takes about 2 weeks to get an SSN.

 To apply for an employer identification number, use Form SS-4. You can get this form from any social security office or by calling IRS at 1-800-829-3676.

Estimated Tax and Return Due Dates

When you must pay estimated tax and file your return depends on whether you receive at least two-thirds of your total gross income from farming in the current or prior year. **Gross income is not the same as total income** shown on line 22 of Form 1040.

Gross Income

Your gross income is all income you receive in the form of money, property, and services that is not exempt from tax. On a joint return, you must add your spouse's gross income to your gross income. To decide whether two-thirds of your gross income for 1997 was from farming, use as your gross income the total of the following **income** (not loss) amounts from your tax return.

- 1) Wages, salaries, tips, etc.
- 2) Taxable interest.
- 3) Dividends.
- 4) Taxable refunds of state and local taxes.
- 5) Alimony received.
- 6) Gross business income from Schedule C (Form 1040), line 7.
- 7) Gross receipts from Schedule C-EZ (Form 1040), line 1.
- 8) Capital gains from Schedule D (Form 1040). Losses cannot be netted against gains.
- 9) Gains on sales of business property from Form 4797.
- 10) Taxable IRA distributions, pensions, annuities, and social security benefits.
- 11) Gross rental income from Schedule E (Form 1040), line 3.
- 12) Gross royalty income from Schedule E (Form 1040), line 4.
- 13) Your taxable net income from an estate or trust, Schedule E (Form 1040), line 36.
- 14) Income from a REMIC reported on Schedule E (Form 1040), line 38.
- 15) Gross farm rental income from Form 4835, line 7.
- 16) Farm income from Schedule F (Form 1040), line 11.
- 17) Your distributive share of gross income from a partnership or limited liability company treated as a partnership.
- 18) Your pro rata share of gross income from an S corporation.
- 19) Unemployment compensation.
- 20) Other income reported on Form 1040, line 21, not reported with any of the items listed above.

There are brief descriptions of forms and schedules used by farmers later.

Gross Income From Farming

Gross income from farming includes:

- 1) Gross farm income from Schedule F (Form 1040), line 11.
- 2) Gross farm rental income from Form 4835, line 7.
- 3) Gross farm income from Schedule E (Form 1040), Parts II and III. See the instructions for line 41.
- 4) Gains from the sale of livestock used for draft, breeding, sport, or dairy purposes reported on Schedule D (Form 1040) or Form 4797.



Wages you receive as a farm employee are not farm income. This includes wages you receive from a farm corporation even if you are a stockholder in the corporation. If all or most of your income is from wages as a farm employee, your employer is usually required to withhold income tax from your wages. You may also have to make estimated tax payments if you do not have enough tax withheld. For more information, see Publication 505.

Percentage From Farming

Total your gross income from all sources as shown earlier. Then total your gross income from farming. Divide your farm gross income by your total gross income to determine the percentage of gross income from farming.

Example 1. James Smith had the following total gross income and farm gross income in 1997:

	Total	Farm
Taxable interest	\$43,000	
Dividends	500	
Rental income (Sch E)	1,500	
Farm income (Sch F)	75,000	\$75,000
Schedule D	5,000	5,000
Total	\$125,000	\$80,000

Schedule D showed gains from the sale of dairy cows carried over from Form 4797 (\$5,000) in addition to losses from the sale of corporate stock (\$2,000). Mr. Smith's gross farm income is 64% of his total gross income ($\$80,000 \div \$125,000 = .64$). Therefore, he does not qualify to use special estimated tax and return due dates for 1997. However, he can still qualify for 1997 if at least two-thirds of his 1996 gross income was from farming.

Example 2. Assume the same facts as in Example 1 except that Mr. Smith also received gross farm rental income (Form 4835) of \$15,000. This made his total gross income \$140,000 and his farm gross income \$95,000. He qualifies to use special estimated tax and return due dates since at least two-thirds of his gross income is from farming [$\$95,000 \div \$140,000 = .679$ (67.9%)].

Due Dates for Qualified Farmers

If at least two-thirds of your gross income for 1996 or 1997 was from farming, you have only one payment due date for 1997 estimated tax—January 15, 1998.

For your 1997 tax, you may either:

- 1) Pay all your estimated tax (figured on **Form 1040-ES**) by January 15, 1998, and file your Form 1040 by April 15, 1998, or
- 2) File your Form 1040 by March 2, 1998, and pay all the tax due. You are not required to make an estimated tax payment. If you pay all the tax due, you will not be penalized for failure to pay estimated tax.



If at least two-thirds of your gross income for 1997 or 1998 is from farming, for your 1998 tax, you may either:

- 1) *Pay all your estimated tax by January 15, 1999, and file your Form 1040 by April 15, 1999, or*

- 2) *File your Form 1040 by March 1, 1999, and pay all the tax due.*

Required annual payment. If at least two-thirds of your gross income for 1996 or 1997 was from farming, the required annual payment due January 15, 1998, is the **smaller** of:

- 1) $66\frac{2}{3}\%$ (.6667) of your total tax for 1997, or
- 2) 100% of the total tax shown on your 1996 return. (The return must cover all 12 months.)



If at least two-thirds of your gross income for 1997 or 1998 is from farming, the required annual payment due January 15, 1999, is the smaller of:

- 1) $66\frac{2}{3}\%$ (.6667) of your total tax for 1998, or
- 2) 100% of the total tax shown on your 1997 return. (The return must cover all 12 months.)

Fiscal year farmers. If you qualify to use these special rules but your tax year does not start on January 1, you may file your return and pay the tax by the first day of the 3rd month after the close of your tax year. Or you may pay your required estimated tax within 15 days after the end of your tax year. Then file your return and pay any balance due by the 15th day of the 4th month after the end of your tax year.

Due Dates for Nonqualified Farmers

If less than two-thirds of your gross income for 1996 and 1997 was from farming, you cannot use these special estimated tax payment and return due dates for your 1997 tax year. In this case, you generally must make quarterly estimated tax payments on April 15, June 16, and September 15, 1997, and on January 15, 1998. You must file your return by April 15, 1998.



If less than two-thirds of your gross income for 1997 and 1998 is from farming, you cannot use these special estimated tax payment and return due dates for your 1998 tax year. In this case, you generally must make quarterly estimated tax payments on April 15, June 15, and September 15, 1998, and on January 15, 1999. You must file your return by April 15, 1999.

For more information on estimated taxes, see Publication 505.

Estimated Tax Penalty for 1997

If you did not pay all your required estimated tax for 1997 by January 15, 1998, and do not file your 1997 return and pay the tax by March 2, 1998, use **Form 2210-F, Underpayment of Estimated Tax by Farmers and Fishermen**, to determine if you owe a penalty. If you owe a penalty but do not file Form 2210-F with your return and pay the penalty, you will get a notice from the IRS. You should pay the penalty as instructed by the notice.

If you file your return by April 15 and pay the bill within 10 days after the notice date, the IRS will not charge you interest.

Occasionally, you may get a penalty notice even though you filed your return on time, attached Form 2210-F, and met the gross income test. If you receive a penalty notice for underpaying estimated tax that you think is in error, write to the address on the notice and explain why you think the notice is in error. Include a computation, similar to the one in Example 1, showing that you meet the gross income test. Do not ignore a penalty notice, even if you think it is in error.

Other Filing Information for 1997

Payment date on holiday or weekend. If the last day for filing your return or making a payment falls on a Saturday, Sunday, or legal holiday, your return or payment will be on time if it is filed or made on the next business day.

Automatic extension of time to file Form 1040. If you do not choose to file your 1997 return by March 2, 1998, the due date for your return will be April 15, 1998. However, you can get an automatic 4-month extension of time to file your return. Your Form 1040 would then be due by August 17, 1998. To get this extension, file Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return*, by April 15, 1998. Form 4868 does not extend the time to pay the tax. For more information, see the instructions for Form 4868.



This extension does not extend the March 2, 1998, filing date for farmers who did not make an estimated tax payment and want to avoid an estimated tax penalty. Therefore, if you did not make an estimated tax payment by January 15, 1998, and you file your tax return after March 2, 1998, you will be subject to a penalty for underpaying your estimated tax, even if you file Form 4868.

Return Forms

When filing your income tax return, arrange your forms and schedules in the correct order using the sequence number located in the upper right corner of each form. Attach all other statements or attachments last, arranged in the same order as the forms or schedules they support.

Farmers can use the following forms and schedules. Some of them are illustrated in chapter 20.

Form 1040. This form is the income tax return. List taxable income from all sources on Form 1040, including profit or loss from farming operations as figured on Schedule F (Form 1040). Figure the tax on this form, also.

Schedule A, Itemized Deductions. List nonbusiness itemized deductions on this schedule.

Schedule B, Interest and Dividend Income. Report interest and dividend income of more than \$400 on this schedule.

Schedule C, Profit or Loss From Business. List income and deductions and determine the net profit or loss from a nonfarm business on this schedule.

Schedule C-EZ, Net Profit From Business. Use this schedule in place of Schedule C if nonfarm business expenses are \$2,500 or less and other requirements are met.

Schedule D, Capital Gains and Losses. Report gains and losses from sales of capital assets on this schedule.

Schedule E, Supplemental Income and Loss. Report income or losses from rents, royalties, partnerships, estates, trusts, and S corporations on this schedule.

Schedule F, Profit or Loss From Farming. Use this schedule whether you file on the cash or an accrual method of accounting. List all farm income and deductions and determine the net farm profit or loss on this schedule.

Schedule SE, Self-Employment Tax. Figure self-employment tax on this schedule. See chapter 15.

Form 1040-ES. Figure and pay estimated tax on Form 1040-ES, *Estimated Tax for Individuals*. See *Estimated Tax and Return Due Dates*, earlier.

Form 2210-F. Figure any underpayment of estimated tax and the penalty on Form 2210-F, *Underpayment of Estimated Tax by Farmers and Fishermen*.

Form 3468. Figure the investment credit on Form 3468, *Investment Credit*. See chapter 9.

Form 3800. Figure the general business credit on Form 3800, *General Business Credit*. See chapter 9.

Form 4136. Figure the credit for federal tax on gasoline and special fuels on Form 4136, *Credit for Federal Tax Paid on Fuels*. See chapter 18.

Form 4255. Figure the tax from the recapture of investment credit on Form 4255, *Recapture of Investment Credit*. See chapter 9.

Form 4562. Explain the deductions for depreciation and amortization on Form 4562, *Depreciation and Amortization*. See chapter 8.

Form 4684. Report gains and losses from casualty and theft of business and personal-use property on Form 4684, *Casualties and Thefts*. See chapter 13.

Form 4797. Report gains and losses from the sale or exchange of business property and from certain involuntary conversions on Form 4797, *Sales of Business Property*. See chapter 11.

Form 4835. Report on Form 4835, *Farm Rental Income and Expenses*, farm rental income received as a share of crops or livestock produced by a tenant if you, the landlord, did not materially participate in the operation or management of the farm. See chapter 4.

Form 4868. Apply for an extension of time to file your tax return on Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return*. It does not, however, extend the time to pay any tax due.

Form 6251. Figure the alternative minimum tax on Form 6251, *Alternative Minimum Tax-Individuals*. See chapter 14.

Form 8824. Report the exchange of business or investment property for like-kind property on Form 8824, *Like-Kind Exchanges*. It is filed with Schedule D (Form 1040) or Form 4797. See chapter 10.

Other Forms

You may file the forms below in certain situations.

Form W-2. If you are in the trade or business of farming, prepare Form W-2, *Wage and Tax Statement*, for each employee you paid for services, including any payment that was not in cash. You must show, in the space marked *Wages, tips, other compensation*, the total paid to the employee. Give copies B and C of Form W-2 to the employee by the last day of January. Send Copy A of each Form W-2 to the Social Security Administration with a completed Form W-3, *Transmittal of Income and Tax Statements*, by the last day of February. See chapter 16.

Form 940. File Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*, by January 31 of the following year if you were subject to FUTA tax. If all the tax due was deposited by January 31, you can file Form 940 as late as February 10. See chapter 16.

Form 940-EZ. Form 940-EZ is a simplified version of Form 940.

Form 943. File Form 943, *Employer's Annual Tax Return for Agricultural Employees*, by January 31 of the following year if you were required to withhold and pay withheld income, social security, and Medicare taxes on farm labor wages you paid during the calendar year. If you deposited all the tax due by January 31, you can file Form 943 as late as February 10.

Form 1065. A farm partnership files Form 1065, *U.S. Partnership Return of Income*. See *Partnership*, later.

Form 1120. A corporation files Form 1120, *U.S. Corporation Income Tax Return*. See *Corporation*, later.

Form 1120-A. Many small corporations can use Form 1120-A, *U.S. Corporation Short-Form Income Tax Return*, instead of Form 1120.

Form 1120S. An S corporation files Form 1120S, *U.S. Income Tax Return for an S Corporation*. See *S Corporation*, later.

Form 2290. File Form 2290, *Heavy Vehicle Use Tax Return*, if a truck or truck tractor registered in your name is:

- 1) A highway motor vehicle.
- 2) Required to be registered for highway use.
- 3) Actually used at least once on a public highway.
- 4) Has a taxable gross weight of at least 55,000 pounds.

See the instructions for Form 2290.

Form 8109. Deposit employment taxes not deposited electronically with Form 8109, *Federal Tax Deposit Coupon*. In general, income tax withheld plus the employer and

employee's share of social security and Medicare taxes that total \$500 or more must be deposited. The IRS will send you a coupon book for making deposits when you apply for an employer identification number (EIN).



Certain farmers must deposit taxes electronically. See chapter 16.

Form 8822. Notify IRS of a change in your home or business address with Form 8822, *Change of Address*. Include the suite, room, or other unit number if it is required in the address and send the form to the Internal Revenue Service Center for your old address.

Ordering forms. See chapter 21 for information about getting any of the forms listed in this section.

Information Returns

Information returns provide information the IRS requires, other than taxes due. There are many information returns, including Form W-2, discussed earlier. This discussion, however, is limited to Form 1099-INT, Form 1099-MISC, and Form 1096.

Form 1099-INT. Report interest payments, including interest paid on installment sale contracts, of \$600 or more on Form 1099-INT, *Interest Income*.

Form 1099-MISC. If you make total payments of \$600 or more during the calendar year to another person, other than a corporation, in the course of your farm business, you must file information returns to report these payments. Payments of \$600 or more made for items such as custom harvesting, crop sprayers, services of a veterinarian, rents, commissions, fees, prizes, awards, services of an independent contractor, other payments and compensation, and services provided by nonemployees are reported on Form 1099-MISC, *Miscellaneous Income*. Payments of \$10 or more for royalties are also reported on Form 1099-MISC.

Do not report payments for merchandise, freight, and similar charges on Form 1099-MISC. However, if you pay a contractor who is not a dealer in supplies for both supplies and services, include the payment for supplies used to perform the services as long as providing the supplies was incidental to providing the service.

Also use Form 1099-MISC to report to the payee and to the IRS payments you made that were subject to backup withholding and the amounts you withheld.

Report payments for compensation to employees on Form W-2, **not** on Form 1099-MISC. See chapter 16.

Preparation of returns. You must prepare separate copies of Form 1099-INT and Form 1099-MISC for each person. File one copy of the form with the IRS. Give each person to whom you paid \$600 or more a statement (or copy of the form) by January 31 of the following year. Instructions for completing these forms are in the *Instructions for Forms 1099, 1098, 5498, and W-2G*.

Form 1096. When sending copies to the IRS, use a separate transmittal, Form 1096, *Annual Summary and Transmittal of U.S. Information Returns*, for each different type of

form. Because these forms are read by machine, there are very specific instructions for their preparation and submission. You may be subject to a penalty for each incorrectly filed document.

Penalties. If you file information returns late, without all information required to be on the return, or with incorrect information, you may be subject to a penalty. See the *Instructions for Forms 1099, 1098, 5498, and W-2G* for information on Form 1099 penalties.

Partnership

A partnership is the relationship between two or more persons who join together to carry on a trade or business, including farming. Each person contributes money, property, labor, or skill, and expects to share in the profits and losses.

For federal income tax purposes, the term "partnership" includes a syndicate, group, pool, joint venture, or similar organization carrying on a trade or business and not classified as a trust, estate, or corporation.

Family partnership. Members of the same family can, and often do, form valid partnerships. For instance, a husband and wife or parents and children can conduct a farming enterprise through a partnership. To be recognized as a partnership for federal tax purposes, a partner relationship must be established and certain requirements must be met. For information on these requirements, see *Family Partnership* in Publication 541. Merely doing chores, helping with the harvest, or keeping house and cooking for the family and hired help does not establish a partnership.

If a husband and wife are partners in a farm operation or other business, they should report their partnership income on Form 1065. (See *Form 1065*, later.)

Self-employment tax. Unless you are a limited partner, your distributive share of income from a partnership is self-employment income. If you and your spouse are partners, each should report his or her share of partnership income or loss on a separate Schedule SE (Form 1040), *Self-Employment Tax*. This will give each of you credit for social security earnings on which retirement benefits are based. The self-employment tax of a member of a partnership engaged in farming is discussed in chapter 15.

Co-ownership and sharing expenses. Mere co-ownership of property that is maintained and leased does not constitute a partnership. For example, if an individual owner or tenants-in-common of farm property lease that property for cash rental or a share of the crops, a partnership is not necessarily created by the leasing. However, tenants-in-common may be partners if they actively carry on a farm or other business operation and share its profits and losses. A joint undertaking merely to share expenses is not a partnership.

Partner's distributive share. Each partner's distributive share of partnership income, gain, loss, etc., must be included on that partner's tax return, even if the items were not distributed.

Ending partnership. When you create a partnership, you generally do not recognize gain or loss on contributions of money or property you make to the partnership. However, you generally recognize gain or loss when you end the partnership.

You may be able to avoid recognizing gain or loss when ending the partnership if you buy out your partners or change to a corporation status.

Form 1065. Partnerships file a return on Form 1065, *U.S. Partnership Return of Income*. This is an information return showing the income and deductions of the partnership, the name and address of each partner, and each partner's distributive share of income, gain, loss, deductions, credits, etc. No tax is due on Form 1065.

Form 1065 is not required until the first tax year the partnership has income or deductions. In addition, it is not required for any tax year a partnership has no income and expenses.

Schedule F (Form 1040). Use Schedule F (Form 1040) to report the farm partnership profit or loss. This schedule should be filed with Form 1065. The profit or loss shown on Schedule F, adjusted for amounts to be reported on Schedule K-1 and Schedule K of Form 1065, is entered on line 5 of Form 1065.

Other schedules. Each partner's distributive share of partnership items, such as ordinary income or loss, capital gain or loss, net earnings from self-employment, etc., is entered on Schedule K-1 of Form 1065. Fill in all other schedules on Form 1065 that apply to you.

Filing penalty. A penalty is assessed against the partnership if the partnership is required to file a partnership return and:

- 1) Fails to file the return on time, including extensions, or
- 2) Files a return that fails to show all the information required.

The penalty is \$50 multiplied by the number of partners per month (or part of a month), for a maximum of 5 months.

However, a partnership does not have to pay the penalty if it can show reasonable cause for failure to file a return. A family farm partnership with 10 or fewer partners is generally considered to meet this requirement if it can show that:

- 1) All partners have reported their entire share of all partnership items on timely filed income tax returns.
- 2) Each partner's proportionate share of each partnership item is the same.
- 3) The partnership has no foreign or corporate partners.

More information. For more information on partnerships, see Publication 541.

Limited Liability Company (LLC)

An LLC is an entity formed under state law by filing articles of organization as an LLC. None of the members of an LLC are personally liable for its debts.

An LLC can be classified as either a partnership or a corporation for federal income tax purposes. See *Corporation*, later, for the

rules you must use to determine whether an LLC is treated as a corporation. If an LLC is not treated as a corporation, and has 2 or more members, it is treated as a partnership.

Depending on its classification, an LLC would file either Form 1065 or Form 1120. If an LLC is treated as a partnership, see Publication 541 for information on partnerships. If it is treated as a corporation, see Publication 542 for information on corporations.

Corporation

The rules you must use to determine whether your business is taxed as a corporation changed for businesses formed after 1996. However, if your business was formed before 1997 and taxed as a corporation under the old rules, it will generally continue to be taxed as a corporation.

Businesses formed after 1996. The following businesses formed after 1996 are taxed as corporations.

- 1) A business formed under a federal or state law that refers to the business as a corporation, body corporate, or body politic.
- 2) A business formed under a state law that refers to the business as a joint-stock company or joint-stock association.
- 3) An insurance company.
- 4) Certain banks.
- 5) A business owned by a state or local government.
- 6) A business specifically required to be taxed as a corporation by the Internal Revenue Code. (For example, certain publicly traded partnerships.)
- 7) Certain foreign businesses.
- 8) Any other business formed after 1996, if an election to be taxed as a corporation is filed for the business on Form 8832 within 75 days of the date it is formed.

For more information, see the instructions for Form 8832, *Entity Classification Election*.

Corporate tax. Corporate profits are normally taxed to the corporation. When the profits are distributed as dividends, the dividends are taxed to the shareholders.

In figuring its taxable income, a farm corporation generally takes the same deductions that a noncorporate farmer would claim on Schedule F (Form 1040). Corporations are also entitled to special deductions.

Forming a corporation. A corporation is formed by a transfer of money, property, or both by prospective shareholders in exchange for capital stock in the corporation.

If money is exchanged for stock, no gain or loss is realized by the shareholder or corporation. The stock received by the shareholder has a basis equal to the money transferred to the corporation by the shareholder.

If property is exchanged for stock, it may be either a taxable or nontaxable exchange.

Form 1120. Corporations file Form 1120 or Form 1120-A. A corporation must file an income tax return unless it has dissolved. This

applies even if it ceased doing business and disposed of all its assets except for a small sum of cash retained to pay state taxes to keep its corporate charter.

More information. For more information on corporations, see Publication 542.

S Corporation

A qualifying corporation can choose to have its income taxed to the shareholders rather than to the corporation itself, except as noted below under *Taxes*. Its shareholders will then include in income their share of the corporation's nonseparately stated income or loss and separately stated items of income, deduction, loss, and credit. A corporation making this choice is known as an S corporation.

To make this election, a corporation, in addition to other requirements, must not have more than 75 shareholders. Each of its shareholders must also consent to the election.

Taxes. Although it is generally not liable for federal income tax itself, an S corporation may have to pay the following taxes.

- 1) A tax on:
 - a) Excess passive investment income,
 - b) Certain capital gains, or
 - c) Built-in gains.
- 2) The tax from recomputing a prior year's investment credit.
- 3) LIFO recapture tax.

An S corporation may have to make quarterly estimated tax payments for these taxes.

Form 1120S. An S corporation files its return on Form 1120S.

More information. For more information on S corporations, see the instructions for Form 1120S.

3.

Accounting Periods and Methods

Introduction

Each taxpayer (business or individual) must figure taxable income on an annual accounting period, called a tax year. Also, each taxpayer must use a consistent accounting method that accurately accounts for income and expenses. For more detailed information, such as how to change an accounting period

or method, see Publication 538.

Topics

This chapter discusses:

- ☒ Calendar tax year
- ☒ Fiscal tax year
- ☒ Cash method of accounting
- ☒ Accrual method of accounting

Useful Items

You may want to see:

Publication

- ☐ **538** Accounting Periods and Methods

Form (and Instructions)

- ☐ **3115** Application for Change in Accounting Method

See chapter 21 for information about getting this publication and form.

Accounting Periods

A "tax year" is an annual accounting period for keeping records and reporting income and expenses. The tax years you can use are:

- 1) A calendar year.
- 2) A fiscal year.

You adopt a tax year when you file your first income tax return. You must adopt your first tax year by the due date (not including extensions) for filing a return for that year.

Calendar year. If you adopt the calendar year as your tax year, you must maintain your financial records and report your income and expenses from January 1 through December 31 of each year.

If you file your first return using the calendar year and you later begin business as a farmer, become a partner in a partnership, or become a shareholder in an S corporation, you must continue to use the calendar year unless you get IRS approval to change it. You must report your income from all sources, including dividends and your farm, salary, and partnership income, using the same tax year.

Generally, anyone can adopt the calendar year. However, if any of the following apply, you are **required** to adopt the calendar year.

- 1) You do not keep adequate records.
- 2) You have no annual accounting period.
- 3) Your present tax year does not qualify as a fiscal year.

Fiscal year. A fiscal year is 12 consecutive months ending on the last day of any month except December. A fiscal year also includes a 52-53 week annual accounting period. If you adopt a fiscal year, you must maintain your books and records and report your income and expenses using the same tax year.

Partnership or S corporation. Special restrictions apply to the tax year that a partnership or an S corporation can adopt. See *Partnerships, S Corporations, and Personal Service Corporations* in Publication 538.

Accounting Methods

An accounting method is a set of rules used to determine when and how income and expenses are reported. The term "accounting method" includes not only the overall method of accounting you use, but also the method of accounting you use for any item. You must file your return using the same method you use for your tax records.

You choose your accounting method when you file your first tax return. However, you cannot use the crop method for any return, including your first return, unless you get IRS approval. The crop method is discussed later. Getting IRS approval to change an accounting method is discussed later in *Change in Accounting Method*.

You can use any of the following accounting methods.

- 1) Cash method.
- 2) An accrual method.
- 3) Special methods for certain items of income and expenses.
- 4) Combination (hybrid) method using elements of two or more of the above.

If you have more than one business, you can use a different accounting method for each business if you keep a complete and separate set of books and records for each business.

Cash Method

Most farmers use the cash method because they find it easier to keep cash method records. However, if you use an inventory to figure gross income, you must use an accrual method of accounting for purchases and sales. Certain farm corporations and partnerships, or any tax shelter, cannot use the cash method. See *Accrual Method*, later.

Income

Under the cash method, you include all amounts you actually or constructively received during the year in income for that year. If you receive property or services, you must include their fair market value in income.

Constructive receipt. Income is constructively received when an amount is credited to your account or made available to you without restriction. You need not have possession of it. The receipt of a check is constructive receipt of money, even if you do not deposit or cash it in the tax year you receive it. An amount credited to your account at a bank, store, grain elevator, etc., is constructively received in the year it is credited.

Installment sale. If you sell an item under a deferred payment contract that calls for payment the following year, there is no constructive receipt in the year of sale. However, see the following *Example* for an exception to this rule.

Example. You are a farmer who uses the cash method and a calendar year. You sell grain in December 1997 under a bona fide arm's-length contract that calls for payment in 1998. You include the sale proceeds in your 1998 gross income since that is the year payment is received. However, if the contract says you have the right to the proceeds from the buyer at any time after the grain is deliv-

ered, you must include the sale price in your 1997 income, regardless of when you actually receive payment.

Alternative minimum tax. When figuring the alternative minimum tax, a cash basis farmer who sells farm property under the installment method can also use that method to figure his or her alternative minimum taxable income for the year. See the instructions for Form 6251.

Items to include in income. Your gross income for the tax year includes:

- 1) Cash and the value of merchandise or other property you receive during the tax year from the sale of livestock, poultry, vegetables, fruits, etc., that you raised.
- 2) Your profit from the sale of all other livestock or other items purchased for resale.
 - a) To find your profit, deduct the cost or other basis of the property, plus selling expenses, from the sale proceeds.
 - b) You generally cannot deduct the cost of items purchased for resale in the year paid unless the payment and sale occur in the same year. However, see chapter 5 for information on when to deduct the cost of chickens, seeds, and young plants.
- 3) Breeding fees, fees from the rent or lease of animals, machinery, or land, and other incidental farm income.
- 4) All subsidy and conservation payments you receive that are considered income.
- 5) Your gross income from other sources.

Crop insurance proceeds can be reported in income in the year following the year of loss under certain conditions. See *Crop Insurance and Disaster Payments* in chapter 4.

Expenses

You deduct farm business expenses only in the tax year you pay them. However, you cannot deduct certain prepaid expenses for supplies until they are actually used or consumed. You cannot use an inventory to figure income on the cash method or deduct certain prepayments of interest. For more information on prepaid supplies, interest, and other expenses, see chapter 5.

Accrual Method

Under an accrual method of accounting, you generally report income in the year earned and deduct or capitalize expenses in the year incurred. The purpose of this method of accounting is to match income and expenses in the correct year.

Income

You generally include an amount as income for the tax year in which all events have occurred that fix your right to receive the income and you can determine the amount with reasonable accuracy.

Items to include in income. If you use an accrual method of accounting, you must use an inventory to figure your gross income. You figure gross income using increases and de-

creases in inventory values of livestock, produce, feed, etc., between the beginning of the year and the end of the year. A complete inventory of these items is required for reporting income on an accrual method. For more information on an inventory, see *Farm Inventory*, later.

To figure gross income on an accrual method:

- 1) Add the following items:
 - a) Proceeds from the sale during the year of all livestock and livestock products, such as milk.
 - b) Inventory value of livestock and products not sold at the end of the year.
 - c) Miscellaneous items of income you earn during the year, such as breeding fees, fees from renting or leasing animals, machinery, or land, or other incidental farm income.
 - d) Subsidy or conservation payments you receive that are considered income.
 - e) Your gross income from all other sources.
- 2) Then subtract the total of the following:
 - a) Inventory value of the livestock and products you had on hand at the beginning of the year.
 - b) Cost of any livestock or products you purchased during the year, including livestock held for draft, dairy, or breeding purposes if they are included in inventory. Do not subtract their cost unless they are included in inventory.

Expenses

You generally deduct or capitalize an expense in the tax year when all the following apply.

- 1) The all-events test has been met:
 - a) All events have occurred that fix the fact of liability, and
 - b) The liability can be determined with reasonable accuracy.
- 2) Economic performance has occurred.

You generally cannot deduct or capitalize a business expense until economic performance occurs. If your expense is for property or services provided to you, or for your use of property, economic performance occurs as the property or services are provided or the property is used. If your expense is for property or services you provide to others, economic performance occurs as you provide the property or services. See Publication 538.

Example. Jane is a farmer who uses a calendar tax year and an accrual method of accounting. She enters into a turnkey contract with Waterworks in 1997. The contract states Jane must pay Waterworks \$200,000 in December 1997 and they will install a complete irrigation system, including a new well, by the close of 1999. She pays Waterworks \$200,000 in December 1997, they start the installation in May 1999, and they complete the irrigation system in December 1999.

Economic performance for Jane's liability in the contract occurs as the services are

provided. Jane incurs the \$200,000 cost in 1999.

Accrual Method Required

A corporation or a partnership with a corporate partner must use an accrual method of accounting. (This rule does not apply to S corporations.)

Tax shelter. A tax shelter farm business is also required to use an accrual method of accounting unless it is excepted from the rule described later in *Accrual Method Not Required*.

A farm business is a tax shelter if it is a partnership, noncorporate enterprise, or S corporation and:

- 1) Avoidance or evasion of federal income tax is the principal purpose of the entity, or
- 2) It is a farming syndicate. An entity is a farming syndicate if:
 - a) Interests in the activity have ever been offered for sale in any offering required to be registered with any federal or state agency with the authority to regulate the offering, or
 - b) More than 35% of the losses during the tax year are allocable to limited partners or limited entrepreneurs.
 - i) A "limited partner" is one whose personal liability for partnership debts is limited to the money or other property the partner contributed or is required to contribute to the partnership.
 - ii) A "limited entrepreneur" is a person who has an interest in an enterprise other than as a limited partner and does not actively participate in the management of the enterprise.

Accrual Method Not Required

The following entities engaged in farming can generally use the cash method of accounting.

- 1) An S corporation.
- 2) A corporation whose gross receipts for each tax year are \$1 million or less.
- 3) A corporation, or partnership with corporate partners, whose trade or business is operating a nursery or sod farm or raising or harvesting trees, other than fruit and nut trees.
- 4) A **family farm corporation** whose annual gross receipts for each tax year beginning after 1985 are \$25 million or less and it qualifies as one of the following corporations in which:
 - a) Members of the same family own at least 50% of the total combined voting power of all classes of stock entitled to vote and at least 50% of the total shares of all other classes of stock of the corporation.
 - b) Members of two families owned, directly or indirectly, on October 4, 1976, and since then, at least 65% of the total combined voting power of all classes of stock entitled to

vote and at least 65% of the total shares of all other classes of stock of the corporation.

- c) Members of three families owned, directly or indirectly, on October 4, 1976, and since then, at least 50% of the total combined voting power of all classes of stock entitled to vote and at least 50% of the total shares of all other classes of stock. Also, substantially all of the remaining stock must be owned by:
 - i) Corporate employees,
 - ii) Their family members, or
 - iii) A tax-exempt employees' trust for the benefit of the corporation's employees.



A corporation (other than an S corporation) also engaged in a nonfarming business activity cannot use the cash method for the nonfarming activity if its average annual gross receipts for the 3 prior tax years are more than \$5 million. For this purpose, "farming business" does not include processing commodities or products beyond those activities normally incident to the growing, raising, or harvesting of the product. For example, processing grain to produce bread and cereal to sell is not a farming business.

Farm Inventory

If you use an inventory to figure your gross income, you must use an accrual method of accounting. You should keep a complete record of your inventory as part of your farm records. This record should show the actual count or measurement of the inventory. It should also show all factors that enter into its valuation, including quality and weight if they are required.

Items to include in inventory. Your inventory should include all items held for sale or use as feed, seed, etc., whether raised or purchased, that are unsold at the end of the year.

Hatchery business. If you are in the hatchery business, you must include eggs in the process of incubation.

Products held for sale. All harvested and purchased farm products held for sale or for feed or seed, such as grain, hay, silage, concentrates, cotton, tobacco, etc., must be included.

Supplies. You must inventory supplies acquired for sale or that become a physical part of items held for sale. Do not include the other supplies in the year used or consumed in operations. You can also deduct incidental supplies in the year of purchase.

Fur-bearing animals. If you are in the business of breeding and raising chinchillas, mink, foxes, or other fur-bearing animals, you are a farmer and these animals are livestock. You can use any of the inventory and accounting methods discussed in this chapter.

Growing crops. You are generally not required to inventory growing crops. However, if the crop has a preproductive period of more than 2 years, you may have to capitalize or include in inventory costs associated with the crop. You cannot take a current deduction for costs incurred during the preproductive period. See *Uniform Capitalization Rules* in chapter 7.

Required to use accrual method. If you are required to use an accrual method of accounting:

- 1) The uniform capitalization rules apply, even if the preproductive period of raising a plant is 2 years or less.
- 2) All animals are subject to the uniform capitalization rules, regardless of age or whether held primarily for slaughter.

Inventory valuation methods. You can generally use the following methods to value your inventory:

- 1) Cost.
- 2) Lower of cost or market.
- 3) Farm-price method.
- 4) Unit-livestock-price method for livestock.

Cost and lower of cost or market methods. See Publication 538 for information on these valuation methods.

Farm-price method. Under this method, each item, whether raised or purchased, is valued at its market price less the estimated direct cost of disposition. Market price is the current price at the nearest market in the quantities you usually sell. Cost of disposition includes any broker's commission, freight, hauling to market, and other marketing costs.

If you use this method, you must use it for your entire inventory, except that livestock can be inventoried on the unit-livestock-price method.

Unit-livestock-price method. This method recognizes the difficulty of establishing the exact costs of producing and raising each animal. You group or classify livestock according to type and age and use a standard unit price for each animal within a class or group. The unit price you assign should reasonably approximate the normal costs incurred. Unit prices and classifications are subject to approval by the IRS on examination of your return. You cannot change them without IRS approval.

If you use this method, you must include all raised livestock in inventory, regardless of whether they are held for sale or for draft, breeding, dairy, or sporting purposes. This method accounts only for the increase in cost of raising an animal to maturity. It does not provide for any decrease in the animal's market value after it reaches maturity. Also, if you raise cattle, you are not required to inventory hay you grow to feed your herd.

Do not include sold or lost animals in the year-end inventory. If your records do not show which animals were sold or lost, treat the first animals acquired as sold or lost. The animals on hand at the end of the year are considered the most recently acquired.

You must include in inventory all livestock purchased primarily for sale. You can include livestock purchased for draft, breeding, dairy, or sporting purposes or treat them as depreciable assets. However, you must be consistent from year to year, regardless of the practice you have chosen. You cannot change your practice unless you get IRS approval.

You must inventory animals purchased after maturity or capitalize them at their purchase price. If the animals are not mature at purchase, increase the cost at the end of each tax year according to the established unit price. However, in the year of purchase, do not increase the cost of any animal pur-

chased during the last six months of the year. This rule does not apply to tax shelters, which must make an adjustment for any animal purchased during the year.

Uniform capitalization rules. A farmer can determine costs required to be allocated under the uniform capitalization rules by using the farm-price or unit-livestock-price inventory method. This applies to any plant or animal, even if the farmer does not hold or treat the plant or animal as inventory property.

Cash Versus Accrual Method

The following examples compare the cash and accrual methods of accounting.

Example 1. You are a farmer who uses an accrual method of accounting. You keep your books on the calendar year basis. You sell grain in December 1997, but you are not paid until January 1998. You must include both the sale proceeds and your costs incurred in producing the grain on your 1997 tax return. Under an accrual method of accounting, you report your profit or loss for the year in which all events occurred that fix your right to receive income from the transaction and you can determine your profit or loss with reasonable accuracy.

Example 2. Assume the facts in Example 1 except that you use the cash method and there was no constructive receipt of the sale proceeds in 1997. Under this method, you include the sale proceeds in income for 1998, the year you receive payment. You deduct the cost of producing the grain in the year you pay it.

Special Methods of Accounting

There are special methods of accounting for certain items of income and expense.

Crop method. If you do not harvest and dispose of your crop in the same tax year you plant it, you can, with IRS approval, use the crop method of accounting. Under this method, you deduct the entire cost of producing the crop, including the expense of seed or young plants, in the year you realize income from the crop.

You cannot use this method for timber or any commodity subject to the uniform capitalization rules.

Other special methods. Methods of accounting for depreciation, amortization, and depletion are explained in chapter 8. Accounting for an installment sale is explained in chapter 12.

Combination (Hybrid) Method

You can generally use any combination of cash, accrual, and special methods of accounting if it clearly shows your income and you use it consistently. However, the following restrictions apply:

- 1) If an inventory is necessary to account for income, you must use an accrual method for purchases and sales. You can use the cash method for all other items of income and expense. See *Farm Inventory*, earlier.

- 2) If you use the cash method for figuring income, you must use the cash method for reporting your expenses.
- 3) If you use an accrual method for reporting expenses, you must use an accrual method for figuring your income.

Any combination that uses the cash method is treated as the cash method.

Change in Accounting Method

When you file your first return you can choose any permitted accounting method except the crop method, discussed earlier, without IRS approval. The method must clearly show your income and be used consistently from year to year. If you want to change your accounting method after that, you must get IRS approval unless you qualify under one of the exceptions described next under *Approval not required*.

A change in your accounting method includes a change in:

- 1) Your overall method, such as from cash to an accrual method or vice versa, and
- 2) Your treatment of any material item, such as a change in your method of valuing inventory.

Approval not required. You do not need IRS approval to change your accounting method in the following situations.

- 1) You value livestock inventory at cost or the lower of cost or market and you change to the unit-livestock-price method.
- 2) You are a **family farm corporation**, described earlier under *Accrual Method Not Required*, and you must change to an accrual method because your annual gross receipts are more than \$25 million. However, you must establish a suspense account to reduce the section 481 adjustments you must include in income. See section 447(i) of the Internal Revenue Code for information about suspense accounts.

Approval required. You need IRS approval to change your accounting method before you can:

- 1) Change from cash to an accrual method or vice versa.
- 2) Change the method or basis used to value inventory.
- 3) Adopt any specialized method of computing net income, such as the crop method, or change the use of a specialized method.
- 4) Transfer draft, dairy, or breeding animals from inventory to a fixed asset account.
- 5) Change from reporting loan proceeds from the Commodity Credit Corporation (CCC) as income in the year received to reporting the proceeds as income in the year of sale.

Form 3115. Generally, you must file a current Form 3115 to get IRS approval to change your accounting method. You must file the form as early as possible during the tax year for which you request the change and you must furnish the applicable informa-

tion requested on the form. You may be required to send a user fee with the form. See the Form 3115 instructions for more information.

If you want to change your method of reporting CCC loans, you must request the application of Revenue Procedure 83-77 (C.B. 1983-2, p. 594). This procedure automatically extends the 90-day filing period for CCC loans to 180 days. See *Commodity Credit Corporation (CCC) Loans* in chapter 4 for information on these loans.

Extension of time to file Form 3115. The IRS will grant you an extension only in unusual and compelling circumstances. See Revenue Procedures 97-27 (I.R.B. 1997-27, p. 10), 92-20 (C.B. 1992-1, p. 685), and 92-85 (C.B. 1992-2, p. 490) for more information.

4.

Farm Income

Important Change for 1997

Weather-related sales of livestock. Sales or exchanges of livestock after 1996 because of flood or other weather-related conditions may qualify for special tax treatment. Previously, only sales or exchanges due to drought conditions qualified. See *Sales Caused by Weather-Related Conditions*, later.

Introduction

You may receive income from many sources. You must report the income on your tax return, unless it is excluded by law. Where you report the income depends on its source.

This chapter discusses farm income you report on Schedule F. For information on where to report other income, see the instructions for Form 1040.

Accounting method. The rules discussed in this chapter assume you use the cash method of accounting. Under the cash method, you include an item of income in gross income when you receive it. However, you may be considered to have received income not yet in your possession. See *Constructive receipt* under *Cash Method* in chapter 3.

If you use an accrual method of accounting, you may have to make modifications to the rules in this chapter. See *Accrual Method* in chapter 3.

Advance payments. If you receive advance payments (other than a Commodity Credit Corporation (CCC) loan) for property or services, you must include the payments in income in the year you receive them. If you receive an additional amount later, include it in income in the year you receive it.

You may be required to include CCC loans in income in the year you receive them. See *Commodity Credit Corporation (CCC)*

Loans later.

Topics

This chapter discusses:

- ☞ Schedule F
- ☞ Sales of livestock and produce
- ☞ Rents (including crop shares)
- ☞ Agricultural program payments
- ☞ Income from cooperatives
- ☞ Cancellation of debt
- ☞ Income from other sources

Useful Items

You may want to see:

Publication

- 525** Taxable and Nontaxable Income
- 550** Investment Income and Expenses
- 908** Bankruptcy Tax Guide
- 925** Passive Activity and At-Risk Rules

Form (and Instructions)

- Sch E (Form 1040)** Supplemental Income and Loss
- Sch F (Form 1040)** Profit or Loss From Farming
- 982** Reduction of Tax Attributes Due to Discharge of Indebtedness
- 1099-G** Certain Government Payments
- 1099-PATR** Taxable Distributions Received From Cooperatives
- 4797** Sales of Business Property
- 4835** Farm Rental Income and Expenses

See chapter 21 for information about getting these publications and forms.

Schedule F

Report your farm income on Schedule F (Form 1040). Use this schedule to figure the net profit or loss from regular farming operations.

Income from farming reported on Schedule F includes amounts you receive from cultivating the soil or raising or harvesting agricultural commodities. This includes income from operating a stock, dairy, poultry, fish and aquaculture products, bee, fruit, or truck farm, and income from operating a plantation, ranch, nursery, orchard, or oyster bed. It also includes income you receive as crop shares if you materially participate in producing the crop. See *Landlord Participation in Farming* in chapter 15.

Income reported on Schedule F does **not** include gains from sales of:

- 1) Farm land or depreciable farm equipment.
- 2) Livestock held for draft, breeding, sport, or dairy purposes.

Gains and losses from the sale of farming assets, such as machinery or farm land, are discussed in chapters 10 and 11. Gains and

Table 4-1. Where To Report Sales of Livestock and Produce

Item Sold	Schedule F	Form 4797
Livestock and produce raised for sale	X	
Livestock and produce bought for resale	X	
Livestock held for draft, breeding, dairy, or sporting purposes (purchased or raised)		X
Animals not held primarily for sale		X

losses from casualties, thefts, and condemnations are discussed in chapter 13.

Sales of Livestock and Produce

When you sell produce or livestock (including poultry) you raise for sale on your farm, the entire amount you receive is ordinary income. This includes money and the fair market value of any property or services you receive.

Where to report. Table 4-1 shows where to report the sale of produce and livestock on your tax return.

Schedule F. When you sell produce or livestock bought for resale, your profit or loss is the difference between your basis in the item and any money plus the fair market value of any property you receive for it. See chapter 7 for information on the basis of assets. Report these amounts on Schedule F for the year you receive payment.

Form 4797. Sales of livestock held for draft, breeding, dairy, or sporting purposes may result in ordinary or capital gains or losses, depending on the circumstances. In either case, **you should always report these sales on Form 4797 instead of Schedule F.** Animals you do not hold primarily for sale are considered business assets of your farm. See chapter 10.

Sale by agent. If your agent sells your produce or livestock, you must include the net proceeds from the sale in gross income for the year the agent receives payment. This applies even if you arrange for the agent to pay you in a later year. See *Constructive receipt* in chapter 3.

Sales Caused by Weather-Related Conditions

If, after December 31, 1996, you sell more livestock, including poultry, than you normally would in one year because of a drought, flood, or other weather-related condition, you may be able to choose to include the gain from selling the additional animals in the following year's income. For sales before January 1, 1997, these special rules only applied to sales caused by drought conditions. You must meet all the conditions below to qualify.

- 1) Your principal business is farming.
- 2) You use the cash method of accounting.
- 3) You can show that, under your usual business practices, you would not have sold the animals this year except for the weather-related condition.
- 4) The weather-related condition resulted in an area being designated as eligible

for assistance by the federal government.

Sales made before the area became eligible for federal assistance qualify if the weather-related condition that caused the sale also caused the area to be designated as eligible for federal assistance. The designation can be made by the President, the Department of Agriculture (or any of its agencies), or by other federal agencies.

TIP *A weather-related sale of livestock (other than poultry) held for draft, breeding, or dairy purposes also qualifies as an involuntary conversion. If you plan to replace the livestock, see Other Involuntary Conversions in chapter 13 for more information.*

Usual business practice. Determine the number of animals you would have sold had you followed your usual business practice in the absence of the weather-related condition. Do this by considering all the facts and circumstances. If you have not yet established a usual business practice, rely on the usual business practices of similarly situated farmers in your general region.

Weather-related sales in successive years. If you make this election in successive years, the following special rules prevent your first election from adversely affecting your second election:

- 1) Do not include the amount deferred from one year to the next as received from the sale or exchange of livestock in the later year when figuring the amount to be postponed. See *Amount to be postponed*, later, which describes the computation.
- 2) To determine your normal business practice for the later year, exclude any earlier year for which you made this election.

Connection with area affected by weather-related condition. The livestock does not have to be raised or sold in a drought area for the postponement to apply. However, the sale must occur solely because of weather-related conditions that affected the water, grazing, or other requirements of the livestock so that the sale became necessary.

Classes of livestock. You must make the election separately for each generic class of animals — for example, hogs, sheep, and cattle. You must also figure separately the amount to be postponed for each class of animals. Do not make a separate election solely because of an animal's age, sex, or breed.

Amount to be postponed. Follow these steps to figure the amount to be postponed for each class of animals.

- 1) Divide the total income realized from the sale of all livestock in the class during the tax year by the total number sold, and
- 2) Multiply the result in (1) by the excess number sold solely because of weather-related conditions.

Example. You are a calendar year taxpayer and you normally sell 100 head of beef cattle a year. As a result of drought, you sell 135 head during 1997. You realize \$35,100 from the sale. On August 9, 1997, as a result of drought, the affected area was declared a disaster area eligible for federal assistance. The income you can elect to postpone until 1998 is \$9,100 $[(\$35,100 \div 135) \times 35]$.

How to make the election. To make the election, attach a statement to your tax return for the year of the sale. The statement must include your name and address and give the following information for each class of livestock for which you make the election.

- 1) A statement that you are making an election under section 451(e) of the Internal Revenue Code.
- 2) Evidence of the weather-related conditions that forced the early sale or exchange of the livestock and the date, if known, on which an area was designated as eligible for assistance by the federal government because of weather-related conditions.
- 3) A statement explaining the relationship of the area affected by the weather-related condition to your early sale or exchange of the livestock.
- 4) The number of animals sold in each of the 3 preceding years.
- 5) The number of animals you would have sold in the tax year had you followed your normal business practice.
- 6) The total number of animals sold and the number sold because of weather-related conditions during the tax year.
- 7) A computation, as described earlier, of the income to be postponed for each class of livestock.

You must file the statement and the return by the due date of the return, including extensions. You can file the statement with an amended return, if you file it by this due date. However, once you have made the election, you can change it only with the approval of the IRS.

Rents (Including Crop Shares)

The rent you receive for the use of your farm land is generally rental income, not farm income. However, if you materially participate in farming operations on the land, the rent is farm income. See *Landlord Participation in Farming* in chapter 15.

Pasture income and rental. If you pasture someone else's cattle and take care of the livestock for a fee, the income is from your farming business. You must enter it as *Other income* on Schedule F. If you simply rent your pasture for a flat cash amount, report the in-

come as rent in Part I of Schedule E (Form 1040).

Crop Shares

You must include rent you receive in crop shares in income in the year you reduce the shares to money or the equivalent of money. It does not matter whether you use the cash method of accounting or an accrual method of accounting. If you materially participate in operating a farm from which you receive rent in the form of crop shares or livestock, the rental income is subject to self-employment tax. Report the rental income on Schedule F. However, if you do not materially participate in operating the farm, report this income on Form 4835, and carry the net income or loss to Schedule E (Form 1040). The income is not subject to self-employment tax. But see *Landlord Participation in Farming* in chapter 15.

Crop shares you use to feed livestock.

Crop shares you receive as a landlord and feed to your livestock are considered converted to money when fed to the livestock. You must include the fair market value of the crop shares in income at that time. You are entitled to a business expense deduction for the livestock feed in the same amount and at the same time you include the fair market value of the crop share as rental income. Although these two transactions would cancel each other for purposes of determining adjusted gross income on Form 1040, they may be necessary to determine your self-employment tax. See chapter 15.

Crop shares you give to others (gift). Crop shares you receive as a landlord and give to others are considered converted to money at the time you make the gift. You must report the fair market value of the crop share as income, even though someone else receives payment for the crop share.

Example. A tenant farmed part of your land under a crop-share arrangement. The tenant harvested and delivered the crop in your name to an elevator company. Before selling any of the crop, you instructed the elevator company to cancel your warehouse receipt and make out new warehouse receipts in equal amounts of the crop in the names of your children. They sell their crop shares in the following year and the elevator company makes payments directly to your children.

In this situation, you are considered to have received rental income and then made a gift of that income. You must include the fair market value of the crop shares in your income for the tax year you gave the crop shares to your children.

Crop share loss. If you are involved in a rental or crop-share lease arrangement, any loss from these activities may be subject to the limits under the passive loss rules. See Publication 925 for information on these rules.

Agricultural Program Payments

You must include most government payments, such as those for approved conservation practices and production flexibility contracts, in income whether you receive

them in cash, materials, services, or commodity certificates. However, you can exclude some payments you receive under certain cost-sharing conservation programs, as explained later.

Report the agricultural program payment on the appropriate line in Part I of Schedule F for the tax year you actually or constructively receive it. Report the full amount even if you return a government check for cancellation, refund any of the payment you receive, or the government collects all or part of the payment from you by reducing the amount of some other payment or CCC loan. However, the amount you refund or return, or that reduces some other payment or loan to you, is deductible on Schedule F for the year of repayment or reduction.

Reporting Refunds of Agricultural Program Expenses

Refunds of malting barley assessments.

A farmer who participates in the malting barley production program of the Commodity Credit Corporation (CCC) receives a barley subsidy benefit and pays a malting barley assessment. The barley subsidy benefit is reported to the farmer and to the IRS on Form CCC-1099-G, *Certain Government Payments*. If the farmer does not sell the barley for malting purposes, the farmer is eligible to receive a refund of the malting barley assessment. If the farmer receives the refund in a year after the assessment was paid, how the farmer reports the refund depends on whether the farmer claimed the assessment as an expense in the year it was paid. The following example shows the proper reporting of refunds of malting barley assessments.

Example. Lee White is a farmer. He uses the cash method of accounting and files his tax return on a calendar year basis. He participated in the malting barley production program and received a \$2,850 payment from the CCC in 1997. The payment is Lee's \$3,000 barley subsidy benefit less the malting barley assessment (\$150) he was required to pay for the barley produced. Lee received a Form CCC-1099-G for 1997 showing the \$3,000 barley subsidy benefit. In 1998, Lee proved that he did not sell the barley for malting purposes and received a refund of the \$150 malting barley assessment. He receives a 1998 Form CCC-1099-G for the refund showing a *Barley Assessment Deficiency* of \$150.

Assessment claimed as an expense. For 1997, Lee reported \$3,000 farm income from the barley subsidy benefit and an expense of \$150 from the malting barley assessment. He claimed the \$150 assessment as a farm expense in Part II of his 1997 Schedule F (Form 1040). Lee received a tax benefit from the deduction because it reduced his 1997 tax liability. Lee includes the \$150 refund (barley assessment deficiency) as income in Part I of his 1998 Schedule F (Form 1040).

Assessment not claimed as an expense. For 1997, Lee reported the \$3,000 barley subsidy benefit as income, but did not claim the \$150 assessment as an expense. Because Lee received no tax benefit from the payment of the assessment in 1997, he does not include the refund (barley assessment deficiency) as income. He attaches a state-

ment to his return to explain why he is not including the refund in income.

Payments made under the Dairy Refund Payment Program (DRPP). DRPP, administered by the CCC, refunds the reductions in price received by eligible producers during a calendar year. Milk processors, milk handlers, and others responsible for the marketing of milk withhold the reductions in price from their payments to the producers and send the withheld amounts to the CCC. If the producer can prove that milk marketing for the current year did not exceed milk marketing for the prior year, the producer is eligible for a refund of the reductions in price. Typically, an eligible producer receives a refund of the reductions in price in a year after the reductions occurred. Proper reporting of the refund depends on whether the producer claimed the reductions in price as an expense in the year they occurred. The following example shows the proper reporting of refunds of reductions in price.

Example. Sam Brown is a milk producer. He uses the cash method of accounting and files his tax return on a calendar year basis. The marketing of Sam's milk is subject to reductions in price. In 1997, Sam had gross receipts of \$200,000 from milk sales and had \$3,000 withheld as reductions in price. Sam proved that his 1997 milk marketing did not exceed his 1996 marketing. In 1998, Sam received a \$3,000 refund from the CCC of the 1997 reductions in price. Sam receives a 1998 Form CCC-1099-G for the refund showing a *Milk Marketing Fee* of \$3,000.

Reductions claimed as an expense. For 1997, Sam reported \$200,000 farm income from milk sales. He claimed the \$3,000 reductions in price as a farm expense in Part II of his 1997 Schedule F (Form 1040). Sam received a tax benefit from the deduction because it reduced his 1997 tax liability. Sam includes the \$3,000 refund (milk marketing fee) as income in Part I of his 1998 Schedule F (Form 1040).

Reductions not claimed as an expense. For 1997, Sam reported milk sales income of \$200,000, but did not claim the reductions in price for his milk as an expense. Because Sam received no tax benefit from the reductions in price in 1997, he does not include the refund (milk marketing fee) on his 1998 Schedule F (Form 1040). He attaches a statement to his return to explain why he is not including the refund in income.

Commodity Credit Corporation (CCC) Loans

Normally, you report income from a crop for the year you sell it. However, if you pledge part or all of your production to secure a CCC loan, you can elect to report the loan proceeds as income for the year you receive them, rather than for the year of sale. You do not need permission from the IRS to adopt this method of reporting CCC loans, even though you may have reported those received in earlier years as taxable income for the year you sold the crop.

Once you report a CCC loan as income for the year received, you must report all succeeding loans in the same way, unless you get permission from the IRS to change to a different method. See *Change in Accounting Method* in chapter 3.

To make this election, include the loan as income on line 7a of Schedule F for the year you receive it. Attach a statement to your return showing the details of the loan.

When you make this election, the amount you report as income becomes your basis in the commodity. See chapter 7 for information on the basis of assets. If you later sell the commodity either by forfeiting it to the CCC instead of repaying the loan or by repaying the loan, redeeming the commodity, and selling it to someone else, you report as income at the time of sale only the amount of the loan forgiveness or sale proceeds that are greater than your basis in the commodity. If the sale proceeds are less than your basis in the commodity, you can report the difference as a loss on Schedule F.



TIP You can request income tax withholding on CCC loan payments made to you after 1996. Use Form W-4V, Voluntary Withholding Request. See chapter 21 for information about ordering the form.

Reporting Market Gain

If you have a CCC loan that is secured by the pledge of an eligible commodity you produced and you elected to report the loan proceeds as income in the year received, reporting the market gain shown on Form CCC-1099-G, *Certain Government Payments*, may result in the duplicate reporting of this income. Eligible commodities include cotton, wheat, feed grains, rice, and oilseeds. The following examples illustrate the proper reporting of market gain.

Example 1. Mike Green is a cotton farmer. He uses the cash method of accounting and files federal income tax returns on a calendar year basis. He has currently deducted all expenses incurred in producing the cotton and has a basis of \$0 in the commodity. In 1997, Mike pledges 1,000 pounds of cotton as collateral for a CCC price support loan at \$.50 per pound. In 1998, he decides to redeem the cotton when the prevailing world market price for cotton is \$.42 per pound. Under CCC program provisions, the repayment rate is the lesser of the loan amount or the prevailing world price of the commodity on the date of repayment. He later sells the cotton for \$.60 per pound.

As a result of the redemption of the cotton, Mike will receive a Form CCC-1099-G from the CCC showing a market gain in 1998 of \$80. This is the difference between the original loan rate (\$.50 per pound) and the repayment rate (\$.42 per pound) multiplied by the pounds of cotton redeemed (\$.08 per pound \times 1,000 pounds of cotton). How he reports the \$80 gain depends on whether he elected to include CCC loans in income in the year received.

With election. Mike has income of \$500 in 1997 from the CCC loan. The cotton is treated as sold for \$500 when he pledged it as collateral for the CCC loan. It is then treated as repurchased by him for \$420 (\$.42 repayment rate \times 1,000 pounds of cotton) when he redeemed it by repayment of the CCC loan. No gain or loss is recognized on this repurchase. He has income of \$180 in 1998 from the sale of the cotton (\$600 sale price - basis of \$420). He reports the \$500 CCC loan as income in 1997 and the \$180 from the sale as income in 1998. Because he has already included the \$500 CCC loan in

income, including as taxable income the \$80 market gain shown on the 1998 Form CCC-1099-G would result in an \$80 overstatement of his income. Therefore, for 1997, Mike reports the \$500 CCC loan on line 7a of Part I of Schedule F (Form 1040). For 1998, he reports the \$80 market gain as an "Agricultural program payment" on line 6a of Part I of Schedule F, but does not include the \$80 as a "Taxable amount" on line 6b of Part I of Schedule F.

Note. The line numbers may change in the 1998 version of Schedule F. Check the 1998 instructions.

Without election. Mike has income of \$80 from market gain in 1998. Because he has not made the election, the cotton is not treated as sold when it is pledged as collateral for the CCC loan. Therefore, the sale of the cotton in 1998 generates income of \$600 (\$600 sale price - \$0 basis). He reports both the \$600 from the sale and the \$80 market gain as income in 1998. He reports the \$80 on both lines 6a and 6b of Part I of Schedule F. See *Note*, earlier.

Example 2. Assume the same facts as Example 1 except that Mike enters into an option to purchase contract with Tom Merchant in 1997. Tom pays Mike \$.05 per pound for the option to purchase the 1,000 pounds of cotton. Mike also gives Tom a power of attorney giving him the authority to repay the loan on Mike's behalf. In 1998, Tom repays the loan at \$.42 per pound and immediately exercises his option to purchase Mike's cotton at the price of \$.42 per pound.

Mike will receive a Form CCC-1099-G for 1998 from the CCC showing a market gain of \$80. How he reports the market gain will again depend upon whether he elected to include CCC loans in income the year received.

With election. Mike has income of \$500 in 1997 from the CCC loan. He also has income of \$50 in 1997 from granting the option to Tom. Because Mike is treated as having repurchased the cotton for \$.42 per pound upon repayment of the CCC loan, he recognized no income upon the sale of the cotton to Tom for \$.42 per pound. Mike reports both the \$500 CCC loan and the \$50 from the option as income in 1997. Because he has already included the \$500 CCC loan in income, including the \$80 market gain shown on the 1998 Form CCC-1099-G would result in an \$80 overstatement of his income. Therefore, for 1997, Mike reports the \$500 CCC loan on line 7a of Part I of Schedule F. For 1998, Mike reports the \$80 market gain as an "Agricultural program payment" on line 6a of Part I of Schedule F, but does not include the \$80 as a "Taxable amount" on line 6b of Part I of Schedule F. See *Note*, earlier.

Without election. Mike has income of \$50 in 1997 from granting the option to Tom. Because Mike has not made the election, the cotton is not treated as sold when it is pledged as collateral for the CCC loan. Therefore, the sale of the cotton to Tom in 1998 generates income of \$420 (\$420 sale price - \$0 basis) to Mike. Mike reports the \$50 from the option as income in 1997 and the \$420 from the sale of the commodity and the \$80 market gain shown on Form CCC-1099-G as income in 1998. He reports the \$80 on both lines 6a and 6b of Part I of Schedule F. See *Note*, earlier.

Conservation Reserve Program (CRP)

Under the Conservation Reserve Program (CRP), the Secretary of Agriculture and you, as the owner or operator of highly erodible or other specified cropland, may enter into a long-term contract providing for conversion to a less intensive use of that cropland. Under the program, you are compensated for this conversion in the form of an "annualized rental payment." The payment may be in the form of cash, commodity certificates, or a combination of cash and certificates.

The annual CRP payment is farm income, which you report in Part I of Schedule F. However, if you do not materially participate in farming operations on the land, the annual payment is rental income, which you report on Form 4835. Use Form 4835 to report these payments even if all other payments you receive from the rental activity are reported on Schedule E (Form 1040). For more information, see *Rents (Including Crop Shares)*, earlier. Also see *Landlord Participation in Farming* in chapter 15.

Crop Insurance and Disaster Payments

You must include in income any crop insurance proceeds you receive as the result of crop damage. You generally include them in the year you receive them. Treat as crop insurance proceeds the crop disaster payments you receive from the federal government as the result of destruction or damage to crops, or the inability to plant crops, because of drought, flood, or any other natural disaster.



You can request income tax withholding from crop disaster payments you receive from the federal government. Use Form W-4V, Voluntary Withholding Request. See chapter 21 for information about ordering the form.

Election to include in income in following year. If you use the cash method of accounting, you can elect to include crop insurance proceeds in income for the tax year following the tax year in which the crops were damaged. You can make this election if you can show you would have included the income from the damaged crops in any tax year following the year the damage occurred. This election applies only if you receive the proceeds in the year the crops were damaged. If you receive the insurance proceeds in the following tax year, you include the proceeds in gross income for the year you receive them.

To make the election to postpone reporting crop insurance proceeds, attach a statement to your tax return, or amended return, for the year the damage took place. Merely showing on your return that insurance proceeds were deferred is not an election. The statement must include your name and address and contain the following information.

- 1) A statement that you are making an election under section 451(d) of the Internal Revenue Code and section 1.451-6 of the Income Tax Regulations.
- 2) The specific crop or crops destroyed or damaged.
- 3) A statement that under your normal business practice you would have in-

cluded income from the destroyed or damaged crops in gross income for a tax year following the year the crops were destroyed or damaged.

- 4) The cause of the destruction or damage and the date or dates it occurred.
- 5) The total amount of payments you received from insurance carriers, itemized for each specific crop, and the date you received each payment.
- 6) The name of each insurance carrier from whom you received payments.

One election covers all crops representing a single trade or business. If you have more than one farming business, make a separate election for each one. For example, if you operate two separate farms on which you grow different crops, and you keep separate books for each farm, you should make two separate elections to defer reporting insurance proceeds you receive for crops grown on each of your farms.

An election is binding for the year. To change your election, write to your IRS District Director giving your name, address, identification number, the year you made the election, and your reasons for wanting to change it.

Feed Assistance and Payments

The Disaster Assistance Act of 1988 authorizes feed assistance, reimbursement payments, and other benefits to qualified livestock producers if the Secretary of Agriculture determines that, because of a natural disaster, a livestock emergency exists. These programs include assistance in the form of partial reimbursement for purchased feed and for certain transportation expenses. They also include feed from the Commodity Credit Corporation received either as a donation or at a below-market price.

These payments are not proceeds from the sale of livestock, or received for the destruction or damage to crops raised for sale, or for the inability to raise the crops. Therefore, include these benefits in income in the year you receive them.

You must include in income the market value of donated feed, the difference between the market value and the price you paid, or any cost reimbursement you receive. You can usually take a current deduction for the same amount as a feed expense.

Other Payments

You must include other government program payments in income as explained below.

Fertilizer and Lime

Include in income the value of fertilizer or lime received under a government program. The manner of claiming the offsetting deduction is explained under *Fertilizer and Lime* in chapter 5.

Improvements

If government payments are based on improvements, such as a pollution control facility, you must still include them in income. You must capitalize the full cost of the improvement. Since you have included the payments in income, they do not reduce your basis.

Payment to More Than One Person

The USDA reports a program payment intended for more than one person to the IRS as having been paid to the person whose identification number is on record for that payment (payee of record). If you, as the payee of record, receive a program payment belonging to someone else, such as your landlord, the amount belonging to the other person is a nominee distribution. You should file Form 1099-G to give the IRS the identity of the actual recipient. You should also furnish this information to the recipient. You may avoid the inconvenience of unnecessary inquiries about the identity of the recipient if you file this form.

See chapter 21 for information about ordering Form 1099-G and chapter 2 for preparing the form.

Cost-Sharing Exclusion

You can exclude part or all of the payments you receive under certain federal or state cost-sharing conservation, reclamation, and restoration programs from your income. However, this exclusion applies only if the payment (or part of a payment) meets all three of the following tests.

- 1) The cost-sharing payment was for a capital expense.
 - a) You cannot exclude any part of a payment for an expense you can deduct in the current tax year. You must include the payment in income and take any offsetting deduction. (See chapter 6 for information on deducting soil and water conservation expenses.)
 - b) You cannot exclude a payment that is rent for the use of your property or compensation for your services.
- 2) The IRS determined that it does not substantially increase your annual income from the property for which it is made. An increase in annual income is substantial if it exceeds the greater of 10% of the average annual income derived from the affected property before receiving the improvement or an amount equal to \$2.50 times the number of affected acres.
- 3) The Secretary of Agriculture certified that the payment was made primarily for conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

If the three tests above are met, you can exclude payments from the following programs:

- 1) The rural clean water program authorized by the Federal Water Pollution Control Act.
- 2) The rural abandoned mine program authorized by the Surface Mining Control and Reclamation Act of 1977.
- 3) The water bank program authorized by the Water Bank Act.
- 4) The emergency conservation measures program authorized by title IV of the Agricultural Credit Act of 1978.

- 5) The agricultural conservation program authorized by the Soil Conservation and Domestic Allotment Act.
- 6) The great plains conservation program authorized by the Soil Conservation and Domestic Policy Act.
- 7) The resource conservation and development program authorized by the Bankhead-Jones Farm Tenant Act and by the Soil Conservation and Domestic Allotment Act.
- 8) The forestry incentives program authorized by the Cooperative Forestry Assistance Act of 1978.
- 9) Any small watershed program administered by the Secretary of Agriculture that the IRS determines to be substantially similar to the types of programs for which an exclusion is allowed.
- 10) Any program of a state, possession of the United States, a political subdivision of any of these, or the District of Columbia under which payments are made to individuals primarily for conserving soil, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

Several state programs have been approved. For information about the status of those programs, contact the state offices of the FSA Farm Service Agency and the Natural Resources and Conservation Service (NRCS).

Income realized. The gross income you realize upon payment under these cost-sharing programs is the value of the improvement, reduced by the excludable portion and your share of the cost of the improvement.

Value of the improvement. You determine the value of the improvement by multiplying its fair market value (defined in chapter 12) by a fraction.

- 1) The numerator of the fraction is the total cost of the improvement (including all amounts paid either by you or by the government), reduced by the sum of:
 - a) Any government payments under a program not listed earlier.
 - b) Any portion of a government payment under a program listed earlier that the Secretary of Agriculture has not certified as primarily for purposes of conservation.
 - c) Any government payment for rent or your services.
- 2) The denominator of the fraction is the total cost of the improvement.

Excludable portion. The excludable portion is the "present fair market value" of the right to receive the greater of:

- 1) 10% of the prior average annual income from the affected acreage, or
- 2) \$2.50 times the number of affected acres.

The "prior average annual income" is the average gross receipts from the affected acreage for the last 3 tax years before the tax year in which you started to install the improvement.



The calculation of "present fair market value" is too complex to discuss in this publication. You may need to consult your tax advisor for assistance.

Example. 100 acres of your land was reclaimed under a contract with the Natural Resources Conservation Service of the USDA. The total cost of the improvement was \$500,000. USDA paid \$490,000. You paid \$10,000. The value of the cost-sharing improvement is \$15,000.

The present fair market value of the right to receive (1) above is \$1,380 and the value of the right to receive (2) is \$1,550. The excludable portion is the greater amount, \$1,550.

Figure the amount to include in gross income as follows:

Value of cost-sharing improvement	\$15,000
Minus: Your share	\$10,000
Excludable portion	1,550
	<u>11,550</u>
Amount included in income	<u>\$3,450</u>

Effects of the exclusion. When you figure the basis of property you acquire or improve using cost-sharing payments excluded from income, subtract the excluded payments from your capital costs. Any payment excluded from income is not part of your basis.

In addition, you cannot take depreciation, amortization, or depletion deductions for the part of the cost of the property for which you receive cost-sharing payments you exclude from income.

How to report the exclusion. Attach a statement to your tax return (or amended return) for the tax year you receive the last government payment for the improvement. The statement must include the dollar amount of the cost funded by the government payment, the value of the improvement, and the amount you are excluding.

Report the total cost-sharing payments you receive on line 6a, Schedule F, and the taxable amount on line 6b.

Recapture. Treat part or all of the cost-sharing payments you exclude as ordinary income if you dispose of the property within 20 years after the date you received the payments. You must report the recapture on Form 4797. See *Section 1255 property* in chapter 11.

Electing out. You can elect *not* to exclude all or part of any payments you receive under these programs. You must make this election by the due date, including extensions, for filing your return. If you elect not to exclude these payments, none of the above restrictions and rules apply.

Income From Cooperatives

If you purchase farm supplies through a cooperative, you may receive income from the cooperative in the form of patronage dividends (distributions). If you market your farm products through a cooperative, you may receive patronage dividends or a per-unit retain certificate, explained later, from the cooperative.

Form 1099-PATR. The cooperative will report the income to you on Form 1099-PATR or a similar form and send a copy to the IRS. Form 1099-PATR may also show an alternative minimum tax adjustment that you must include if you are required to file Form 6251, *Alternative Minimum Tax-Individuals*.

Patronage Dividends (Distributions)

You generally report patronage dividends you receive as income on lines 5a and 5b of Schedule F for the tax year you receive them. They include:

- 1) Money paid as a patronage dividend.
- 2) The stated dollar value of qualified written notices of allocation.
- 3) The fair market value of other property.

Nonqualified notices of allocation, explained later, are not included in income when you receive them. See also *Purchase of depreciable property or capital assets and Personal purchases*, later, for a discussion of amounts not to include in income on line 5b.

Qualified written notice of allocation. A qualified written notice of allocation is taxable at its stated dollar value in the year received. To be qualified, it must be paid as part of a patronage dividend, or a payment by a cooperative, in which 20% or more of the dividend or payment is paid in money or a qualified check. It must also meet one of the following conditions:

- 1) It must be redeemable in cash for at least 90 days after it is issued and you must have received a written notice of your right of redemption at the same time as the written notice of allocation, or
- 2) You must have agreed to include the stated dollar value in income in the year you receive the notice by doing one of the following.
 - a) Signing and giving a written agreement to the cooperative.
 - b) Getting or keeping membership in the cooperative after it adopted a bylaw providing that membership constitutes agreement. The cooperative must notify you of this bylaw and give you a copy.
 - c) Endorsing and cashing a qualified check, paid as part of the notice of allocation, by the 90th day after the close of the payment period for the tax year of the cooperative.

Loss on redemption. You can deduct in Part II of Schedule F any loss incurred on the redemption of a qualified written notice of allocation you receive in the ordinary course of your farming business. The loss is the difference between the stated dollar amount you included in income and the amount you received when you redeemed it.

Nonqualified notices of allocation. All other written notices of allocation are not qualified and are not included in income when received. A nonqualified notice of allocation has a zero basis in your hands. Include any amount you receive from the sale, redemption, or other disposition of a nonqualified

written notice of allocation in income. It is ordinary income up to the stated dollar value. Report it in Part I of Schedule F for the tax year of disposition. You must include any amount greater than the stated dollar value on your return according to the type of income it represents. For example, if the excess represents interest income, include it as interest on your return for the year of disposition.

Purchase of depreciable property or capital assets. Do not include in income dividends from the purchase of capital assets or depreciable property used in your business. You must, however, reduce the basis of these assets by the dividends. If the dividends are more than your unrecovered cost, include the excess as ordinary income on Schedule F for the tax year you receive them. Include all these dividends on line 5a of Schedule F, but include only the taxable part on line 5b.

Example. On July 1, 1996, Mr. Brown, a patron of a cooperative association, purchased a machine for his dairy farm business from the association for \$2,900. The machine has a life of 7 years under MACRS (as provided in the *Table of Class Lives and Recovery Periods* in Publication 946). Mr. Brown files his return on a calendar year basis. For 1996, he claimed a deduction of \$311, using the 10.71% depreciation rate from the 150% declining balance, half-year convention table (shown in Table A-14 in Appendix A of Publication 946). On July 1, 1997, the cooperative association paid Mr. Brown a \$300 cash patronage dividend for his purchase of the machine. Mr. Brown adjusts the basis of the machine and figures his depreciation deduction for 1997 (and later years) as follows:

Cost of machine on July 1, 1996	\$2,900
Minus: 1996 depreciation	\$311
1997 cash dividend	300
	<u>611</u>
Adjusted basis for depreciation for 1997:	<u>\$2,289</u>
Depreciation rate: $1 + 6\frac{1}{2}$ (remaining recovery period as of 1/1/97) = $15.38\% \times 1.5 = 23.08\%$	
Depreciation deduction for 1997 (\$2,289 \times 23.08%)	<u>\$528</u>

Exceptions. If the dividends come from the marketing or purchasing of capital assets or depreciable property used in your business and you did not own the property at any time during the year you received them, you must include the dividends in income unless either of the following exceptions applies:

- 1) If the dividends relate to a capital asset you held for more than one year for which a loss was or would have been deductible, treat them as gain from the sale or exchange of a capital asset held for more than one year.
- 2) If the dividends relate to a capital asset for which a loss was not or would not have been deductible, do not report them as income (ordinary or capital gain).

If you receive a dividend from the marketing of a capital asset or depreciable property used in your business in the same year the asset was marketed, treat it as an additional amount received on the sale or other disposition of the asset.

If you cannot determine from which item the dividend comes, include the dividend in income as ordinary income.

Personal purchases. Do not include in income dividends from the purchase of personal, living, or family items, such as supplies, equipment, or services not used in your business. This rule also applies to amounts from the sale, redemption, or other disposition of a nonqualified written notice of allocation resulting from these purchases. If the dividend or nonqualified allocation cannot be traced to these purchases, include it in income as ordinary income.

Per-Unit Retain Certificates

A per-unit retain certificate is any written notice that shows the stated dollar amount of a per-unit retain allocation made to you by the cooperative. A per-unit retain allocation is an amount paid to patrons for products marketed for them that is fixed without regard to the net earnings of the cooperative. These allocations can be paid in money, other property, or qualified certificates.

Per-unit retain certificates issued by a cooperative generally receive the same tax treatment as patronage dividends, discussed earlier.

Qualified certificates. Qualified per-unit retain certificates are those issued to patrons who have consented in writing, or in effect have given their consent by getting or keeping membership in a cooperative whose bylaws or charter state that membership constitutes consent, to include the stated dollar amount of these certificates in income in the year of receipt. If you receive qualified per-unit retain certificates, include the stated dollar amount of the certificates in income in Part I of Schedule F for the tax year you receive them.

Nonqualified certificates. All other per-unit retain certificates are not qualified and are not included in income when received. However, any amount you receive from the redemption, sale, or other disposition of a nonqualified certificate, to the extent the stated dollar amount exceeds its basis, is ordinary income reported in Part I of Schedule F for the tax year of disposition.

Cancellation of Debt

Any debt you owe over \$600 that is canceled by the federal government, a financial institution, or a credit union will be reported to you on Form 1099-C, *Cancellation of Debt*.

General Rule

Generally, if a debt you owe is canceled or forgiven, other than as a gift or bequest to you, you must include the canceled amount in gross income for tax purposes. A debt includes any debt for which you are liable or which attaches to property you hold.

Exceptions

The following discussion covers exceptions to the general rule for canceled debt.

Price reduced after purchase. If you owe a debt to the seller for property you purchased, and the seller reduces the amount you owe, generally you do not have income from the reduction. Treat the part of the debt reduced as a purchase price adjustment and reduce your basis in the property.

Deductible debt. You do not realize income from debt cancellation to the extent the payment of the debt would have led to a deduction.

Example. You own a business and get accounting services on credit. Later, you have trouble paying your business debts, but you are not bankrupt or insolvent. Your accountant forgives part of the amount you owe for the accounting services. How you treat the cancellation of debt depends on your method of accounting:

- 1) Cash method – You do not include the debt cancellation in income because payment for the services would have been deductible as a business expense.
- 2) An accrual method – You include the debt cancellation in income. Under an accrual method of accounting, the expense is deductible when you incur the liability, not when you pay the debt.

Student loan. A student loan helps you attend an educational institution. Do not include in income any student loan canceled because you worked for a certain period of time in certain professions for one of a broad class of employers.

To qualify, the loan must have been made by one of the following:

- 1) The government — federal, state, or local, or their agencies or subdivisions.
- 2) A tax-exempt public benefit corporation that has assumed control of a state, county, or municipal hospital, and whose employees are considered public employees under state law.
- 3) An educational institution under an agreement with an entity described in (1) or (2) that provided the funds to the institution to make the loan.

Exclusions

Do not include in income debt canceled in the following situations. However, you may be required to file Form 982. See *Form 982*, later.

- 1) The cancellation takes place in a bankruptcy case.
- 2) The cancellation takes place when you are insolvent.
- 3) The canceled debt is a qualified farm debt.
- 4) The canceled debt is qualified real property business debt. For more information on this type of canceled debt, see chapter 5 in Publication 334.

If a debt cancellation is excluded from income because it takes place in a bankruptcy case, items (2), (3), and (4) do not apply. If it takes place when you are insolvent, items (3) and (4) do not apply to the extent you are insolvent.

Bankruptcy and Insolvency

You can exclude the cancellation or discharge of debt from income if you are bankrupt or to the extent you are insolvent.

Bankruptcy. A bankruptcy case is a case under title 11 of the United States Code, provided you are under the jurisdiction of the

court and the discharge of the debt is granted by the court or is the result of a plan approved by the court.

Do not include debt canceled in a bankruptcy case in your gross income in the year it is canceled. Instead, you must use the amount canceled to reduce your tax benefits, explained later under *Reduction of tax benefits*.

Insolvency. You are insolvent to the extent your liabilities exceed the fair market value of your assets immediately before the discharge of debt.

You can exclude canceled debt from gross income up to the amount by which you are insolvent. If the canceled debt exceeds the amount by which you are insolvent and you qualify, you can apply the rules for qualified farm debt to the excess. Otherwise, you include the excess in gross income. Use the amount excluded because of insolvency to reduce any tax benefits, as explained later under *Reduction of tax benefits*. You must reduce the tax benefits under the insolvency rules before applying the rules for qualified farm debt.

Example. You had a \$10,000 debt canceled outside of bankruptcy. Immediately before the cancellation, your liabilities totaled \$80,000 and your assets totaled \$75,000. Since your liabilities exceeded your assets, you were insolvent to the extent of \$5,000 (\$80,000 – \$75,000). You can exclude this amount from income. The remaining canceled debt (\$5,000) may be subject to the qualified farm debt rules. If not, you must include it in income.

Reduction of tax benefits. If you exclude canceled debt from income in a bankruptcy case or during insolvency, you must use the excluded debt to reduce certain tax benefits. This prevents an excessive tax benefit from the cancellation.

Order of reduction. You must use the excluded canceled debt to reduce the following tax benefits in the order listed, unless you choose to reduce the basis of depreciable property first, explained later.

- 1) **Net operating loss (NOL).** Reduce any NOL for the tax year the debt cancellation takes place, and then any NOL carryover to that tax year. Reduce the NOL one dollar for each dollar of excluded canceled debt.
- 2) **General business credit carryover.** Reduce the credit carryover to or from the tax year of the debt cancellation. Reduce the carryover 33 $\frac{1}{3}$ cents for each dollar of excluded canceled debt.
- 3) **Minimum tax credit.** Reduce the minimum tax credit available at the beginning of the tax year following the tax year of the debt cancellation 33 $\frac{1}{3}$ cents for each dollar of excluded canceled debt.
- 4) **Capital loss.** Reduce any net capital loss for the tax year of the debt cancellation and then any capital loss carryover to that year. Reduce the capital loss one dollar for each dollar of excluded canceled debt.
- 5) **Basis.** Reduce the basis of your property by one dollar for each dollar of excluded canceled debt. Make this reduction to both depreciable and nondepreciable property you hold at the

beginning of the tax year following the tax year of debt cancellation. The reduction cannot be more than the excess of the total bases of property you hold immediately after the debt cancellation over your total liabilities immediately after the cancellation. See *Reduction of basis of depreciable property*, later.

- 6) **Passive activity loss and credit carryovers.** Reduce the passive activity loss and credit carryovers available from the tax year of the debt cancellation. Reduce the carryover of the deduction one dollar for each dollar of excluded canceled debt. Reduce the credit carryover 33 $\frac{1}{3}$ cents for each dollar of excluded canceled debt.
- 7) **Foreign and possession tax credits.** Reduce the credit carryover to or from the tax year of the debt cancellation. Reduce these credits 33 $\frac{1}{3}$ cents for each dollar of excluded canceled debt.

How to make tax benefit reductions.

Always make the required reductions in tax benefits after figuring your tax for the year of the debt cancellation. In reducing net operating losses and capital losses, first reduce the loss for the tax year of the debt cancellation. Then reduce any loss carryovers to that year in the order of the tax years from which the carryovers arose, starting with the earliest year. Make your reductions of the general business credit and the foreign tax credit carryovers in the order in which they are taken into account for the tax year of the debt cancellation.

Reduction of basis of depreciable property. You can choose to apply any portion of the excluded canceled debt to reduce the basis of your depreciable property before reducing other tax benefits. The amount you apply cannot exceed the total adjusted bases of all depreciable property you held at the beginning of the tax year following the tax year of your debt cancellation.

Depreciable property. Depreciable property, for this purpose, means any property subject to depreciation, but only if a reduction of basis will reduce the depreciation or amortization otherwise allowable for the period immediately following the basis reduction.

When to make basis reductions. Reduce the basis of property you hold at the beginning of the tax year following the tax year of the debt cancellation.

Recapture of basis reductions. If you reduce the basis of property under these provisions and later sell or otherwise dispose of the property at a gain, the part of the gain due to this basis reduction is taxable as ordinary income under the depreciation recapture provisions. Treat any property that is not section 1245 or section 1250 property as section 1245 property. For section 1250 property, determine the straight-line depreciation adjustments as though there were no basis reduction for debt cancellation. Sections 1245 and 1250 property and the recapture of gain as ordinary income are explained in chapter 11.

Qualified Farm Debt

You can exclude from income the cancellation or discharge of qualified farm debt by a qualified person. Your debt is qualified farm debt if:

- 1) You incurred it directly in operating a farming business, and
- 2) At least 50% of your total gross receipts for the 3 tax years preceding the year of debt cancellation were from your farming business.
To see if you meet this requirement, divide your total gross receipts from farming for the 3-year period by your total gross receipts from all sources, including farming, for that period. See chapter 2 for information about gross farm income and total gross income.

Qualified person. The person who cancels or forgives your qualified farm debt must be a qualified person — one who is actively and regularly engaged in the business of lending money. A qualified person includes any federal, state, or local government, or any of their agencies or subdivisions. Therefore, these rules apply to debts discharged by the USDA. A qualified person does not include:

- 1) A person related to you.
- 2) A person from whom you acquired the property (or a person related to this person).
- 3) A person who receives a fee from your investment in the property (or a person related to this person).

For the definition of a related person, see *Related persons* under *At-Risk Amounts* in Publication 925.

Limit. If your canceled debt is qualified farm debt, you cannot exclude from income more than the sum of your adjusted tax benefits and the total adjusted bases of your qualified property, defined later. If the discharged debt is more than this limit, you must include the excess in gross income.

Adjusted tax benefits. Adjusted tax benefits means the sum of the following:

- 1) Any net operating loss (NOL) for the year of the discharge and any NOL carryovers to that year.
- 2) Any general business credit carryover to or from the year of discharge, multiplied by 3.
- 3) Any minimum tax credit available at the beginning of the tax year following the tax year of the debt cancellation, multiplied by 3.
- 4) Any net capital loss for the year of the discharge and any capital loss carryovers to that year.
- 5) Any passive activity loss and credit carryovers available from the tax year of the debt cancellation. The credit carryover is multiplied by 3.
- 6) Any foreign and possession tax credit carryovers to or from the year of the discharge, multiplied by 3.

You multiply the credits by 3 to make them comparable with the deduction benefits.

Example. You have a \$200 general business credit carryover in the year of debt cancellation. You apply \$300 of the cancellation as follows:

- 1) Multiply the credit by 3 for a result of \$600.

- 2) Subtract the \$300 canceled debt from \$600.
- 3) Divide the remaining \$300 by 3 to determine the amount of credit left — \$100.

The general business credit is reduced to \$100 and may be applied to the tax shown on the return for the year of debt cancellation or carried to another tax year if there is no tax liability for the year of cancellation.

Order of reduction. The rules for reducing tax benefits for qualified farm debt are different from the rules for bankruptcy or insolvency. You must reduce adjusted tax benefits (1), (2), (3), and (4), in that order, by the excluded amount (to the extent not used under *Reduction of basis of depreciable property*, earlier). Then, before reducing adjusted tax benefit (5), apply any remaining excluded amount to reduce your basis in **qualified property**. This is any property you use or hold for use in your business or for the production of income.

You must reduce the basis of qualified property in the following order:

- 1) Depreciable property.
- 2) Land you use in your farming business.
- 3) Other qualified property.

Form 982

Use Form 982 to show the amounts excluded from income and the reduction of tax benefits in the order listed on the form.

When to file. You must file Form 982 with your income tax return for the tax year in which the cancellation of debt occurred. If you do not file this form with your original return, you must file it with an amended return or claim for credit or refund if the cancellation occurred in bankruptcy or insolvency or involved qualified farm debt or qualified real property business debt.

If you do not make the elections on your original return, you must establish reasonable cause with the IRS before you can make them on an amended return or claim for credit. You may revoke the elections only with IRS consent.

More information. For information on debt cancellation, other than qualified farm debt, see Publication 908.

Income From Other Sources

This section discusses other types of income you may receive.

Barter income. If you do work for someone and are paid in products, property, or in work done for you, you must report as income the fair market value of what you receive. The same rule applies if you trade farm products for other farm products, property, or someone else's labor. This is called barter income. For example, if you help a neighbor build a barn and receive a cow for your work, you must report the fair market value of the cow as ordinary income. Your basis for property you receive in a barter transaction is usually the fair market value that you include in income. If you pay someone with property, see the discussion on labor expense in chapter 5.

Below-market loans. A below-market loan is a loan on which no interest is charged, or interest at a rate below the applicable federal rate is charged. If you make a below-market loan, you may have to report income from the loan in addition to the stated interest you receive from the borrower. See Publication 550 for more information on below-market loans.

Commodity futures and options. See chapter 10 for information on gains and losses from commodity futures transactions.

Easements and rights-of-way. Income you receive for granting easements or rights-of-way on your farm or ranch for flooding land, laying pipelines, constructing electric or telephone lines, etc., may result in income, a reduction in the basis of all or part of your farm land, or both.

Example. You granted a right-of-way for a gas pipeline through your property for \$1,000. Only a specific part of your farm land was affected. You reserved the right to continue farming the surface land after the pipe was laid. Treat the payment for the right-of-way in one of the following ways:

- 1) If the payment is less than the basis properly allocated to the part of your land affected by the right-of-way, reduce the basis by \$1,000.
- 2) If the payment is more than the basis of the affected part of your land, reduce the basis to zero and the excess is gain from the sale of section 1231 property. See chapter 11.

If construction of the line damaged growing crops and you later receive a settlement of \$250 for this damage, the \$250 is income. It does not affect the basis of your land.

Fuel tax credit and refund. Include as income any credit or refund of federal excise tax you paid as part of any fuel cost claimed as an expense deduction that reduced your income tax. See chapter 18 for more information.

Illegal federal irrigation subsidy. The federal government, operating through the Bureau of Reclamation, has made irrigation water from certain reclamation and irrigation projects available for agricultural purposes. The excess of the amount required to be paid over the amount actually paid is an illegal subsidy.

For example, if the amount required to be paid is full cost and you paid less than full cost, the excess of full cost over the amount you paid is an illegal subsidy and you must include it in income. Report this on line 10 of Schedule F. You cannot take a deduction for the amount you are required to include in income.

For more information on reclamation and irrigation projects, contact your local Bureau of Reclamation.

Machine work (custom hire). Pay you receive for work you or your hired help perform off your farm for contract work or custom work done for others, or for the use of your property or machines, is income to you whether or not income tax was withheld at the source. This rule applies whether you receive the pay in cash, services, or merchandise.

Prizes. Report prizes you win on farm livestock or products at contests, exhibitions, fairs, etc., on Schedule F as *Other income*. If you receive a prize in cash, include the full amount in income. If you receive a prize in produce or other property, include the fair market value of the property. For prizes of \$600 or more, you should receive a Form 1099-MISC.

See Publication 525 for information about prizes.

Property sold, destroyed, stolen, or condemned. You may have an ordinary or capital gain if property you own is sold or exchanged, stolen, destroyed by fire, flood, or other casualty, or condemned by a public authority. In some situations, you can postpone the tax on the gain to a later year. See chapters 11 and 13.

Recapture of certain depreciation. If you took a section 179 deduction for property used in your farming business and at any time during the property's recovery period you do not use it predominantly in your business, you must include part of the deduction in income. See chapter 8 for information on the section 179 deduction and when to recapture that deduction.

Similarly, if the percentage of business use of listed property (see chapter 8) falls to 50% or less in any tax year during the recovery period, you must include in income any excess depreciation you took on the property.

Both of these amounts are farm income. Use Part IV of Form 4797 to figure how much to include in income.

Refund or reimbursement. You should include in income a reimbursement, refund, or recovery of an item for which you took a deduction in an earlier year. Include it for the tax year you receive it. However, if any part of the earlier deduction did not decrease your income tax, you do not have to include that part of the reimbursement, refund, or recovery.

Example. A tenant farmer purchased fertilizer for \$1,000 in April 1996. He deducted \$1,000 on his 1996 Schedule F and the entire deduction reduced his tax. The landowner reimbursed him \$500 of the cost of the fertilizer in February 1997. The tenant farmer must include \$500 in income on his 1997 tax return because the entire deduction decreased his 1996 tax.

Soil and other natural deposits. If you remove and sell topsoil, loam, fill dirt, sand, gravel, or other natural deposits from your property, the proceeds are ordinary income.

Depletion. A reasonable allowance for depletion of the natural deposit sold may be claimed as a deduction. See *Depletion* in chapter 8.

Sod. Report proceeds from the sale of sod on Schedule F. A deduction for cost depletion is allowed, but only for the topsoil removed with the sod.

Granting the right to remove deposits. If you enter into a legal relationship granting someone else the right to excavate and remove natural deposits from your property, you must determine whether the transaction is a sale or another type of transaction (for example, a lease).

If you receive a specified sum or an amount fixed without regard to the quantity produced and sold from the deposit and you

retain no economic interest in the deposit, your transaction is a sale. You are considered to retain an economic interest if, under the terms of the legal relationship, you depend on the income derived from extraction of the deposit for a return of your capital investment in the deposit.

Your income from the deposit is capital gain if the transaction is a sale. Otherwise, it is ordinary income subject to an allowance for depletion. See chapter 8 for information on depletion and chapter 10 for the tax treatment of capital gains.

Timber sales. Timber sales, including sales of logs, firewood, lumber, and pulpwood, are discussed in chapter 10.

5. Farm Business Expenses

Important Changes for 1997

Standard mileage rate. The standard mileage rate for the cost of operating your car, van, pickup, or panel truck in 1997 is increased to 31.5 cents per mile for all business miles. See *Truck and Car Expenses*, later.

Self-employed health insurance deduction. The part of your self-employed health insurance premiums that you can deduct as an adjustment to income increased to 40% for 1997. See *Insurance*, later.

Medical savings accounts. For tax years beginning after 1996, a self-employed individual may be able to take a deduction for contributions made to medical savings accounts (MSAs) to help cover medical expenses for the self-employed individual and his or her employees. See Publication 969, *Medical Savings Accounts (MSAs)*.

Net operating loss (NOL) deduction. For an NOL occurring in a tax year beginning after August 5, 1997, the carryback period is reduced to 2 years and the carryforward period is increased to 20 years. However, the carryback period remains 3 years for the part of an NOL that:

- 1) Is from a casualty or theft, or
- 2) In the case of a farm business or other qualified small business, is attributable to a Presidentially declared disaster.

See *Losses From Operating a Farm*, later.

Important Change for 1998

Self-employed health insurance deduction. The part of your self-employed health insurance premiums that you can deduct as an adjustment to income is increased to 45% for 1998. See *Insurance*, later.

Introduction

If you use the cash method of accounting, you generally deduct farm business expenses in the tax year you pay them. If you use an accrual method, you generally deduct expenses in the tax year you incur them, regardless of when payment is made. For more information, see *Accounting Methods* in chapter 3.

The uniform capitalization rules require you to capitalize certain expenses. These rules do not apply to plants with a preproductive period of 2 years or less or to animals, unless you are a corporation, partnership, or tax shelter required to use an accrual method of accounting. For more information, see *Uniform Capitalization Rules* in chapter 7.

Under certain circumstances, you can deduct expenses for soil or water conservation, or for the prevention of erosion, if they are consistent with a plan approved by the Natural Resources Conservation Service of the USDA. For more information, see chapter 6.

Topics

This chapter discusses:

- Deductible expenses
- Farm operating losses
- Capital expenses
- Not-for-profit farming
- Nondeductible expenses

Useful Items

You may want to see:

Publication

- **463** Travel, Entertainment, Gift, and Car Expenses
- **535** Business Expenses
- **536** Net Operating Losses
- **538** Accounting Periods and Methods
- **587** Business Use of Your Home
- **925** Passive Activity and At-Risk Rules
- **936** Home Mortgage Interest Deduction

Form (and Instructions)

- **1040** U.S. Individual Income Tax Return
- **1040X** Amended U.S. Individual Income Tax Return
- **Sch A (Form 1040)** Itemized Deductions
- **Sch F (Form 1040)** Profit or Loss From Farming
- **1045** Application for Tentative Refund
- **2290** Heavy Vehicle Use Tax Return

- **5213** Election To Postpone Determination as To Whether the Presumption Applies That an Activity Is Engaged in for Profit

See chapter 21 for information about getting these publications and forms.

Deductible Expenses

The ordinary and necessary costs of operating a farm for profit are deductible business expenses. Part II of Schedule F lists expenses common to farming operations. This chapter discusses many of these expenses, as well as others not listed on Schedule F.

Economic performance. Generally, if you use an accrual method of accounting you cannot deduct or capitalize farm business expenses until economic performance occurs. If your expense is for property or services provided to you, or for use of property by you, economic performance occurs as the property or services are provided, or as you use the property. If your expense is for property or services that you provide to others, economic performance occurs as you provide the property or services. For more information about economic performance, see Publication 538.

Reimbursed expenses. If you are reimbursed, either reduce the expense or report the amount you receive as income, depending on when you receive it. See *Refund or reimbursement* in chapter 4.

Contested liabilities. If you use the cash method of accounting and contest an asserted liability for any of your farm business expenses, you may claim the deduction only in the year you pay the liability. If you are an accrual method taxpayer, however, you can deduct the expense either in the year you pay the contested liability (or transfer money or other property in satisfaction of it) or in the year you finally settle the contest. However, to be able to take the deduction in the year of payment or transfer, you must meet certain rules. For more information, see *Contested Liability* under *Accrual Method* in Publication 538.

Prepaid Farm Supplies

There may be a limit on your deduction for prepaid farm supplies if you use the cash method of accounting to report your income and expenses. This limit will not apply, however, if you meet one of the exceptions described later.

Defined. Prepaid farm supplies are amounts you paid during the tax year for:

- 1) Feed, seed, fertilizer, and similar farm supplies not used or consumed during the year,
- 2) Poultry (including egg-laying hens and baby chicks) bought for use (or use and sale) in your farm business that would be deductible in the following year if you had capitalized the cost and deducted it ratably (for example, monthly) over the lesser of 12 months or the useful life of the poultry, and
- 3) Poultry bought for resale and not resold during the year.

Prepaid farm supplies do not include any amount paid for farm supplies on hand at the end of the tax year that you would have consumed if not for a fire, storm, flood, other casualty, disease, or drought.

Deduction limit. You can deduct the expense for prepaid farm supplies that does not exceed 50% of your other deductible farm expenses in the year of payment. You can deduct the expense for any excess prepaid farm supplies only for the tax year you use or consume the supplies.

The cost of poultry bought for use in your farm business and not allowed in the year of payment is deductible in the following year. The cost of poultry bought for resale is deductible in the year you sell or otherwise dispose of that poultry.

Other deductible farm expenses. Other deductible farm expenses are any amounts allowable as deductions on Schedule F (Form 1040), including depreciation or amortization, but not prepaid farm supplies.

Example. During 1997, you bought fertilizer (\$4,000), feed (\$1,000), and seed (\$500) for use on your farm in the following year. Your total prepaid farm supplies expense for 1997 is \$5,500. Your other deductible farm expenses totaled \$10,000 for 1997. Therefore, your deduction for prepaid farm supplies may not exceed \$5,000 (50% of \$10,000) for 1997. The excess prepaid farm supplies expense of \$500 (\$5,500 – \$5,000) is deductible in the later tax year you use or consume the supplies.

Exceptions. This limit on the deduction of prepaid farm supplies expense does not apply if you are a farm-related taxpayer and either:

- 1) Your prepaid farm supplies expense is more than 50% of your other deductible farm expenses because of a change in business operations caused by unusual circumstances, or
- 2) Your total prepaid farm supplies expense for the preceding 3 tax years is less than 50% of your total other deductible farm expenses for those 3 tax years.

You are a farm-related taxpayer if any of the following apply:

- 1) Your principal home is on a farm.
- 2) Your principal business is farming.
- 3) A member of your family meets (1) or (2).

For this purpose, your family includes your brothers and sisters, half-brothers and half-sisters, spouse, parents, grandparents, children, grandchildren, aunts, uncles, and their children.

Whether or not the deduction limit for prepaid farm supplies applies, your expenses for livestock feed may be subject to the rules for advance payment of livestock feed, discussed next.

Livestock Feed

If you report your income under the cash method, you can deduct in the year paid the cost of feed your livestock consumed in that year. However, the cost of feed not consumed in that year is subject to the advance payment for feed rules, discussed next, and the limit on prepaid farm supplies, discussed earlier.

Advance payments for feed. If you meet *all* three of the following tests, you can deduct in the year of payment (subject to the limit on prepaid farm supplies) the cost of feed your livestock will consume in a later tax year. This rule does not apply to the purchase of commodity futures contracts.

- 1) The expense is a payment for the purchase of feed, not a deposit. Whether an expense is a deposit or payment depends on the facts and circumstances in each case. The expense is a payment if you can show you made it under a binding commitment to accept delivery of a specific quantity of feed at a fixed price and you are not entitled, under contract provision or business custom, to a refund or repurchase.

Factors that show an expense is a deposit rather than a payment include:

- a) The absence of specific quantity terms.
- b) The right to a refund of any unapplied payment credit at the end of the contract.
- c) The treatment as a deposit by the seller.
- d) The right to substitute other goods or products for those specified in the contract.

A provision permitting substitution of ingredients to vary the particular feed mix to meet current diet requirements of the livestock for which you bought the feed will not suggest a deposit. Further, adjustment to the contract price to reflect market value at the date of delivery is not, by itself, proof of a deposit.

- 2) The prepayment has a business purpose and is not merely for tax avoidance. You should have a reasonable expectation of receiving some business benefit from the prepayment. Some examples of business benefits are:
 - a) Fixing maximum prices and securing an assured feed supply.
 - b) Securing preferential treatment in anticipation of a feed shortage.

Whether the prepayment was a condition imposed by the seller and whether the condition was meaningful will also be considered in determining the existence of a business purpose for the prepayment.

- 3) The deduction of these costs does not result in a material distortion of your income. Even if you meet the first two tests, this does not automatically mean the expense is deductible in the year paid. A deferral of the deduction may be necessary to clearly reflect your income. Some factors to consider in determining whether the deduction results in a material distortion of income are:

- a) Your customary business practice in conducting your livestock operations.
- b) The expense in relation to past purchases.
- c) The time of year you made the purchase.
- d) The expense in relation to your income for the year.

If you fail any of these tests, you cannot deduct in the year paid the cost of feed your livestock will consume in a later tax year. Deduct it in the tax years your livestock consume the feed.

Labor Hired

You can deduct reasonable wages paid for regular farm labor, piecework, contract labor, and other forms of labor hired to perform your farming operations. You may pay wages in cash or noncash items such as inventory items, capital assets, or assets used in your business. The cost of boarding farm labor is a deductible labor cost. Other deductible costs you incur for farm labor include health insurance, workers' compensation insurance, and other benefits.

If you must withhold social security, Medicare, and income taxes from your employees' cash wages, you can still deduct the full amount of wages before withholding. See chapter 16 for more information on employment taxes. Also, deduct the employer's share of the social security and Medicare taxes you must pay on your employees' wages as a farm business expense on the *Taxes* line of Schedule F. See *Taxes*, later.

Deductible Pay

The kinds of pay you can deduct include the fair market value of property you transfer to your employees and wages you pay to members of your family, as discussed below.

Property for services. If you transfer property to one of your employees in payment for services, you can deduct as wages paid the fair market value of the property on the date of transfer. If the employee pays you anything for the property, deduct as wages the fair market value of the property minus the payment by the employee for the property. Treat the deduction on your return as the amount received for the property. You may have a gain or loss to report if the property's adjusted basis on the date of transfer is different from its fair market value. Any gain or loss has the same character the exchanged property had in your hands. For more information, see chapter 10.

Child as an employee. You can deduct reasonable wages or other compensation you pay to your children for doing farm work if a **true employer-employee relationship** exists between you and your children. Include these wages in the child's income. The child may have to file an income tax return. These wages may also be subject to social security and Medicare taxes if your child is age 18 or older. For more information, see *Family Members* in chapter 16.

The fact that your child spends the wages to buy clothes or other necessities you normally furnish does not prevent you from deducting your child's wages as a farm expense.

Spouse as an employee. You can deduct reasonable wages or other compensation you pay to your spouse if a **true employer-employee relationship** exists between you and your spouse. Wages you pay to your spouse are subject to social security and Medicare taxes. For more information, see *Family Members* in chapter 16.

Non deductible Pay

You cannot deduct wages paid for certain household work, construction work, and maintenance of your home. However, those wages may be subject to the employment taxes discussed in chapter 16.

Household workers. Do not deduct amounts paid to persons engaged in household work, except to the extent their services are used in boarding or otherwise caring for farm laborers.

Construction labor. Do not deduct wages paid to hired help for the construction of new buildings or other items. These wages are part of the cost of the building or other improvement. Capitalize them.

Maintaining your home. If your farm employee spends time maintaining or repairing your home, the wages and social security and Medicare taxes you pay for that work are nondeductible personal expenses. For example, assume you have a farm employee for the entire tax year and the employee spends 5% of the time maintaining your home. The employee devotes the remaining time to work on your farm. You cannot deduct 5% of the wages and social security and Medicare taxes you pay for that employee.

Employment Credits

Reduce your deduction for wages by any employment credits allowed for the tax year. The following are employment credits and their related forms:

- ☒ Empowerment zone employment credit (Form 8844)
- ☒ Indian employment credit (Form 8845)
- ☒ Welfare-to-work credit (Form 8861)
- ☒ Work opportunity credit (Form 5884)

For more information, see the forms and their instructions.

Personal and Business Expenses

Some expenses you pay during the tax year may be partly personal and partly business. These may include expenses for gasoline, oil, fuel, water, rent, electricity, telephone, automobile upkeep, repairs, insurance, interest, and taxes.

Allocation. Allocate these mixed expenses because the personal part is not deductible as a business expense.

Example. You paid \$1,500 for electricity during the tax year. You used one-third of the electricity for personal purposes and two-thirds for farming. Under these circumstances, you can deduct two-thirds of your electricity expense (\$1,000) as a farm business expense.

Reasonable allocation. It is not always easy to determine the business and nonbusiness parts of an expense. There is no rule for all cases. A reasonable allocation is acceptable. What is reasonable depends on the circumstances in each case.

Telephone expense. You cannot deduct the cost of basic local telephone service (including taxes) for the first telephone line you

have in your home. However, you can deduct the cost of additional telephone service in your home if you use it for your farm business.

Tax preparation fees. You can deduct as a farm business expense on Schedule F (Form 1040) the cost of preparing that part of your tax return relating to your farm business. You can deduct the remaining cost on Schedule A (Form 1040) if you itemize your deductions.

You can also deduct on Schedule F the amount you pay or incur in resolving tax issues relating to your farm business.

Repairs and Maintenance

You can deduct most expenses for the repair and maintenance of your farm property. However, repairs to depreciable property that substantially prolong the life of the property, increase its value, or adapt it to a different use are capital expenses. If you repair the barn roof, the cost is deductible. But if you replace the roof, it is a capital expense. Common items of repair and maintenance are repainting, replacing shingles and supports on farm buildings, and minor overhauls of trucks, tractors, and other farm machinery. You must, however, capitalize major overhauls that prolong the life of the property.

Interest

You can deduct as a farm business expense interest paid on farm mortgages and other obligations you incur in your farm business.

If you use the cash method of accounting, you can deduct interest paid during the year. You cannot deduct interest paid with funds received from the original lender through another loan, advance, or other arrangement similar to a loan. You can, however, deduct the interest when you start making payments on the new loan.

If you use an accrual method of accounting, deduct interest as it accrues. However, you cannot deduct interest owed to a related person who uses the cash method until payment is made and the interest is includible in the gross income of that person. For more information, see chapter 8 in Publication 535.

Allocation of interest. If you use the proceeds of a loan for more than one purpose (for example, personal and business), allocate the interest on that loan to each use.

The best way to allocate interest is to keep the proceeds of a particular loan separate from any other funds. You can treat a payment made from any account (or in cash) within 30 days before or after the debt proceeds are deposited (or received in cash) as being made from those debt proceeds.

You generally allocate interest on a loan the same way you allocate the loan. This is true even if the funds are paid directly to a third party. You allocate loans by tracing disbursements to specific uses. If you must allocate your interest expense, use the following categories:

- 1) Trade or business interest.
- 2) Passive activity interest.
- 3) Investment interest.
- 4) Personal interest.
- 5) Portfolio expenditure interest.

Allocation based on use of loan's proceeds. Loan proceeds and the related interest are allocated by the use of the proceeds. The allocation is not affected by the use of property that secures the loan.

Example. You secure a loan with property used in your farming business. You use the loan proceeds to buy a car for personal use. You must allocate interest expense on the loan to personal use (purchase of the car) even though the loan is secured by farm business property.

Allocation period. The period a loan is allocated to a particular use begins on the date the proceeds are used and ends on the earlier of the date the loan is:

- 1) Repaid, or
- 2) Reallocated to another use.

For more information, see chapter 8 in Publication 535.

Prepaid interest. Under the cash method, you cannot generally deduct any interest paid before the year it is due. Interest you pay that is properly allocable to a later tax year must be charged to a capital account. Treat an advance payment as paid in the period covered by the prepaid interest.

Loan expenses. You prorate and deduct loan expenses, such as legal fees and commissions, you pay to get a farm loan over the term of the loan.

Breeding Fees

You can deduct breeding fees as a farm business expense. However, if you must use an accrual method of accounting, you must capitalize breeding fees and allocate them to the cost basis of the calf, foal, etc. For more information on who must use an accrual method of accounting, see chapter 3.

Fertilizer and Lime

You can deduct in the year paid or incurred the cost of fertilizer, lime, and other materials applied to farm land to enrich, neutralize, or condition it. You can deduct the cost of applying these materials in the year you pay or incur it. If the benefits of the fertilizer, lime, or other materials last substantially more than a year, you can choose to deduct the expenses in the year paid or incurred, or you can capitalize them and deduct a part each year the benefits last. However, see *Prepaid Farm Supplies*, earlier, for a rule that may limit your deduction for these materials.

Farm land is land used for producing crops, fruits, or other agricultural products or for sustaining livestock. Farm land for the choice described in the preceding paragraph does not include land you have never used for producing crops or sustaining livestock. You cannot deduct initial land preparation costs (see *Capital Expenses*, later).

If you choose to deduct the expenses in the year paid or incurred, you can change the choice for that year only with IRS consent. Include government payments you receive for lime or fertilizer in income. For more information, see *Fertilizer and Lime* in chapter 4.

Taxes

You can deduct as a farm business expense the real estate and personal property taxes on farm business assets, such as farm equipment, animals, farm land, and farm buildings. You can also deduct the social security and Medicare taxes you pay to match the amount withheld from the wages of farm employees and any federal unemployment tax you pay. For information on employment taxes, see chapter 16.

The taxes on the part of your farm you use as your home, and its furnishings, are non-business taxes. To determine the nonbusiness part, prorate the taxes between the farm assets and nonbusiness assets. The proration can be done from the assessed valuations. If your tax statement does not show the assessed valuations, you can usually get them from the tax assessor.

State or local general sales taxes. State or local general sales taxes on nondepreciable farm business expense items are part of the cost of the item. Include state or local general sales taxes imposed on the purchase of capital assets for use in your farm business as part of the cost that you depreciate. If state or local general sales taxes on the purchase of farm business capital assets are imposed on the seller and passed on to you, treat them as part of the cost of the capital assets.

State and federal income taxes. You cannot deduct state and federal income taxes as farm business expenses. You can deduct state income tax only as an itemized deduction on Schedule A. You cannot deduct federal income tax.

Highway use tax. You can deduct the federal use tax on highway motor vehicles paid on a truck or truck tractor used in your farm business. For information on the tax itself, including information on vehicles subject to the tax, see the instructions for Form 2290.

Self-employment tax deduction. You can deduct one-half of your self-employment tax in figuring your adjusted gross income on Form 1040. For more information, see chapter 15.

Insurance

You can generally deduct the ordinary and necessary cost of insurance for your farm business as a business expense. You can generally deduct on Schedule F premiums you pay for the following types of insurance related to your farm business.

- 1) Fire, storm, crop, theft, liability, and other insurance on farm business assets,
- 2) Premiums for health and accident insurance on your employees, and
- 3) Payments for workers' compensation insurance and state unemployment insurance.

Self-employed health insurance deduction. If you are a self-employed individual, you can deduct, as an adjustment to income on your 1997 Form 1040, 40% of your payments for health insurance coverage for yourself, your spouse, and your dependents. Generally, this deduction cannot be more

than the net profit from the business under which the plan was established.

If you are also an employee of another person, you cannot take the deduction for any month in which you are eligible to participate in a subsidized health plan maintained by your employer. This also applies if you are eligible to participate in a health plan maintained by your spouse's employer.

Use the worksheet in the Form 1040 instructions to figure your deduction. Include the remaining part of the insurance payment in your medical expenses on Schedule A, if you itemize your deductions.

Advance premiums. If you pay insurance premiums in advance, deduct each year only the premium that applies to that tax year. Deduct the balance in each later year to which it applies. This applies whether you use the cash or accrual method of accounting.

Example. On June 28, 1997, you paid a premium of \$3,000 for fire insurance on your barn. The policy will cover a period of 3 years beginning on July 1, 1997. Only the cost for the 6 months in 1997 is deductible as an insurance expense on your 1997 tax return. Deduct \$500, which is the premium for 6 months of the 36-month premium period, or $\frac{1}{6}$ of \$3,000. In both 1998 and 1999, deduct \$1,000 ($\frac{2}{6}$ of \$3,000). Deduct the remaining \$500 in 2000. Had the policy been effective on January 1, 1997, the deductible expense would have been \$1,000 for each of the years 1997, 1998, and 1999, based on one-third of the premium used each year.

Business interruption insurance. Business interruption insurance premiums are deductible. This insurance pays for lost profits if your business is shut down due to a fire or other cause. Report any proceeds in full as ordinary income.

Rent and Leasing

If you lease property for use in your business, you can generally deduct the rent you pay.

Rent

You can deduct on Schedule F rent you pay in cash. However, you cannot deduct rent you pay in crop shares because you deduct the cost of raising the crops as farm expenses.

Advance payments. Deduct advance payments of rent only in the year to which they apply, regardless of your accounting method.

Farm home. If you rent a farm, do not deduct the part of the rental expense that represents the fair rental value of the farm home in which you live.

Lease or Purchase

If you lease equipment rather than buy it, determine whether the agreement is a lease or, in reality, a conditional sales contract. If the agreement is a lease, you can deduct rental payments for the use of the equipment in your trade or business. If the agreement is a conditional sales contract and you have acquired, or will acquire, title to or equity in the equipment, the payments under the agreement, so far as they do not represent interest or other charges, are payments for the purchase of the equipment. Do not deduct

these payments as rent, but capitalize the cost of the equipment and recover this through depreciation.

Example. You lease new farm equipment from a dealer who both sells and leases. The lease payments and the specified option price equal the sales price plus interest. Under the lease, you are responsible for maintenance, repairs, and the risk of loss. For federal income tax purposes, the lease is a sale of the equipment and you cannot deduct any of the lease costs as rent. You can deduct interest, repairs, insurance, depreciation, and other business expenses.

Intent. Whether the agreement, which in form is a lease, is in substance a conditional sales contract, depends on the intent of the parties. This intent is shown by the agreement, read in the light of the facts and circumstances existing at the time you made the agreement. In determining the intent, no single test, or special combination of tests, always applies. However, in the absence of compelling and persuasive factors to the contrary, treat an agreement as a conditional sales contract, rather than a lease, if **any** of the following is true.

- 1) The agreement applies part of each payment toward an equity interest you will receive.
- 2) You receive title to the property after you pay a stated amount of required payments.
- 3) You must pay, over a short period, an amount that represents a large part of the price you would pay to buy the property.
- 4) You pay much more than the current fair rental value of the property.
- 5) You have an option to buy the property at a small price compared to the value of the property at the time you can exercise the option. Determine this value at the time of entering into the original agreement.
- 6) You have an option to buy the property at a small price compared to the total you must pay under the lease.
- 7) The lease designates part of the payments as interest, or part of the payments are easy to recognize as interest.

Leveraged leases. Special rules apply to leveraged leases of equipment (property financed by a nonrecourse loan from a third party). For more information, see the following revenue procedures.

- 1) 75-21, 1975-1 CB 715,
- 2) 75-28, 1975-1 CB 752,
- 3) 76-30, 1976-2 CB 647, and
- 4) 79-48, 1979-2 CB 529.

Motor vehicle leases. Special rules apply to lease agreements that have a terminal rental adjustment clause. The clause will generally provide for a rental adjustment on termination of the lease. If your rental agreement contains a terminal rental adjustment clause, treat the agreement as a lease. For more information, see section 7701(h) of the Internal Revenue Code.

Depreciation

If property you acquire to use in your farm business has a useful life of more than one year, you generally cannot deduct the entire cost in the year you acquire it. You must spread the cost over more than one year and deduct part of it each year on Schedule F. For most property, this deduction is depreciation. However, you may be able to deduct part or all of the cost of this property as a business expense in the year you place it in service. This is the section 179 deduction.

Depreciation and the section 179 deduction are discussed in chapter 8.

Business Use of Your Home

You can deduct expenses for the business use of your home if you use part of your home exclusively and regularly:

- 1) As the principal place of business for any trade or business in which you engage,
- 2) As a place to meet or deal with patients, clients, or customers in the normal course of your trade or business, or
- 3) In connection with your trade or business, if you are using a separate structure that is not attached to your home.

If you use part of your home for business, you must divide the expenses of operating your home between personal and business use. For more information, see Publication 587.

Deduction limit. If the gross income from the business use of your home is less than your total business expenses, your deduction for certain expenses for the business use of your home is limited. Total deductions for otherwise nondeductible expenses, such as utilities, insurance, and depreciation (with depreciation taken last), cannot be more than the gross income from the business use of your home minus the sum of:

- 1) The business percentage of the otherwise deductible mortgage interest, real estate taxes, and casualty and theft losses, and
- 2) The business expenses that are attributable to the business activity in the home, but not to the use of the home itself (for example, salaries or supplies).

You can carry forward to your next tax year deductions over the current year's limit. These deductions are subject to the gross income limit from the business use of your home for the next tax year.

See Publication 587 for information on how to figure this limit and where to deduct the expenses on your return.

Truck and Car Expenses

You can deduct the actual cost of operating a truck or car in your farm business. Only expenses for business use are deductible. These include such items as gasoline, oil, repairs, license tags, insurance, and depreciation (subject to certain limits).

Instead of using actual costs, under certain conditions you can use a standard mileage rate of 31.5 cents a mile for all miles of business use in 1997. You can use the standard mileage rate only for cars and light

trucks, such as vans, pickups, and panel trucks, that you own. You cannot use the standard mileage rate if you operate two or more cars or light trucks at the same time in your farm business.

For more information, see Publication 463.

Travel Expenses

You can deduct ordinary and necessary expenses you incur while traveling away from home for your farm business. You cannot deduct lavish or extravagant expenses. Your home, for tax purposes, is usually the location of your farm business. You are traveling away from home if:

- 1) Your duties require you to be absent from your farm substantially longer than an ordinary work day, and
- 2) You need to get sleep or rest to meet the demands of your work while away from home.

If you meet these requirements and can prove the time, place, and business purpose of your travel, you can deduct your ordinary and necessary expenses for travel, meals, and lodging. You can ordinarily deduct only 50% of your business-related meal expenses.


Travel expenses include, but are not limited to, expenses for:

- 1) Air, rail, bus, and car transportation.
- 2) Meals and lodging.
- 3) Cleaning and laundry.
- 4) Telephone and fax.
- 5) Transportation between your hotel and your temporary work assignment.
- 6) Tips for any of the above expenses.

Meals. You can deduct 50% of the cost of meals only if your business trip is overnight or long enough to require you to stop for sleep or rest to properly perform your duties. You cannot deduct any of the cost of meals if it is not necessary for you to rest.

If you pay for a business meal when you are **not traveling**, you can deduct 50% of the cost only if you meet the rules for business entertainment. For more information on entertainment expenses, see chapter 2 of Publication 463.

The expense of a meal includes amounts you spend for your food, beverages, taxes, and tips relating to the meal. You can use either the actual cost or a standard amount. For more information on using a standard amount, see *Standard meal allowance*, later.

 **Recordkeeping requirements.** You must be able to prove your deductions for travel by adequate records or other evidence that will support your own statement. Estimates or approximations do not qualify as proof of an expense.

You should keep an account book or similar record, supported by adequate documentary evidence, that together supports each element of an expense.

Standard meal allowance. Instead of deducting the actual cost of meals and incidental expenses while traveling away from home for business, you can generally choose to deduct a standard meal allowance. If you choose this option, you do not have to keep

records to prove amounts spent for meals and incidental expenses. However, you must still keep records to prove the actual cost of other travel expenses, and the time, place, and business purpose of your travel.

More information. For detailed information on travel, recordkeeping, and the standard meal allowance, see Publication 463.

Reimbursements to employees. You can generally deduct reimbursements you pay to your employees for travel and transportation expenses they incur in the conduct of your business. If you reimburse these expenses under an accountable plan, deduct them as travel, meal, and entertainment expenses. If you reimburse these expenses under a non-accountable plan, you must report the reimbursements as wages on Form W-2 and deduct them as wages. For more information, see chapter 16 of Publication 535.

Marketing Quota Penalties

You can deduct on Schedule F penalties you pay for marketing crops in excess of farm marketing quotas. However, if you do not pay the penalty, but instead the purchaser of your crop deducts it from the payment to you, include in gross income only the amount you received. Do not take a separate deduction for the penalty.

Tenant House Expenses

You can deduct the costs of maintaining houses and their furnishings for tenants or hired help as farm business expenses. These costs include repairs, heat, light, insurance, and depreciation.

The value of a dwelling you furnish to a tenant under the usual tenant-farmer arrangement is not taxable income to the tenant.

Items Purchased for Resale

If you use the cash method of accounting, you can deduct the cost of livestock and other items purchased for resale in Part I of Schedule F in the year of sale. This cost includes freight charges for transporting the livestock to the farm. Ordinarily, this is the only time you can deduct the purchase price. However, see *Cost of chickens, seeds, and young plants—cash method*, later.

Example. You report on the cash method. In 1997, you buy 50 steers you will sell in 1998. You deduct the purchase price, and any freight cost, in 1998 when you sell the steers.

Cost of chickens, seeds, and young plants—cash method. Cash method farmers can deduct the cost of hens and baby chicks bought for commercial egg production, or for raising and resale, as an expense in the year they pay the costs, if they do it consistently and it clearly reflects income. You can deduct the purchase price of seeds and young plants bought for further development and cultivation before sale as an expense when paid if you do this consistently and you do not figure your income on the crop method. However, this rule does not apply to the cost of seeds and young plants for Christmas trees, orchards, and timber.

If you deduct the purchase price of chickens and young plants as an expense, report their entire selling price as income. You cannot also deduct the purchase price from the selling price.

See *Prepaid Farm Supplies*, earlier, for a rule that may limit your deduction for the items discussed here.

Capitalize the cost of plants with a pre-productive period of more than 2 years, unless you can elect out of the uniform capitalization rules, which are discussed in chapter 7.

Example. You use the cash method of accounting. In 1997, you buy 500 baby chicks to raise for resale in 1998. You also buy 50 bushels of winter seed wheat in 1997 that you sow in the fall. You can deduct the cost of both the baby chicks and the seed wheat in 1997, unless you previously adopted the method of deducting these costs in the year you sell the chickens or the harvested crops.

Delaying deduction—crop method. You can delay deducting the purchase price of seeds and young plants until you sell them if you get IRS permission. If you follow this method, deduct the purchase price from the selling price to determine your profit. Do this in Part I of Schedule F. For more information, see *Crop method* under *Special Methods* in chapter 3.

Choosing the method. You can adopt either of these methods for deducting the purchase price in the first year you buy egg-laying hens, pullets, chicks, or seeds and young plants. If you choose the crop method, however, you need IRS permission.

Although you must use the same method for egg-laying hens, pullets, and chicks, you can use a different method for seeds and young plants. Once you use a particular method for any of these items, use it for those items until you get IRS permission to change your method. For more information, see *Change in Accounting Method* in chapter 3.

You cannot deduct the purchase price of seeds and young plants for Christmas trees and timber as an expense. Deduct the cost of these seeds and plants through depletion allowances. For more information, see *Depletion* in chapter 8.

The purchase price of chickens and plants used as food for your family is never deductible.

Other Expenses

The following list, while not all-inclusive, shows some expenses you can deduct as other farm expenses in Part II of Schedule F. These expenses must be for business purposes and (1) paid, if you use the cash method, or (2) incurred, if you use an accrual method.

- ☞ Accounting fees
- ☞ Advertising
- ☞ Chemicals
- ☞ Custom hire (machine work)
- ☞ Educational expenses (to maintain and improve farming skills)
- ☞ Farm attorney fees
- ☞ Farm fuels and oil

- ☞ Farm magazines
- ☞ Freight and trucking
- ☞ Ginning
- ☞ Insect sprays and dusts
- ☞ Litter and bedding
- ☞ Livestock fees
- ☞ Recordkeeping expenses
- ☞ Service charges
- ☞ Small tools having a useful life of one year or less
- ☞ Stamps and stationery
- ☞ Storage and warehousing
- ☞ Tying material and containers
- ☞ Veterinary fees and medicine

Losses From Operating a Farm

If your deductible farm expenses are more than your farm income, you have a loss from the operation of your farm. If your loss is more than your other income for the year, you may have a net operating loss (NOL). You may also have an NOL if you had a casualty or theft loss that was more than your income.

You can use an NOL to reduce your income (and tax) in other years by carrying it to those years and deducting it from income. However, the at-risk limits, discussed later, may limit how much NOL you can carry to other years.

Net Operating Losses

It is important for you to determine whether you have an NOL. If you have an NOL this year, you may be able to get all or part of the income tax you paid for past tax years refunded, or you may be able to reduce your tax in future years.

To determine if you have an NOL, complete your tax return for the year. You may have an NOL if a negative figure appears on the line shown below:

- 1) Individuals—line 36 of Form 1040.
- 2) Estates and trusts—line 23 of Form 1041.
- 3) Corporations—line 30 of Form 1120 or line 26 of Form 1120-A.

If the amount on that line is zero or more, you do not have an NOL.

There are rules that limit what you can deduct when figuring an NOL. These rules are discussed in detail under *How To Figure an NOL* in Publication 536.

In general, these rules do not allow:

- 1) Exemptions,
- 2) Net capital losses,
- 3) Nonbusiness losses,
- 4) Nonbusiness deductions, and
- 5) Net operating loss deductions.

Example. Glenn Johnson is a dairy farmer. He is single and has the following income and deductions on his Form 1040 for 1997.

INCOME	
Wages from part-time job	\$1,225
Interest on savings	425
Net long-term capital gain on sale of farm acreage	2,000
Glenn's total income	<u>\$3,650</u>

DEDUCTIONS	
Net loss from farming business (income of \$67,000 minus expenses of \$72,000)	\$5,000
Net short-term capital loss on sale of stock	1,000
Standard deduction	4,150
Personal exemption	2,650
Glenn's total deductions	<u>\$12,800</u>

Glenn's deductions exceed his income by \$9,150 (\$12,800 – \$3,650). However, to figure whether he has an NOL, he must modify certain deductions. He can use **Schedule A (Form 1045)** to figure his NOL.

Glenn cannot deduct the following:

Nonbusiness net short-term capital loss	\$1,000
Nonbusiness deductions (standard deduction, \$4,150) minus nonbusiness income (interest, \$425)	3,725
Personal exemption	2,650
Total adjustments to net loss	<u>\$7,375</u>

When these items are eliminated, Glenn's net loss is reduced to \$1,775 (\$9,150 – \$7,375). This is his NOL for 1997.

Carrybacks. Generally, you can carry an NOL back to the 3 tax years before the NOL year and deduct it from income you had in those years. There are rules for figuring how much of the NOL is used in each tax year and how much is carried to the next tax year. These rules are explained in Publication 536.

TIP For an NOL occurring in a tax year beginning after August 5, 1997, the carryback period is reduced to 2 years. However, the carryback period remains 3 years for the part of an NOL that:

- ☞ Is from a casualty or theft, or
- ☞ In the case of a farm business or other qualified small business, is attributable to a Presidentially declared disaster.

Unless you choose to forgo the carryback period, as discussed later, you must first carry the entire NOL to the earliest carryback year. If your NOL is not used up, you can carry the rest to the next earliest carryback year, and so on.

Refigure your deductions, credits, and tax for each of the years to which you carried back an NOL. If your refigured tax is less than the tax you originally paid, you can apply for a refund by filing Form 1040X for each year affected, or by filing Form 1045. You will usually get a refund faster by filing Form 1045, and you can use one Form 1045 to apply an NOL to all carryback years.

Carryovers. If you do not use up the NOL in the carryback years, carry forward what remains of it to the 15 tax years following the NOL year. Start by carrying it to the first tax year after the NOL year. If you do not use it up, carry over the unused part to the next year. Continue to carry over any unused part of the NOL until you use it up or complete the 15-year carryforward period.

TIP For an NOL occurring in a tax year beginning after August 5, 1997, the carryforward period is increased to 20 years.

Forgoing the carryback period. You can choose not to carry back your NOL. If you make this choice, you use your NOL only in the 15-year carryforward period. (This choice means you also choose to not carry back any alternative tax NOL.) To make this choice, attach a statement to your tax return for the NOL year or to an amended return for the NOL year filed within 6 months of the due date of the return (excluding extensions). This statement must show that you are choosing to forgo the carryback period. For more information about making the choice, see *Forgoing the carryback period* under *When To Use an NOL* in Publication 536.

Partnerships and S corporations. Partnerships and S corporations cannot use an NOL. But partners or shareholders can use their separate shares of the partnership's or S corporation's business income and business deductions to figure their individual NOLs.

At-Risk Limits

Rules that limit your deduction for losses apply to most business or income-producing activities. Farming is one of the activities covered. The at-risk rules limit the loss you can deduct when figuring your taxable income or an NOL. The deductible loss from an activity is limited to the amount you have at risk in the activity.

You are generally at risk for:

- 1) The money and property you contribute to an activity.
- 2) The amounts borrowed for use in the activity if:
 - a) You are personally liable for repayment of the amounts borrowed, or
 - b) Your property not used in the activity secures the amounts borrowed.

You are not at risk, however, for amounts borrowed for use in a farming activity from a person who has an interest in the activity or a person related to someone (other than you) having such an interest. For more information, see Publication 925.

Passive Activity Limits

If you have a passive activity, special rules limit the loss you can deduct in the tax year. You generally cannot deduct losses from passive activities in the tax year that these losses exceed income from passive activities. Credits are similarly limited.

A **passive activity** is generally any activity involving the conduct of any trade or business in which you do not materially participate. Generally, a rental activity is a passive activity.

For more information, see Publication 925.

Capital Expenses

A capital expense is a payment, or a debt incurred, for the acquisition, improvement, or restoration of an asset having a useful life of more than one year. Capital expenses are generally not deductible, but they may be depreciable. Uniform capitalization rules also require you to capitalize or include in inventory certain expenses. See chapters 3 and 7. However, you can elect to deduct certain capital expenses such as:

- 1) Soil and water conservation expenses. For more information, see chapter 6.
- 2) Property that qualifies for a deduction under section 179. For more information, see chapter 8.
- 3) The cost of qualifying clean-fuel vehicle property and clean-fuel vehicle refueling property. For more information, see chapter 15 in Publication 535.

The costs of the following items are capital expenses you must capitalize. The costs of material, hired labor, and installation of these items are also capital expenses you must capitalize.

- 1) Land and buildings.
- 2) Additions, alterations, and improvements to buildings, etc.
- 3) Cars and trucks.
- 4) Equipment and machinery.
- 5) Fences.
- 6) Breeding, dairy, and draft livestock.
- 7) Reforestation costs.
- 8) Repairs to machinery, equipment, cars, and trucks that prolong their useful life, increase their value, or adapt them to different use.
- 9) Water wells, including drilling and equipping costs.
- 10) Preparatory costs such as:
 - a) Clearing land for farming.
 - b) Leveling and conditioning land.
 - c) Purchasing and planting trees.
 - d) Building irrigation canals and ditches.
 - e) Laying irrigation pipes.
 - f) Installing drain tile.
 - g) Modifying channels or streams.
 - h) Constructing earthen, masonry, or concrete tanks, reservoirs, or dams.
 - i) Building roads.

Production expenses. The uniform capitalization rules generally require you to capitalize production expenses incurred in producing long-term crops. However, except for certain taxpayers required to use an accrual method of accounting, the capitalization rules do not apply to plants with a preproductive period of 2 years or less. For more information, see *Uniform Capitalization Rules* in chapter 7.

Timber. Capitalize the cost of acquiring timber. Do not include the cost of land in the cost of the timber. You must generally capitalize direct costs incurred in reforestation. These costs include:

- 1) Site preparation costs such as:
 - a) Girdling,
 - b) Applying herbicide,
 - c) Baiting rodents, and
 - d) Clearing and controlling brush.
- 2) Cost of seed or seedlings.
- 3) Labor and tool expenses.

- 4) Depreciation on equipment used in planting or seeding.
- 5) Costs incurred in replanting to replace lost seedlings.

You can choose to capitalize certain indirect costs. These capitalized amounts are your basis for the timber. Recover your basis when you sell the timber or take depletion allowances when you cut the timber. However, you may recover a limited amount of your costs for forestation or reforestation before cutting the timber through amortization deductions. For more information, see *Depletion and Amortization* in chapter 8.



For more information about timber, see Agriculture Handbook Number 708, *Forest Owners' Guide to the Federal Income Tax*. Copies are \$10 each and are available from the U.S. Government Printing Office. Place your order using Stock #001-000-04621-7 at the following address:

Superintendent of Documents
U.S. Government Printing Office
Mail Stop: SSOP
Washington, DC 20402-9328

Christmas tree cultivation. If you are in the business of planting and cultivating Christmas trees to sell when they are more than 6 years old, capitalize expenses incurred for planting and stump culture and add them to the basis of the standing trees. Recover these expenses as part of your adjusted basis when you sell the standing trees or you take depletion allowances when you cut the trees. For more information, see *Timber depletion* in chapter 8.

You can deduct as business expenses the costs incurred for shearing and basal pruning of these trees. Expenses incurred for silvicultural practices, such as weeding or cleaning, and noncommercial thinning are also deductible as business expenses.

Capitalize the cost of land improvements, such as road grading, ditching, and fire breaks, that have a useful life beyond the tax year. If the improvements do not have a determinable useful life, add their cost to the basis of the land. The cost is recovered when you sell or otherwise dispose of it. If the improvements have a determinable useful life, recover their cost through depreciation. Capitalize the cost of equipment and other depreciable assets, such as culverts and fences, to the extent you do not use them in planting Christmas trees. Recover these costs through depreciation.

Not-for-Profit Farming

A farmer who operates a farm for profit can deduct all the ordinary and necessary expenses of carrying on the business of farming. However, if you do not carry on your farming activity, or other activity you engage or invest in, to make a profit, there is a limit on the deductions you can take. You cannot use a loss from that activity to offset other income. Activities you do as a hobby, or mainly for sport or recreation, come under this limit. So does an investment activity intended only to produce tax losses for the investors.

The limit on not-for-profit losses applies to individuals, partnerships, estates, trusts, and S corporations. It does not apply to corporations other than S corporations.

In determining whether you are carrying on your farming activity for profit, all the facts are taken into account. No one factor alone is decisive. Among the factors to be considered are whether:

- 1) You operate your farm in a businesslike manner.
- 2) The time and effort you spend on farming indicates you intend to make it profitable.
- 3) You depend on income from farming for your livelihood.
- 4) Your losses are due to circumstances beyond your control or are normal in the start-up phase of farming.
- 5) You change your methods of operation in an attempt to improve profitability.
- 6) You make a profit from farming in some years and how much profit you make.
- 7) You, or your advisors, have the knowledge needed to carry on the farming activity as a successful business.
- 8) You made a profit in similar activities in the past.
- 9) You are carrying on the farming activity for personal pleasure or recreation.

Limit on deductions and losses. If your activity is not carried on for profit, take deductions only in the following order, only as far as stated in the three categories, and, if you are an individual, only if you itemize them on Schedule A (Form 1040). You do not have to go through the following computations (Categories 1, 2, or 3) if the gross income from the activity is more than your deductions. But you must still itemize them on Schedule A (Form 1040).

Category 1. Deductions you can take for personal as well as for business activities are allowed in full. For individuals, all nonbusiness deductions, such as those for mortgage interest, taxes, and casualty losses (see chapter 13), belong in this category. For the limits that apply to mortgage interest, see Publication 936.

Category 2. Deductions that do not result in an adjustment to the basis of property are allowed next, but only to the extent your gross income from the activity is more than the deductions you take (or could take) for it under the first category. Most business deductions, such as those for fertilizer, feed, insurance premiums, utilities, wages, etc., belong in this category.

Category 3. Business deductions that decrease the basis of property are allowed last, but only to the extent the gross income from the activity is more than deductions you take (or could take) for it under the first two categories. The deductions for depreciation, amortization, and the part of a casualty loss an individual could not deduct in category (1) belong in this category. Where more than one asset is involved, divide depreciation and these other deductions proportionally among those assets.

Partnerships and S corporations. If a partnership or S corporation carries on a not-for-profit activity, these limits apply at the partnership or S corporation level. They are reflected in the individual stockholder's or partner's distributive shares.

Presumption of profit. Your farming or other activity is presumed to be carried on for profit if it produced a profit in at least 3 of the last 5 tax years, including the current year. Activities that consist primarily of breeding, training, showing, or racing horses are presumed to be carried on for profit if they produced a profit in at least 2 out of the last 7 tax years, including the current year. The activity must be the same for each year within this period. You have a profit when gross income from an activity is more than the deductions from that activity.

If a taxpayer dies before the end of the 5-year (or 7-year) period, the period ends on the date of the taxpayer's death.

If your business or investment activity passes this 3- (or 2-) years-of-profit test, it is presumed to be carried on for profit. This means the limits discussed here do not apply. You can take all your business deductions from the activity, even for the years that you have a loss. You can rely on this presumption unless the IRS shows it is not valid.

If you fail the 3- (or 2-) years-of-profit test, you may still be considered to operate your farm for profit by considering the factors listed earlier under *Not-for-Profit Farming*.

Using the presumption later. If you are starting out in farming and do not have 3 (or 2) years showing a profit, you may want to take advantage of this presumption later, after you have had the 5 (or 7) years of experience allowed by the test.

You can choose to do this by filing Form 5213. Filing this form postpones any determination that your farming activity is not carried on for profit until 5 (or 7) years have passed since you first started farming. Form 5213 generally must be filed within 3 years after the due date of your return for the year you first started farming. If you receive a notice from a District Director proposing to disallow your farm loss, file this form within 60 days after receiving the notice.

The benefit gained by making this choice is that the IRS will not immediately question whether your farming activity is engaged in for profit. Accordingly, it will not limit your deductions. Rather, you will gain time to earn a profit in 3 (or 2) out of the first 5 (or 7) years you carry on the farming activity. If you show 3 (or 2) years of profit at the end of this period, your deductions are not limited under these rules. If you do not have 3 (or 2) years of profit (and cannot otherwise show that you operated your farm for profit), the limit applies retroactively to any year in the 5 (or 7) year period you had a loss.

For more information on not-for-profit activities, see *Not-for-Profit Activities* in chapter 1 of Publication 535.

Nondeductible Expenses

You cannot deduct personal expenses and certain other items on your tax return even though they relate to your farm.

Personal, Living, and Family Expenses

You cannot deduct certain personal, living, and family expenses as business expenses. These include rent and insurance premiums paid on property used as your home, life in-

surance premiums on yourself or your family, the cost of maintaining cars, trucks, or horses for personal use, allowances to minor children, attorneys' fees and legal expenses incurred in personal matters, and household expenses. Likewise, the cost of purchasing or raising produce or livestock consumed by you or your family is not deductible.

Other Nondeductible Items

You cannot deduct on your tax return items such as the following.

Loss of growing crops.

Repayment of loans.

Estate, inheritance, legacy, succession, and gift taxes.

Loss of livestock. You cannot deduct as a loss the value of raised livestock that die if you deducted the cost of raising them as an expense.

Losses from sales or exchanges between related parties. You cannot deduct losses from sales or exchanges of property between you and certain related parties, including your spouse, brother, sister, ancestor, or descendant. For more information, see chapter 2 of Publication 544, *Sales and Other Dispositions of Assets*.

Cost of raising unharvested crops. You cannot deduct the cost of raising unharvested crops sold with land owned more than one year if you sell both at the same time and to the same person. Add these costs to the basis of the land to determine the gain or loss on the sale. For more information, see chapter 10.

Cost of unharvested crops bought with land. Capitalize the purchase price of land, including the cost allocable to unharvested crops. You cannot deduct the cost of the crops at the time of purchase. However, you can deduct this cost in figuring net profit or loss in the tax year you sell the crops.

Cost related to gifts. You cannot deduct costs related to your gifts of agricultural products or property held for sale in the ordinary course of your business. For example, you cannot deduct as a farm business expense, in the year of the gift or any later year, the cost of raising cattle given as a gift to your child or the cost of planting and raising unharvested wheat on parcels of land given as a gift to your children.

Dues and subscriptions. Generally, you cannot deduct amounts you pay or incur for membership in any club organized for business, pleasure, recreation, or any other social purpose. This includes country clubs, athletic clubs, luncheon clubs, sporting clubs, airline clubs, and hotel clubs.

Exception. Unless one of its main purposes is to conduct entertainment activities for members or their guests or to provide members or their guests with access to entertainment facilities, the following organizations will not be treated as clubs organized for business, pleasure, recreation, or other social purpose:

- 1) Boards of trade,
- 2) Business leagues,

- 3) Chambers of commerce,
- 4) Civic or public service organizations,
- 5) Professional associations, and
- 6) Trade associations.

Fines and penalties. You cannot deduct fines and penalties, except penalties for exceeding marketing quotas, discussed earlier.

6.

Soil and Water Conservation Expenses

Important Reminder

Form 8645 obsolete. Form 8645, *Soil and Water Conservation Plan Certification*, has been obsolete. You are no longer required to attach Form 8645 to Form 1040 when you deduct conservation expenses.

Introduction

If you are in the business of farming, you can choose to currently deduct your expenses for soil or water conservation or for the prevention of erosion of land used in farming. Otherwise, these are capital expenses that must be added to the basis of the land. (See chapter 7 for information on determining basis.) Conservation expenses for land in a foreign country do not qualify for this special treatment.

The deduction cannot be more than 25% of your gross income from farming. See *Limit on Deduction*, later.

Ordinary and necessary expenses that are otherwise deductible are not soil and water conservation expenses. These include interest and taxes, the cost of periodically clearing brush from productive land, the annual removal of sediment from a drainage ditch, and the cost of primarily producing an agricultural crop that also conserves soil.



To get the full deduction to which you are entitled, you should maintain your records in a way that will clearly distinguish between your ordinary and necessary farm business expenses and your soil and water conservation expenses.

Topics

This chapter discusses:

- Business of farming
- Plan certification
- Conservation expenses
- Assessment by conservation district
- Limit on deduction
- Choosing to deduct

• Sale of a farm

Business of Farming

You are in the business of farming if you cultivate, operate, or manage a farm for profit, either as owner or tenant. You are not farming if you cultivate or operate a farm for recreation or pleasure, rather than for profit. You are also not farming if you are engaged only in forestry or the growing of timber, such as growing Christmas trees or producing maple syrup.

Farm defined. A farm includes stock, dairy, poultry, fish, fruit, and truck farms. It also includes plantations, ranches, ranges, and orchards. A fish farm is an area where fish and other marine animals are grown or raised and artificially fed, protected, etc. It does not include an area where they are merely caught or harvested. A plant nursery is a farm for purposes of deducting soil and water conservation expenses.

Farm rental. If you own a farm and receive farm rental payments based on farm production, either in cash or crop shares, you are in the business of farming. If you receive a fixed rental payment not based on farm production, you are in the business of farming only if you participate materially in operating or managing the farm. See *Landlord Participation in Farming* in chapter 15.

If you receive cash rental for a farm you own that is not used in farm production, you cannot claim soil and water conservation expenses for that farm.

Plan Certification

You can deduct your expenses for soil and water conservation only if they are consistent with a plan approved by the Natural Resources Conservation Service (NRCS) of the Department of Agriculture. If no such plan exists, the expenses must be consistent with a soil conservation plan of a comparable state agency to be deductible.

Conservation plans. A conservation plan includes the farming conservation practices approved for the area where your farm land is located. There are three types of approved plans:

- 1) **NRCS individual site plans.** These plans are issued individually to farmers who request assistance from NRCS to develop a conservation plan designed specifically for their farm land.
- 2) **NRCS county plans.** These plans include a listing of farm conservation practices approved for the county where the farm land is located. Expenses for conservation practices not included on the NRCS county plans are deductible only if the practice is a part of an individual site plan.
- 3) **Comparable state agency plans.** These plans are approved by state agencies and can be approved individual site plans or county plans. Individual site plans can be obtained from NRCS offices and comparable agencies.

Conservation Expenses

Deductible conservation expenses are those made for land that you or your tenant are using, or have used in the past, for farming. They include, but are not limited to:

- 1) The treatment or movement of earth, such as:
 - a) Leveling,
 - b) Conditioning,
 - c) Grading,
 - d) Terracing,
 - e) Contour furrowing, and
 - f) Restoration of soil fertility.
- 2) The construction, control, and protection of:
 - a) Diversion channels,
 - b) Drainage ditches,
 - c) Irrigation ditches,
 - d) Earthen dams, and
 - e) Watercourses, outlets, and ponds.
- 3) The eradication of brush.
- 4) The planting of windbreaks.



If you choose to deduct soil and water conservation expenses, you cannot exclude from gross income any cost-sharing payments you receive for those expenses. See chapter 4 for information about excluding cost-sharing payments.

New farm or farm land. If you acquire a new farm or new farm land from someone who was using it in farming immediately before you acquired the land, soil and water conservation expenses you make on it will be treated as made on land you previously used in farming. You can deduct soil and water conservation expenses for this land if your use of it is substantially a continuation of its use in farming. The new farming activity does not have to be the same as the old farming activity. For example, if you buy land that was used for grazing cattle and then prepare it for use as an apple orchard, the expenses will qualify.

Land not used for farming. If your conservation expenses benefit both land that does not qualify as land used for farming and land that does qualify, you must allocate the expenses. For example, if the expenses benefit 200 acres of your land, but only 120 acres of this land are used for farming, then 60% (120 ÷ 200) of the expenses are deductible. You can use another method to allocate these expenses if you can clearly show that your method is more reasonable.

Wetlands. Expenses to drain or fill wetlands are **not** deductible as soil and water conservation expenses. These expenses are added to the basis of the land.

Center pivot irrigation. Expenses to prepare land for center pivot irrigation systems are **not** deductible as soil and water conservation expenses. These expenses are added to the basis of the land.

Depreciable conservation assets. You cannot deduct your expenses for depreciable conservation assets. There is, however, an exception for an assessment for depreciable property that a soil and water conservation or drainage district levies against your farm. See *Assessment for Depreciable Property*, later.

You must capitalize direct expenses for structures or facilities subject to an allowance for depreciation, such as depreciable nonearthen items made of masonry or concrete. Expenses for depreciable property include those for materials, supplies, wages, fuel, hauling, and moving dirt when making structures such as tanks, reservoirs, pipes, conduits, canals, dams, wells, or pumps composed of masonry, concrete, tile, metal, or wood. You recover your capital investment through annual allowances for depreciation.

However, soil and water conservation expenses for nondepreciable earthen items such as earthen terraces and dams are deductible.

Water well. The cost of drilling a water well for irrigation and other agricultural purposes is a capital expense and *not* deductible as a soil and water conservation expense. You recover your cost through depreciation. You must also capitalize your cost for drilling a test hole. If the test hole produces no water and you continue drilling, the cost of the test hole is added to the cost of the producing well. You can recover the total cost through depreciation deductions.

If a test hole, dry hole, or dried-up well (resulting from prolonged lack of rain, for instance) is abandoned, you can deduct your unrecovered cost in the year of abandonment. Abandonment means that all economic benefits from the well are terminated. For example, filling or sealing a well excavation or casing so that all economic benefits from the well are terminated would be abandonment.

Assessment by Conservation District

In some localities, a soil or water conservation or drainage district incurs the expenses for soil or water conservation and levies an assessment against the farmers who benefit from the expenses. You can include as a deductible conservation expense the part of an assessment that:

- 1) You would have included if you had paid it directly, or
- 2) Covers expenses for depreciable property used in the district's business.

You include the amount in the year you pay or incur the assessment, depending on your method of accounting, not the year the expenses are paid or incurred by the district.

Assessment for Depreciable Property

You can include as a deductible conservation expense part of an assessment levied against you by a soil and water conservation or drainage district to pay for depreciable property. This includes items such as pumps, locks, concrete structures including dams and weir gates, draglines, and similar equipment. The depreciable property must be used in the district's soil and water conservation activities.

Special limits, discussed next, apply to these assessments.

Amount to include. The amount you can include for any conservation district assessment for depreciable property is subject to the following limits.

- 1) The total amount you can include for the assessment (whether one payment or paid in installments) cannot exceed 10% of the total assessment against all members of the district for the property.
- 2) The maximum amount you can include each year is 10% of your deductible share of the cost + \$500.

The amount you can include is added to your other conservation expenses for the year. The total for these expenses is then subject to the limit on the deduction discussed later. See *Table 6-1* for information on the limits.

Total limit. You cannot include more than 10% of the total amount assessed to all members of the conservation district for the depreciable property. This applies whether you pay the assessment in one payment or in installments. If your assessment is more than 10% of the total assessment:

- 1) The amount over 10% is a capital expense and is added to the basis of your land.
- 2) If the assessment is paid in installments, each payment must be prorated between the deductible amount and the capital expense.

Yearly limit. The maximum amount you can include in one year is the total of 10% of your deductible share of the cost as explained earlier, plus \$500. If the assessment is equal to or less than the maximum amount, you can include the entire assessment in the year it is paid. If the assessment is more, the maximum amount you can include in one year is 10% of your deductible share of the cost. The remainder of the assessment is included in equal amounts over the next 9 tax years.

Example 1. This year, the soil conservation district levies an assessment of \$2,400 against your farm. Of the assessment, \$1,500 is for digging drainage ditches. It is includable as a soil or conservation expense as if you had paid it directly. The remaining \$900 is for depreciable equipment to be used in the district's irrigation activities. The total amount assessed by the district against all its members for the depreciable equipment is \$7,000.

The total amount you can include for the depreciable equipment is limited to 10% of the total amount assessed by the district against all its members for depreciable equipment, or \$700. The \$200 excess (\$900 - \$700) is a capital expense you must add to the basis of your farm.

To figure the maximum amount to include for this year, multiply your deductible share of the total assessment (\$700) by 10%. Add \$500 to the result for a total of \$570. Since the deductible assessment, \$700, is greater than the maximum amount deductible in one year, you can include only \$70 of the assessment for depreciable property this year (10% of \$700). The balance is included at the rate of \$70 a year over the next 9 years.

You add \$70 to the \$1,500 portion of the assessment for drainage ditches. You can include \$1,570 of the \$2,400 assessment as

a soil and water conservation expense this year, subject to the limit on deduction discussed later.

Example 2. Assume the same facts in *Example 1* except that \$1,850 of the \$2,400 assessment is for digging drainage ditches and \$550 is for depreciable equipment. The total assessed by the district against all its members for depreciable equipment is \$5,500. Your total deductible assessment for the depreciable equipment is limited to 10% of this amount, or \$550.

The maximum deductible this year for the depreciable equipment is \$555 (10% of the total assessment, \$55, plus \$500). Since the assessment for depreciable property is less than the maximum deductible, you can include the entire \$550. The entire assessment, \$2,400, is deductible as a soil and water conservation expense this year, subject to the limit on deduction, discussed later.

Sale or disposal of land during 9-year period. If you sell or dispose of the land during the 9-year period for deducting conservation expenses, any remaining assessment not yet included is added to the basis of the property.

Death of farmer during 9-year period. If the farmer dies during the 9-year period, any remaining assessment not yet included is included in the year of death.

Limit on Deduction

The total deduction for deductible conservation expenses in any tax year is limited to 25% of your gross income from farming for the year.

Gross income from farming. Gross income from farming is the income you derive in the business of farming from the production of crops, fish, fruits, other agricultural products, or livestock. Gains from sales of livestock held for draft, breeding, dairy, or sport are included. Gains from sales of assets such as farm machinery, or from the disposition of land, are not included.

Carryover of deduction. If your deductible conservation expenses in any year are more than 25% of your gross income from farming for that year, you can carry the unused deduction over to later years. However, the deduction in any later year is limited to 25% of the gross income from farming for that year, as well.

Example. In 1997, you have gross income of \$16,000 from two farms. During the year, you incurred \$5,300 of deductible soil and water conservation expenses for one of the farms. However, your deduction is limited to 25% of \$16,000, or \$4,000. The \$1,300 (\$5,300 - \$4,000) is carried over to 1998 and added to deductible soil and water conservation expenses made in that year. The total of the 1997 carryover plus 1998 expenses is deductible in 1998, subject to the limit of 25% of your gross income from farming in 1998. Any excess expenses over the limit in that year are carried to 1999 and later years.

Net operating loss. The deduction for soil and water conservation expenses is included when computing a net operating loss (NOL) for the year. If the NOL is carried to another year, the soil and water conservation

Table 6-1. Limits on Deducting an Assessment for Depreciable Property

Total Limit on Deduction for Assessment	Yearly Limit on Deduction for Assessment	Yearly Limit for All Conservation Expenses
10% of:	(10% of:	25% of:
Total assessment against all members of the district for the property.	Your deductible share of the cost to the district for the property) + \$500.	Your gross income from farming.
<ul style="list-style-type: none"> No one taxpayer can deduct more than 10% of the total assessment. Any amount over 10% is a capital expense and is added to the basis of your land. If an assessment is over 10% and payable in installments, each payment must be prorated between the deductible amount and the capital expense. 	<ul style="list-style-type: none"> The maximum amount each year is (10% of your deductible share of the cost) + \$500. If the assessment is greater than the amount paid, the limit for that year is 10% of your deductible share of the cost. The remainder is included in equal amounts over the next 9 tax years. 	<ul style="list-style-type: none"> Limit for all conservation expenses, including assessments for depreciable property. Amounts greater than 25% can be carried to the following year and added to that year's expenses. The total is then subject to the 25% of gross income from farming limit in that year.

deduction included in the NOL is not subject to the 25% limit in the year to which it is carried.

Choosing To Deduct

You can choose to deduct soil and water conservation expenses on your tax return for the first year you pay or incur the expenses. If you choose to deduct them, you must deduct the total allowable amount in the year they are paid or incurred. If you do not deduct the expenses, you must capitalize them.

Change of method. If you want to change your method of treating soil and water conservation expenses, or you want to treat the expenses for a particular project or a single farm in a different manner, you must get the approval of your IRS District Director. To get this approval, submit a written request by the due date of your return for the first tax year you want the new method to apply. You or your authorized representative must sign the request.

The request must include the following information:

- Your name and address.
- The first tax year the method or change of method is to apply.
- Whether the method or change of method applies to all your soil and water conservation expenses or only to those for a particular project or farm. If the method or change of method does not apply to all your expenses, identify the project or farm to which the expenses apply.
- The total expenses you paid or incurred in the first tax year the method or change of method is to apply.
- A statement that you will account separately in your books for the expenses to which this method or change of method relates.

Sale of a Farm

If you sell your farm and discontinue farming, you cannot adjust the basis of the land at the time of the sale for any unused carryover of soil and water conservation expenses. You can, however, pick up the unused balance

and start taking deductions again if you return to the business of farming in a later year.

Gain on disposition of farm land. If you held the land 5 years or less before you sold or disposed of it, gain on the sale or other disposition of the land is treated as ordinary income up to the amount you previously deducted for soil and water conservation expenses. If you held the land less than 10 but more than 5 years, the gain is treated as ordinary income up to a specified percentage of the previous deductions. See *Farm land (under section 1252)* in chapter 11.

7.

Basis of Assets

Introduction

Basis is the amount of your investment in property for tax purposes. Use the adjusted basis of property to figure the amount of gain or loss on the sale, exchange, or other disposition of property. Also use it to figure the deduction for depreciation, amortization, depletion, and casualty losses. You must keep accurate records of all items that affect the original basis of property so you can make these computations.

Your original basis in property is adjusted (increased or decreased) by certain events. If you make improvements to the property, increase your basis. If you take deductions for depreciation or casualty losses, reduce your basis.

It is important to keep an accurate record of your basis. Generally, the higher your basis for an asset, the less gain you will have to report on its sale. The higher your basis in a depreciable asset, the higher your depreciation deductions.

Topics

This chapter discusses:

- Cost basis
- Uniform capitalization rules
- Adjusted basis
- Other basis

Useful Items

You may want to see:

Publication

- 535 Business Expenses
- 537 Installment Sales
- 544 Sales and Other Dispositions of Assets
- 551 Basis of Assets

Form (and Instructions)

- Sch E (Form 1040) Supplemental Income and Loss
- Sch F (Form 1040) Profit or Loss From Farming
- 706-A United States Additional Estate Tax Return

See chapter 21 for information about getting publications and forms.

Cost Basis

The basis of property you buy is usually its cost. However, in some cases, such as inherited property or property received as a gift, your basis will be figured differently. (See *Basis Other Than Cost*, later.) The cost is the amount you pay in cash, notes, other property, or services. Your cost also includes amounts you pay for sales tax, freight, installation, and testing. In addition, the basis of real estate and business assets will include other items. Basis generally does not include interest payments.

Low- or no-interest loans. If you buy property on any time-payment plan that charges little or no interest, the basis of your property is your stated purchase price minus the amount considered to be unstated interest. You generally have unstated interest if your interest rate is less than the applicable federal rate. See the discussion of unstated interest in Publication 537.

Real Property

Real property, also called real estate, is land and generally anything built on, growing on, or attached to land.

If you buy real property, certain fees and other expenses you pay are part of your cost basis in the property.

Real estate taxes. If you buy real property and agree to pay certain taxes the seller owed on it, treat the taxes you pay as part of your basis. You cannot deduct them as taxes.

If you reimburse the seller for taxes the seller paid for you, you usually can deduct them as an expense in the year of purchase. Do not include them in the property cost.

Settlement costs. You can include in the basis of property you buy the settlement fees and closing costs that are for buying it. You cannot include the fees and costs that are for getting a loan on the property. (A fee is for buying property if you would have had to pay it even if you bought the property for cash.)

Some of the settlement fees or closing costs that you can include in the basis of your property are:

- ☒ Abstract fees (sometimes called abstract of title fees),
- ☒ Charges for installing utility services,
- ☒ Legal fees (including title search and preparing the sales contract and deed),
- ☒ Recording fees,
- ☒ Surveys,
- ☒ Transfer taxes,
- ☒ Title insurance,
- ☒ Owner's title insurance, and
- ☒ Any amounts the seller owes that you agree to pay, such as back taxes or interest, recording or mortgage fees, charges for improvements or repairs, and sales commissions.

You must reasonably allocate these fees or costs between land and improvements, such as buildings, to figure the basis for depreciation of the improvements. Allocate the fees according to the fair market values of the land and improvements at the time of purchase.

Settlement costs **do not include** amounts placed in escrow for the future payment of items such as taxes and insurance.

Some settlement fees and closing costs you **cannot** include in the basis of the property are:

- 1) Fire insurance premiums.
- 2) Rent for occupancy of the property before closing.
- 3) Charges for utilities or other services relating to occupancy of the property before closing.
- 4) Fees for refinancing a mortgage.
- 5) Charges connected with getting a loan, such as:
 - a) Points (discount points, loan origination fees),
 - b) Mortgage insurance premiums,
 - c) Loan assumption fees,
 - d) Cost of a credit report, and
 - e) Fees for an appraisal required by a lender.

Points. If you pay points to get a loan (including a mortgage, second mortgage, line-of-credit, or a home equity loan) you generally must capitalize and amortize them ratably over the term of the loan. Do not add the cost to the basis of the related property.

Points on home mortgage. Special rules may apply to the amounts you and the seller pay as points when you get a mortgage to buy your main home. If these amounts meet certain requirements, you can deduct them in full as points for the year in which they are paid. If you deduct seller-paid points, reduce your basis by that amount. For more information, see *Points* in Publication 936, *Home Mortgage Interest Deduction*.

Assumption of a mortgage. If you buy property and assume (or buy subject to) an existing mortgage on the property, your basis includes the amount you pay for the property plus the amount to be paid on the mortgage.

Example. If you buy a farm for \$100,000 cash and assume a mortgage of \$400,000 on it, your basis is \$500,000.

Constructing assets. If you build property, or have assets built for you, your expenses for this construction are part of your basis. Some of these expenses include:

- ☒ Purchased land,
- ☒ Materials and supplies,
- ☒ Architect's fees,
- ☒ Building permits,
- ☒ Payments to contractors,
- ☒ Payments for rental equipment, and
- ☒ Inspection fees.

In addition, if you use your employees or farm materials and equipment to build an asset, your basis would also include:

- 1) Employee wages paid for the construction work,
- 2) Depreciation on equipment you own while it is used in the construction,
- 3) Operating and maintenance costs for equipment used in the construction, and
- 4) The cost of business supplies and materials used in the construction.

Do not deduct these expenses, which you must capitalize (i.e., include in the asset's basis), on Schedule F. Also, reduce your basis by any jobs credit, Indian employment credit, or empowerment zone employment credit allowable on the wages you pay in (1). Do not include the value of your own labor, or any other labor you did not pay for, in the basis of any property you construct.

Allocating the Basis

If you buy multiple assets for a lump sum, allocate the amount you pay among the assets you receive. Make this allocation to figure your basis for depreciation and gain or loss on a later disposition of any of these assets.

Group of assets acquired. If you buy multiple assets for a lump sum, you and the seller may agree to a specific allocation of the purchase price among the assets in the sales contract. If this allocation is based on the value of each asset and you and the seller have adverse legal interests, the allocation generally will be accepted.

Example. You bought farm property in March for the lump-sum price of \$275,000. You use the cash method of accounting. An

inventory of the property at its **fair market value (FMV)** on the date of purchase is as follows:

	FMV
Growing wheat crop	\$1,400
Timber	5,600
Minerals (such as gravel, coal, sand, etc.)	8,000
Land	170,000
House	30,000
Depreciable assets used in farming:	
Barns	25,000
Fences	10,000
Silo	5,000
Farm machinery	20,000
Total purchase price	<u>\$275,000</u>

The FMV of each asset is the basis assigned to that asset.

You harvested and sold the wheat in July. You deduct its cost of \$1,400 on Schedule F, line 2, to figure the net farm profit.

Also, you sold the timber in July. Accordingly, you use its cost of \$5,600 to figure the gain realized or the loss sustained.

You will recover the cost of the minerals bought when you sell or otherwise dispose of the mineral interest in a taxable exchange. If you produce minerals, you will recover the cost through depletion allowances. (See chapter 8.)

Each depreciable asset's share of the cost basis is its basis for figuring depreciation and gain or loss on its sale.

Embryo transplants. If you get an embryo transplant by buying a recipient cow pregnant with the embryo, allocate to the basis of the cow the part of the purchase price equal to the FMV of the cow. Allocate the rest of the purchase price to the basis of the calf. Neither the cost allocated to the cow nor the basis allocated to the calf is currently deductible as a business expense.

Quotas and allotments. Certain areas of the country have quotas or allotments for commodities such as milk and tobacco. The cost of the quota or allotment is its basis. If you acquire a right to a quota with the purchase of land or a herd of dairy cows, allocate part of the purchase price to that right.

Adjusted Basis

Before figuring any gain or loss on a sale, exchange, or other disposition of property or figuring allowable depreciation, depletion, or amortization, you must usually make certain adjustments to the basis of the property. The result of these adjustments to the basis is the adjusted basis.

Increases to Basis

Increase the basis of any property by all items properly added to a capital account. This includes the cost of any improvements having a useful life of more than one year and amounts spent after a casualty to restore the damaged property.

Some additional items added to the basis are:

- ☒ The cost of extending utility service lines to property,
- ☒ Legal fees, such as the cost of defending and perfecting title, and

☞ Legal fees for obtaining a decrease in a government charge levied against property to pay for local improvements.

If you make additions or improvements to business property, keep separate accounts for them. Also, depreciate the basis of each according to the depreciation rules in effect when you placed the addition or improvement in service. See chapter 8.

Government charges for local improvements. Add government charges for items such as paving roads and building ditches that increase the value of the property assessed to the basis of the property. Do not deduct them as taxes. However, you can deduct as taxes charges for maintenance and repair and for meeting interest charges on the improvements.

Deducting vs. capitalizing costs. Do not add costs you can deduct as current expenses to your basis. For example, amounts paid for incidental repairs or maintenance that may be deductible if incurred as business expenses, may not be added to basis. However, you can choose either to deduct or to capitalize certain other costs. If you capitalize these costs, include them in your basis. If you deduct them, do not include them in your basis. See chapter 11 in Publication 535.

Decreases to Basis

Some items that reduce the basis of your property are:

- ☞ The section 179 deduction (an elected deduction in lieu of depreciation deductions),
- ☞ The deduction for clean-fuel vehicles and clean-fuel refueling property,
- ☞ Investment credit (part or all of credit) taken,
- ☞ Casualty and theft losses and insurance reimbursements,
- ☞ Easements granted,
- ☞ Deductions previously allowed or allowable for amortization, depreciation, and depletion,
- ☞ Exclusion from income of subsidies for energy conservation measures,
- ☞ Credit for qualified electric vehicles,
- ☞ Gain on the sale of your old home on which tax was postponed,
- ☞ Certain canceled debt excluded from income,
- ☞ Rebates received from the manufacturer or seller,
- ☞ Patronage dividends received as a result of a purchase of property (See *Patronage Dividends (Distributions)* in chapter 4.),
- ☞ Residential energy credit, and
- ☞ Gas-guzzler tax.

Some of these decreases to basis are discussed next.

Section 179 deduction. If you choose to take the section 179 deduction for all or part of the cost of property, decrease the basis of the property by the deduction. For more information, see *Section 179 Deduction* in chapter 8.

Deduction for clean-fuel vehicle and clean-fuel vehicle refueling property. If you take either the deduction for clean-fuel vehicles or clean-fuel vehicle refueling property, or both, decrease the basis of the property by the amount of the deduction. For more information about these deductions, see chapter 15 in Publication 535.

Casualties and thefts. If you have a casualty or theft loss, decrease the basis of your property by the amount of any insurance or other amount you get. Also, decrease it by any deductible loss not covered by insurance. However, increase your basis for amounts you spend after a casualty to restore the damaged property. See chapter 13.

Easements. The amount you get for granting an easement is usually considered to be from the sale of an interest in your real property. It reduces the basis of the affected part of the property. If the amount received is more than the basis of the part of the property affected by the easement, reduce your basis to zero and treat the excess as a recognized gain. See *Easements and rights-of-way* in chapter 4.

Depreciation. Decrease the basis of your property by the depreciation you deducted, or could have deducted, on your tax returns under the method of depreciation you chose. If you took less depreciation than you could have under the method you chose, decrease the basis by the amount you could have taken under that method. If you did not take a depreciation deduction, figure the amount of depreciation you could have taken. If you deducted more depreciation than you should have, decrease your basis as follows. Decrease it by the amount you should have deducted plus the part of the excess depreciation you deducted that actually reduced your tax liability for any year.

In decreasing your basis for depreciation, take into account the amount deducted on your tax returns as depreciation and any depreciation you must capitalize under the uniform capitalization rules.

Exclusion from income of subsidies for energy conservation measures. If you got a subsidy from a utility company for the purchase or installation of any energy conservation measure, you can exclude it from income. Reduce the basis of the property on which you got the subsidy by the excluded amount. For more information about this subsidy, see Publication 525, *Taxable and Nontaxable Income*.

Credit for qualified electric vehicle. If you claim the credit for qualified electric vehicles, you must reduce the basis of the vehicle on which you claimed the credit. For more information about this credit, see chapter 15 in Publication 535.

Canceled debt excluded from income. If a debt is canceled or forgiven, other than as a gift, bequest, or some other type of payment, you generally must include the canceled amount in gross income for tax purposes. A debt includes indebtedness for which you are liable or which attaches to property you hold.

You can exclude your canceled debt from income if the debt is:

- ☞ Canceled in a title 11 case or when you are insolvent,
- ☞ Qualified farm debt, or
- ☞ Qualified real property business indebtedness (provided you are not a C corporation).

If you exclude canceled debt from income, you may have to reduce the basis of your property.

For more information about canceled debt in a bankruptcy case, see Publication 908. For more information about insolvency and canceled debt that is qualified farm debt, see chapter 4.

Basis Other Than Cost

There are many times when you cannot use cost as basis. In these cases, the fair market value of the property or the adjusted basis of certain property may be used. Adjusted basis is discussed earlier. Fair market value is discussed next.

Fair market value (FMV). Fair market value (FMV) is the price at which property would change hands between a buyer and a seller, neither having to buy or sell, and both having reasonable knowledge of all necessary facts. Sales of similar property on or about the same date may help to figure the FMV of the property.

Property changed to business use. When you hold property for personal use and change it to business use or use it to produce rent, you must figure the basis for depreciation. An example of this would be renting out your former main home.

Basis for depreciation. The basis for depreciation equals the lesser of:

- ☞ The FMV of the property on the date of the change, or
- ☞ Your adjusted basis on the date of the change.

Property received for services. If you get property for services, include the property's FMV in income. The amount you include in income becomes your basis. If the services were performed for a price agreed on beforehand, it will be accepted as the FMV of the property if there is no evidence to the contrary.

Taxable Exchanges

A taxable exchange is one in which the gain is taxable, or the loss is deductible. A taxable gain or deductible loss also is known as a **recognized** gain or loss. If you get property in exchange for other property in a taxable exchange, the basis of the property you get is usually its FMV at the time of the exchange. A taxable exchange occurs when you get cash or get property that is not similar or related in use to the property exchanged.

Example. You trade a tract of farm land with an adjusted basis of \$3,000 for a tractor that has a fair market value of \$6,000. You must report a taxable gain of \$3,000 for the land. The tractor has a basis of \$6,000.

Nontaxable Exchanges

A nontaxable exchange is an exchange in which you are not taxed on any gain and you cannot deduct any loss. If you got property in a nontaxable exchange, its basis is usually the same as the basis of the property you exchanged. A nontaxable gain or loss also is known as an **unrecognized** gain or loss.

Like-Kind Exchanges

The exchange of property for the same kind of property is the most common type of nontaxable exchange.

For an exchange to qualify as a like-kind exchange, you must hold for business or investment purposes both the property you exchange and the property you get. There must be an exchange of like-kind property (depreciable tangible personal property may be like-kind property). For other requirements, see *Nontaxable Like-Kind Exchanges*, in chapter 10.

The basis of the property you get is the same as the basis of the property you gave up.

Example. You traded a machine (adjusted basis \$8,000) for another like-kind machine (FMV \$9,000). You used both machines in your farming business. The basis of the machine you got is \$8,000, the same as the machine traded.

Exchange expenses. Exchange expenses generally are the closing costs that you pay. They include such items as brokerage commissions, attorney fees, deed preparation fees, etc. Add them to the basis of the like-kind property you get.

Property plus cash. If you trade property in a nontaxable exchange and also pay money, the basis of the property you get is the basis of the property you exchanged plus the money you paid.

Example. You trade in a truck (adjusted basis \$3,000) for another truck (FMV \$7,500) and pay \$4,000. Your basis in the new truck is \$7,000 (the \$3,000 basis of the old truck plus the \$4,000 paid).

Special rules for related parties. If a like-kind exchange takes place directly or indirectly between related parties and either party disposes of the property within 2 years after the exchange, the exchange does not qualify for like-kind treatment. Each party must report any gain or loss not recognized on the original exchange. Each party reports it on the tax return filed for the year in which the later disposition occurred. If this rule applies, the basis of the property received in the original exchange will be its fair market value.

This rule generally does not apply to dispositions due to:

- The death of either related party,
- Involuntary conversions, or
- Exchanges whose main purpose is not the avoidance of federal income tax.

Related parties. Generally, related parties are ancestors, lineal descendants, brothers and sisters (whole or half), and a spouse.

For other related parties (two or more corporations, an individual and a corporation, a grantor and fiduciary, etc.), see the rules

relating to losses under *Non deductible Loss* in chapter 2 of Publication 544.

Exchange of business. Exchanging the assets of one business for the assets of another business is a multiple asset exchange. For information on figuring basis in a multiple asset exchange, see *Multiple Property Exchanges* in chapter 1 of Publication 544.

Partially Nontaxable Exchange

A partially nontaxable exchange is an exchange in which you get unlike property or money and like property. The basis of the property you get is the same as the basis of the old property with the following adjustments:

- 1) Decrease the basis by:
 - a) Any money you get, and
 - b) Any loss recognized on the exchange.
- 2) Increase the basis by:
 - a) Any additional costs incurred, and
 - b) Any gain recognized on the exchange.

If the other party to the transaction assumes, or takes property subject to, your liabilities (including a nonrecourse obligation) treat the debt assumption as money you got in the exchange.

Example 1. You traded farm land (basis \$10,000) for another tract of farm land (FMV \$11,000). You also got \$3,000. Your gain is \$4,000 (\$11,000 + \$3,000 - \$10,000). Include your gain in income only to the extent of the cash you got. Your basis in the land you got is:

Basis of land traded	\$10,000
Minus: Cash received	<u>- 3,000</u>
	\$7,000
Plus: Gain recognized	<u>+ 3,000</u>
Basis of land received	<u>\$10,000</u>

Example 2. You traded a truck (adjusted basis \$22,750) for another truck (FMV \$22,000). You also got \$10,000. Your gain is \$7,250 (\$20,000 + \$10,000 - \$22,750). Your basis in the truck you got is:

Adjusted basis of truck traded	\$22,750
Minus: Cash received	<u>-10,000</u>
	\$12,750
Plus: Gain recognized	<u>+ 7,250</u>
Basis of truck received	<u>\$20,000</u>

Allocation of basis. Allocate the basis among the properties, other than money, you got in the exchange. In making this allocation, the basis of the unlike property is its FMV on the date of the exchange. The rest is the basis of the like property.

Example. You had an adjusted basis of \$15,000 in a tractor you traded for another tractor that had an FMV of \$12,500. You also got \$1,000 in cash and a truck that had an FMV of \$3,000. You have a gain of \$1,500 (\$16,500 - \$15,000) recognized on the exchange. Your basis in the properties you received is:

Adjusted basis of old tractor	\$15,000
Minus: Cash received	<u>-1,000</u>
	\$14,000
Plus: Gain recognized	<u>+ 1,500</u>
Total basis of properties received	<u>\$15,500</u>

Allocate the total basis of \$15,500 between the tractor and the truck. The basis of the truck is its FMV, \$3,000, and the basis of the tractor is the rest, \$12,500.

Trade-In vs. Sale and Purchase

If a sale and purchase are a single transaction, you cannot increase the basis of property by selling your old property outright to a dealer and then buying new property from the same dealer. If the sale of your old property to the dealer and the purchase of the new property from that dealer are dependent on each other, you are considered to have traded your old property. Treat the transaction as an exchange no matter how you carry it out. You cannot avoid the trade-in rule by using a subsidiary in the transaction.

Example. Assume that you used a tractor on your farm for 3 years. Its adjusted basis is \$2,000 and its FMV is \$4,000. You are interested in a new tractor with a listed retail price of \$16,000 that regularly sells for \$15,500. If you trade your old tractor for the new one and pay \$11,500, your basis for depreciation for the new tractor is \$13,500 (\$11,500 plus the \$2,000 basis of your old tractor). However, you want a higher basis for depreciating the new tractor, so you agree to pay the dealer \$15,500 for the new tractor if he will pay you \$4,000 for your old tractor. Because the two transactions are dependent on each other, you are treated as if you exchanged your old tractor for the new one. Your basis for the new tractor is \$13,500, the same as if you traded the old tractor and did not pay \$15,500.

Involuntary Conversions

If you get property as a result of an involuntary conversion, such as a casualty, theft, or condemnation, you may figure the basis of the replacement property you get using the basis of the property you exchanged.

Similar or related property. If you get property similar or related in service or use to the property exchanged, the new property's basis is the same as the old property's basis on the date of the exchange. However, make the following adjustments.

- 1) Decrease the basis by:
 - a) Any loss recognized on the exchange, and
 - b) Any money received that was not spent on similar property.
- 2) Increase the basis by:
 - a) Any gain recognized on the exchange, and
 - b) Any cost of getting replacement property.

Not similar or related property. If you get money or other property not similar or related in service or use to the old property and you buy new property similar or related in service or use to the old property, the basis of the new property is the cost of the new property decreased by the gain not recognized on the exchange.

For more information about involuntary exchanges, see chapter 13.

Property Received as a Gift

To figure the basis of property you get as a gift, you must know its adjusted basis (defined earlier) to the donor just before it was given to you. You also must know its fair market value (FMV) at the time it was given to you and any gift tax paid on it.

FMV equal to or more than donor's adjusted basis. If the FMV of the property was equal to or more than the donor's adjusted basis, your basis is the donor's adjusted basis when you got the gift. Increase your basis by all or part of the gift tax paid, depending on the date of the gift.

Also, for figuring gain or loss from a sale or other disposition of the property, or for figuring depreciation, depletion, or amortization deductions on business property, you must increase or decrease your basis (the donor's adjusted basis) by any required adjustments to basis while you held the property. See *Adjusted Basis*, earlier.

Gift received before 1977. If you got a gift before 1977, increase your basis in the gift by the gift tax paid on it. (Your basis in the gift is the donor's adjusted basis.) However, do not increase your basis above the FMV of the gift when it was given to you.

Example 1. You were given a house in 1976 with an FMV of \$21,000. The donor's adjusted basis was \$20,000. The donor paid a gift tax of \$500. Your basis is \$20,500, the donor's adjusted basis plus the gift tax paid.

Example 2. If, in Example 1, the gift tax paid had been \$1,500, your basis would be \$21,000. This is the donor's adjusted basis plus the gift tax paid, limited to the FMV of the house at the time you got the gift.

Gift received after 1976. If you got a gift after 1976, increase your basis in the gift by the part of the gift tax paid that is due to the net increase in value of the gift. (Your basis in the gift is the donor's adjusted basis.) Figure the increase by multiplying the gift tax paid on the gift by a fraction. The numerator of the fraction is the net increase in value of the gift and the denominator is the FMV of the gift. The net increase in value of the gift is the FMV of the gift minus the donor's adjusted basis.

Example. Last year you got a gift of property from your mother that had an FMV of \$50,000. Her adjusted basis was \$20,000. She paid a gift tax of \$9,000. Your basis is \$25,400, figured as follows:

Fair market value	\$50,000
Minus: Adjusted basis	-20,000
Net increase in value	<u>\$30,000</u>
Gift tax paid	\$9,000
Multiplied by $(\$30,000 \div \$50,000)$	<u>$\times .60$</u>
Gift tax due to net increase in value	\$5,400
Adjusted basis of property to your mother	+20,000
Your basis in the property	<u>\$25,400</u>

FMV less than donor's adjusted basis. If the FMV of the property were less than the donor's adjusted basis, your basis for gain on its sale or other disposition is the donor's adjusted basis plus or minus any required adjustment to basis while you held the property. (See *Adjusted Basis*, earlier.) Your basis for loss on its sale or other disposition is its FMV when you got the gift plus or minus any re-

quired adjustment to basis while you held the property. (See *Adjusted Basis*, earlier.)

If you use the donor's adjusted basis for figuring a gain and get a loss and use the FMV for figuring a loss and get a gain, you have neither gain nor loss on the sale or other disposition.

Business property. If you hold the gift as business property, your basis for figuring any depreciation, depletion, or amortization deductions is the same as the donor's adjusted basis plus or minus any required adjustments to basis while you hold the property.

Property Transferred From a Spouse

The basis of property transferred to you or transferred in trust for your benefit by your spouse is the same as your spouse's adjusted basis. The same rule applies to a transfer by your former spouse if the transfer is incident to divorce. However, adjust your basis for any gain recognized by your spouse on property transferred in trust. This rule applies only to a property transfer in trust in which the liabilities assumed plus the liabilities to which the property is subject are more than the adjusted basis of the property transferred.

Your spouse must give you records needed to determine the adjusted basis and holding period of the property as of the date of the transfer.

For more information, see Publication 551 and Publication 504.

Inherited Property

Your basis in property you inherit is usually its fair market value (FMV) at the date of the decedent's death. If a federal estate tax return has to be filed, your basis in property you inherit can be its FMV at the alternate valuation date if the estate qualifies and chooses to use alternate valuation. If a federal estate tax return does not have to be filed, your basis in the property is its appraised value at the date of death for state inheritance or transmission taxes.

Your basis in inherited property also may be figured under the special farm or closely held business real property valuation method, if chosen for estate tax purposes. This method is discussed next.

Special farm real property valuation. Under certain conditions, when a person dies the executor or personal representative of that person's estate may choose to value the qualified real property on other than its FMV. If so, the executor or personal representative values the qualified real property based on its use as a farm. If the executor or personal representative chooses this method of valuation for estate tax purposes, this value is the basis of the property for the heirs. The qualified heirs should be able to get the necessary value from the executor or personal representative of the estate.

If you are a qualified heir who got special-use valuation property, your basis in the property is the estate's or trust's basis in that property immediately before the distribution. If there is a gain recognized by the estate or trust because of post-death appreciation, increase the basis by this amount. Post-death appreciation is the difference between the property's FMV on the date of distribution and the property's FMV either on the date of the

individual's death or on the alternate valuation date. Figure all FMVs without regard to the special-use valuation.

You may have to increase your basis in special-use valuation property if it becomes subject to the additional estate tax. This tax is assessed if, within 10 years after the death of the decedent, you transfer the property to a person who is not a member of your family or the property stops being used as a farm. This tax may apply if you dispose of the property in a like-kind exchange or involuntary conversion.

To increase your basis in the property, you must make an irrevocable choice and pay the interest on the additional estate tax figured from the date 9 months after the decedent's death until the date of payment of the additional estate tax. If you meet these requirements, increase your basis in the property to its fair market value on the date of the decedent's death or the alternate valuation date. The increase in your basis is considered to have occurred immediately before the event that results in the additional estate tax.

You make the choice by filing with Form 706-A a statement that:

- ☐ Contains your name, address, and taxpayer identification number,
- ☐ Identifies the choice as a choice under section 1016(c) of the Internal Revenue Code,
- ☐ Specifies the property for which you are making the choice, and
- ☐ Provides any additional information required by the Form 706-A instructions.

Community property. In community property states (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin), husband and wife are each usually considered to own half the community property. When either spouse dies, the total value of the community property generally becomes the basis of the entire property, even the part belonging to the surviving spouse. For this to apply, at least half of the community property interest must be includible in the decedent's gross estate, whether or not the estate must file a return.

For example, if the basis of community property were \$80,000, at least half the FMV of the community interest is includible in the decedent's estate, and the FMV of the community interest is \$100,000, the basis of the surviving spouse's half of the property is \$50,000. The basis of the other half to the decedent's heirs also is \$50,000.

For more information about community property, see Publication 555.

Uniform Capitalization Rules

The uniform capitalization rules do not apply to any animal or plant that has a preproductive period of 2 years or less that you produce in your farming business. Your costs incurred after 1988 for raising animals are exempt from the uniform capitalization rules. These exceptions do not apply to a corporation, partnership, or tax shelter required to use the accrual method of accounting (see chapter 3).

Provided you do not meet one of the exceptions in the previous paragraph, you are

subject to the uniform capitalization rules if you:

- ☞ Produce real property or tangible personal property for use in a trade or business or an activity engaged in for profit,
- ☞ Produce real property or tangible personal property for sale to customers, or
- ☞ Acquire property for resale.

You produce property if you construct, build, install, manufacture, develop, improve, create, raise, or grow the property.

Examples of real property you might produce (build) for use in your farming business are barns, chicken houses, and storage sheds. Examples of tangible personal property you might produce for use in your farming business or for sale to customers include crops raised for sale or as animal feed. Other examples are animals raised for sale (beef cattle, hogs, etc.) or animals used in your farming business for breeding or production purposes (dairy cows).

Under the uniform capitalization rules, you must capitalize direct costs and an allocable part of most indirect costs you incur due to your production or resale activities. The term **capitalize** means to include certain expenses in the basis of property you produce or in your inventory costs rather than deduct them as current expenses. You can recover these costs through depreciation, amortization, or costs of goods sold when you use, sell, or otherwise dispose of the property.

Costs that are allocable to property being produced include variable costs, such as: feed and labor, and fixed costs, such as: depreciation on machinery and buildings.

For more information about these rules, see the regulations under section 263A of the Internal Revenue Code.

8.

Depreciation, Depletion, and Amortization

Important Changes for 1997

Limits on depreciation for business cars.

The total section 179 deduction and depreciation you can take on a car that you use in your business and first place in service in 1997 is increased to \$3,160. Special rules apply to certain clean-fuel vehicles placed in service after August 5, 1997. See *Special Rules for Passenger Automobiles*, later.

Increase to the section 179 deduction. For 1997, the total cost you can elect to deduct under section 179 of the Internal Revenue Code is increased to \$18,000. For more information, see *Maximum dollar limit*, later.

Important Change for 1998

Increase to the section 179 deduction. For 1998, the total cost you can elect to deduct under section 179 of the Internal Revenue Code is increased to \$18,500. For more information, see *Maximum dollar limit*, later.

Important Reminders

General asset accounts. You can elect to place assets subject to MACRS in one or more general asset accounts. After you have established a general asset account, figure depreciation on the entire account by using the applicable depreciation method, recovery period, and convention for the assets in the account.

For more information, see *General Asset Accounts*, later.

Property not qualifying for the section 179 deduction. Effective for property placed in service after 1990, the following are among the types of property that do not qualify for the section 179 deduction:

- 1) Property used predominately outside the U.S.,
- 2) Property used predominately to furnish lodging or in connection with furnishing lodging,
- 3) Property used by foreign persons or entities, and
- 4) Air conditioning or heating units.

For more information, see *Nonqualifying Property*, later.

Introduction

If you buy farm property, such as machinery, equipment, or structures, that has a useful life of more than a year, you generally cannot deduct its entire cost in one year. Instead, you must spread the cost over more than one year and deduct a part of it each year. For most types of property, this is called "depreciation."

The discussion in this chapter gives you general information on depreciation, the section 179 deduction, and the modified accelerated cost recovery system (MACRS) that applies to property placed in service after 1986. If you depreciate property used in a farming business, you must use the 150% declining balance method or an alternate method.

For more information on depreciating property placed in service after 1986, see Publication 946.

For information on depreciating property placed in service before 1987, see Publication 534.

This chapter also discusses general information on depletion. It gives information on how to figure both cost depletion (including timber depletion) and percentage depletion.

Finally, this chapter discusses the amortization deduction. It discusses how you amortize section 197 intangibles,

reforestation expenses, pollution control facilities, and costs of going into business.



It is important to keep good records for property you depreciate. You do not need to file these records with your return. Instead, you should keep them as part of the records of the depreciated property. You claim depreciation, including the section 179 deduction, on Form 4562. Keep your own records to verify the accuracy of the information on Form 4562.

Filled-in Form 4562. A filled-in Form 4562 is shown in chapter 20 to help you understand how to complete it.

Topics

This chapter discusses:

- ☞ General information on depreciation
- ☞ The section 179 deduction
- ☞ The Modified Accelerated Cost Recovery System (MACRS)
- ☞ Listed property rules
- ☞ Basic information on depletion and amortization

Useful Items

You may want to see:

Publication

- 463** Travel, Entertainment, Gift, and Car Expenses
- 534** Depreciating Property Placed in Service Before 1987
- 535** Business Expenses
- 544** Sales and Other Dispositions of Assets
- 551** Basis of Assets
- 946** How To Depreciate Property

Form (and Instructions)

- T** Forest Activities Schedules
- 1040X** Amended U.S. Individual Income Tax Return
- 4562** Depreciation and Amortization
- 4797** Sales of Business Property

See chapter 21 for information about getting these publications and forms.

General Information on Depreciation

The first part of the discussion on depreciation gives you basic information on what property can and cannot be depreciated, when to begin and end depreciation, and how to claim depreciation.

What Can Be Depreciated

You can depreciate property only if it meets all of the following basic requirements:

- 1) The property must be used in business or held for the production of income,

- 2) The property must have a determinable useful life longer than one year, and
- 3) The property must be something that wears out, decays, gets used up, becomes obsolete, or loses value from natural causes.

Depreciable property may be tangible or intangible.

Tangible Property

Tangible property can be seen or touched and includes both real and personal property. Tangible personal property includes machinery or equipment, and anything else that is tangible except real property. Real property is land and buildings, and generally anything built on or constructed on or anything growing on, or attached to land. However, land itself is never depreciable.

Livestock. Livestock purchased for work, breeding, or dairy purposes that is not kept in an inventory account may be depreciated.

Raised livestock. Livestock that you raise usually has no depreciable basis because the costs of raising it are deducted and are not added to the basis. However, if you purchase immature livestock for draft, dairy, or breeding purposes, you can depreciate your initial cost. See *Immature livestock in Placed in Service Date* later, for a discussion of when to begin depreciation.

Dams, ponds, and terraces. In general, you cannot depreciate earthen dams, ponds, and terraces unless these structures have a determinable useful life.

Irrigation systems and water wells. You can depreciate irrigation systems and wells composed of masonry, concrete, tile, metal, or wood. In addition, you can depreciate such costs as dirt moving to make irrigation systems and water wells composed of these materials.

Partial business use. If you use tangible property both for business or investment purposes and for personal purposes, you can deduct depreciation based only on the business use or the use for the production of income.

If you use your car for farm business, you can depreciate the car for the percentage of time you use it in farming. If you also use it for investment purposes, i.e., for the production of income, you can depreciate the portion used for investment.

If you use part of your home for business, you may be able to take a depreciation deduction for this use.

Intangible Property

Intangible property is generally any property that has value but that you cannot see or touch. It includes items, such as copyrights, patents, franchises, trademarks, and trade names.

Computer software. Computer software includes all programs used to cause a computer to perform a desired function. Computer software also includes any database or similar item that is in the public domain and is incidental to the operation of qualifying software.

Software purchased before August 11, 1993. If you purchased software before August 11, 1993 (before July 26, 1991, if elected), your recovery of costs depends on how you were billed. If the cost of the software was included in the price of computer hardware and the software cost was not separately stated, you treat the entire amount as the cost of the hardware. Depreciate the entire amount as explained in *MACRS*, later. If the cost of the software was separately stated, you can depreciate the cost using the straight line method over 5 years (or any shorter life you can establish).

Software acquired after August 10, 1993. If you acquire software after August 10, 1993 (after July 25, 1991, if elected), you can depreciate it over 36 months if it meets all of the following requirements:

- 1) It is readily available for purchase by the general public,
- 2) It is not subject to an exclusive license, and
- 3) It has not been substantially modified.

Even if the software does not meet the above requirements you can depreciate it over 36 months if it was not acquired in connection with the acquisition of a substantial portion of a business.

If you acquire software after August 10, 1993, (after July 25, 1991, if elected), you must amortize it over 15 years (rather than depreciate it) unless it meets all of the requirements listed previously and you acquired it in connection with the acquisition of a substantial portion of a business.

For information on amortization, see *Amortization*, later.

Software leased. If you lease software, you can treat the rental payments in the same manner that you treat any other rental payments.

What Cannot Be Depreciated

To determine if you are entitled to depreciation, you must know not only what you can depreciate but what you cannot depreciate.

Property placed in service and disposed of in the same year. You cannot depreciate property placed in service and disposed of in the same tax year. When property is placed in service is explained later.

Land. You can never depreciate the cost of land because land does not wear out or become obsolete and it cannot be used up. The cost of land generally includes the cost of clearing, grading, planting, and landscaping because these expenses are all part of the cost of the land itself. You may be able to depreciate some land preparation costs. For information on these costs, see chapter 1 of Publication 946.

Property held for sale. You can never depreciate property held primarily for sale to customers in the ordinary course of business.

Equipment used to build capital improvements. You cannot deduct depreciation on equipment you are using to build your own capital improvements. You must add depreciation on equipment used during the period of construction to the basis of your improve-

ments. See *Uniform Capitalization Rules* in chapter 7.

Leased property. Generally, if you lease property from someone to use in your trade or business or for production of income, you cannot depreciate its costs. To depreciate the property's cost, you must bear the burden of exhaustion of capital investment in the property. This means you retain the incidents of ownership for the property. You can, however, depreciate any capital improvements you make to the leased property. See *Additions or improvements to property* in chapter 3 of Publication 946.

If you lease property to someone, you generally can depreciate its cost even if the lessee (the person leasing from you) has agreed to preserve, replace, renew, and maintain the property. However, if the lease provides that the lessee is to maintain the property and return to you the same property or its equivalent in value at the expiration of the lease in as good condition and value as when leased, you cannot depreciate the cost of the property.

Incidents of ownership. Incidents of ownership include:

- 1) The legal title,
- 2) The legal obligation to pay for it,
- 3) The responsibility to pay its maintenance and operating expenses,
- 4) The duty to pay any taxes, and
- 5) The risk of loss if the property is destroyed, condemned, or diminished in value through obsolescence or exhaustion.

Intangible property. You can never depreciate some types of intangible property.

Goodwill. You can never depreciate goodwill because its useful life cannot be determined.

However, if you acquired a business after August 10, 1993 (July 25, 1991, if elected), and part of the price included goodwill, you may be able to amortize the cost of the goodwill over 15 years. For more information, see chapter 12 in Publication 535.

Trademark and trade name. In general, you must capitalize trademark and trade name expenses. This means that you cannot deduct the full amount in the current year. You can neither depreciate nor amortize the costs for trademarks and trade names you acquired before August 11, 1993 (before July 26, 1991, if elected). You may be able to amortize over 15 years the costs of trademarks and trade names acquired after August 10, 1993 (after July 25, 1991, if elected). For more information, see chapter 12 in Publication 535.

For more information on trademarks and trade names in general, see *Franchise, Trademark, or Trade Name* in chapter 2 of Publication 544.

When Depreciation Begins and Ends

You begin to depreciate your property when you place it in service for use in your trade or business or for the production of income. You stop depreciating your property either when you have fully recovered your cost or other basis or when you retire it from service. (See *Retired From Service*, later.) You have fully recovered your cost or other basis when

you have taken section 179 and depreciation deductions that are equal to your cost or investment in the property.

Placed in Service

For depreciation purposes, property is considered placed in service when it is ready and available for a specific use, whether in a trade or business, the production of income, a tax-exempt activity, or a personal activity. Even if the property is not being used, it is in service when it is ready and available for its specific use.

Example 1. You bought a home and used it as your personal home for several years before you converted it to rental property. Although its specific use was personal and no depreciation was allowable you placed the home in service when you began using it as your home. However, you can claim a depreciation deduction in the year you converted it to rental property because its use changed to an income-producing use at that time.

Example 2. You bought a planter for your farm business late in the year after harvest was over. You take a depreciation deduction for the planter for that year because it was ready and available for its specific use.

Retired From Service

You retire property from service when you permanently withdraw it from use in a trade or business or in the production of income. You stop depreciating property when you retire it from service.

You can retire property from service by selling, exchanging, abandoning, or destroying it.

Incorrect Amount of Depreciation Deducted

If you did not deduct the correct amount of depreciation for a property in any year, you may be able to make a correction for that year by filing an amended return. See *Amended Return*, later. If you are not allowed to make the correction on an amended return, you can change your accounting method to claim the correct amount of depreciation. See *Changing your accounting method*, later.

Basis adjustment. Even if you do not claim depreciation you are entitled to deduct, you must reduce the basis of the property by the full amount of depreciation you were entitled to deduct. If you deduct more depreciation than you should, you must decrease your basis by any amount deducted from which you received a tax benefit.

Amended Return

If you did not deduct the correct amount of depreciation, you can file an amended return to make any of the following three corrections.

- 1) To correct a mathematical error made in any year.
- 2) To correct a posting error made in any year.
- 3) To correct the amount of depreciation for property for which you have not adopted a method of accounting. See *Changing your accounting method*, later.

If you did not deduct the correct amount of depreciation for the property on two or more consecutively filed tax returns, you have adopted a method of accounting for that property. If you have adopted a method of accounting, you cannot change the method by filing amended returns.

If an amended return is allowed, you must file it by the later of:

- 1) 3 years from the date you filed your original return for the year in which you did not deduct the correct amount, or
- 2) 2 years from the time you paid your tax for that year.

A return filed early is considered filed on the due date.

Changing Your Accounting Method

If you did not deduct the correct amount of depreciation for the property on any two or more consecutively filed tax returns, you have adopted a method of accounting for that property. You can change your method of accounting for depreciation to claim the correct amount of depreciation. You will then be able to take into account any unclaimed or excess depreciation from years before the year of change.

Approval required. You must have the approval of the Commissioner of Internal Revenue to change your method of accounting. You can get the Commissioner's approval by following the instructions in Revenue Procedure 97-27 in Internal Revenue Bulletin (IRB) 1997-21. Internal Revenue Bulletins are available at many libraries and IRS offices. To get approval, you must file Form 3115 requesting a change to a permissible method of accounting for depreciation. You cannot use Revenue Procedure 97-27 to correct any mathematical or posting error. See *Amended Return*, earlier.

In some instances, you can receive automatic approval from the Commissioner to change your method of accounting. See *Automatic approval*, next.

Automatic approval. You may be able to obtain automatic approval from the Commissioner if you deducted **less** than the allowable amount of depreciation for the property in at least two years immediately preceding the year of change. Instead of following the instructions in Revenue Procedure 97-27, you can receive an automatic approval by following the instructions in Revenue Procedure 97-37 and section 2.01 of the Appendix of Revenue Procedure 97-37, which are in Internal Revenue Bulletin (IRB) 1997-33. This will enable you to change your accounting method to take into account previously unclaimed allowable depreciation. To get approval, you must file Form 3115 requesting a change to a permissible method of accounting for depreciation.

You generally can use this procedure for property that meets all of the following three conditions.

- 1) It is property for which you compute depreciation under the pre-1981 rules, Accelerated Cost Recovery System (ACRS), or Modified Accelerated Cost Recovery System (MACRS). It can also

be for property for which you compute amortization under section 197 of the Internal Revenue Code. (For more information on pre-1981 rules and ACRS, see Publication 534; for more information on MACRS, see chapter 3.)

- 2) It is property for which, under your present accounting method, you claimed less than the amount of depreciation allowable in at least the two years immediately preceding the year of change. The year of change is the year you designate on the Form 3115 and for which you have timely filed the Form 3115.
- 3) It is property you owned at the beginning of the year of change.

Exceptions. You generally cannot use the automatic approval procedure if any of the exceptions listed in section 2.01(2)(b) of the Appendix of Revenue Procedure 97-37 apply.

Other restrictions. You generally cannot use the automatic approval procedure under any of the following situations.

- 1) You are under examination.
- 2) You are before a federal court or an appeals office for any income tax issue and the method of accounting for depreciation to be changed is an issue under consideration by the federal court or appeals office.
- 3) You are correcting a mathematical or posting error. See *Amended Return* discussed earlier.
- 4) During the four years before the year of change, you changed the same method of accounting for depreciation (with or without obtaining the approval of the Commissioner).
- 5) During the four years before the year of change, you filed a Form 3115 to change the same method of accounting for depreciation but did not make the change because the Form 3115 was withdrawn, not perfected, denied, or not granted.

More information. For more information on how to get this automatic approval to change your method of accounting in order to claim previously unclaimed allowable depreciation and when you cannot use it, see Revenue Procedure 97-37 and section 2.01 of the Appendix of Revenue Procedure 97-37, Internal Revenue Bulletin 1997-33.

How To Claim Depreciation

Use Form 4562 to elect the section 179 deduction discussed next. Also, use this form to claim depreciation and amortization deductions. Amortization is discussed later. For more information on completing the form, you should refer to the instructions for Form 4562.

Section 179 Deduction

This part of the chapter explains the rules for the section 179 deduction. It explains what the deduction is, what property qualifies for the deduction, what limits may apply, and how to claim a deduction. You can recover through depreciation certain costs that you do not recover through the section 179 deduction.

What Costs Can and Cannot Be Deducted

You can claim the section 179 deduction based only on the cost of qualifying property acquired for use in your trade or business. You cannot claim the deduction based on the cost of property you hold only for the production of income.

For information on property held for the production of income, see *Production of income*, later.

Acquired by Purchase

Only the cost of property you acquire for use in your business qualifies for the section 179 deduction. The cost of property acquired from a related person or group may not qualify. See *Nonqualifying Property*, later.

Acquired by Trade

If you purchase an asset with cash and a trade-in, part of the basis of the asset you buy is the basis of the trade-in. You cannot claim the section 179 deduction on this part of the basis of the purchased asset. For example, if you buy (for cash and a trade-in) a new tractor for use in your business, your cost for the section 179 deduction does not include the adjusted basis of the tractor you trade for the new vehicle. See *Adjusted Basis* in chapter 7.

Example. J-Bar Farms traded two tiller machines having a total adjusted basis of \$680 for a new tiller machine costing \$1,320. J-Bar also traded a used van with an adjusted basis of \$4,500 for a new van costing \$9,000. J-Bar Farms places the new items in service this year. J-Bar was given an \$800 trade-in for the old tiller machines and paid \$520 cash for the new tiller machine. J-Bar was given a \$4,800 trade-in and paid \$4,200 cash for the new van.

J-Bar Farms' basis in the new property includes both the adjusted basis of the property traded and the cash paid. However, only the portion of the basis of the new property paid by cash qualifies for the section 179 deduction. J-Bar has business costs that qualify for a section 179 deduction of \$4,720 (\$520 + \$4,200), the part of the cost of the new property not determined by the property traded.

Qualifying Property

Property qualifying for the section 179 deduction is depreciable property and includes:

- 1) Tangible personal property,
- 2) Other tangible property (except most buildings and their structural components), used as:
 - a) An integral part of manufacturing, production, or extraction, or of furnishing transportation, communications, electricity, gas, water, or sewage disposal services, or
 - b) A research facility used in connection with any of the activities in (a) for the bulk storage of the fungible commodities, or
 - c) A facility used in connection with any of the activities in (a) for the bulk storage of fungible commodities (including commodities in a liquid or gaseous state).

- 3) Single purpose agricultural (livestock) or horticultural structures (defined later), and
- 4) Storage facilities (excluding buildings and their structural components) used in connection with distributing petroleum or any primary product of petroleum.

Tangible personal property. Tangible personal property is any tangible property that is not real property. Machinery and equipment are examples of tangible personal property.

Land and land improvements, such as buildings and other permanent structures and their components, are real property. Swimming pools, paved parking areas, wharfs, docks, bridges, and fences are examples of land improvements. They are not tangible personal property. However, agricultural fences do qualify as section 179 property.

Business property. All business property, other than structural components, that is contained in or attached to a building is tangible personal property. Under certain local laws, some tangible personal property cannot be tangible personal property for purposes of section 179, and some real property under local law, such as fixtures, can be tangible personal property for section 179 purposes. Property such as milk tanks, automatic feeders, barn cleaners, and office equipment is tangible personal property.

Livestock. Livestock is qualifying property. For this purpose, livestock includes horses, cattle, hogs, sheep, goats, and mink and other furbearing animals.

Single purpose agricultural (livestock) or horticultural structures. For purposes of determining whether a structure is a single purpose agricultural structure, poultry is considered to be livestock.

Agricultural structure. A single purpose agricultural (livestock) structure is any building or enclosure specifically designed, constructed, and used to:

- 1) House, raise, and feed a particular type of livestock and its produce, and
- 2) House the equipment, including any replacements, needed to house, raise, or feed the livestock.

Because the full range of livestock production is included, special purpose structures are qualifying property if used to breed chickens or hogs, produce milk from dairy cattle, or produce feeder cattle or pigs, broiler chickens, or eggs. The facility must include, as an integral part of the structure or enclosure, equipment necessary to house, raise, and feed the livestock.

Horticultural structure. A single purpose horticultural structure is:

- 1) A greenhouse specifically designed, constructed, and used for the commercial production of plants, or
- 2) A structure specifically designed, constructed, and used for the commercial production of mushrooms.

Use of structure. A structure must be used only for the purpose which qualified it. For example, a hog barn will not be eligible property if you use it to house poultry. Similarly, using part of your greenhouse to sell plants will make the greenhouse ineligible.

If a structure includes work space, that structure is not a single purpose agricultural or horticultural structure unless the work space is used only for:

- 1) Stocking, caring for, or collecting livestock or plants or their produce,
- 2) Maintaining the enclosure or structure, and
- 3) Maintaining or replacing the equipment or stock enclosed or housed in the structure.

Business and nonbusiness use. When you use property for business and nonbusiness purposes, you can elect the section 179 deduction only if more than 50% of the property's use in the tax year you place it in service is for trade or business purposes. You must figure the part of the cost of your property that reflects only its business use. You do this by multiplying the cost of the property by the percentage of business use. This is your business cost. Use it to figure your section 179 deduction.

Nonqualifying Property

Generally, the section 179 deduction cannot be claimed on the cost of:

- 1) Property you hold only for the production of income,
- 2) Real property, including buildings and their structural components,
- 3) Property you acquired from certain groups or persons,
- 4) Air conditioning or heating units,
- 5) Certain property used outside the U.S.,
- 6) Property used predominately to furnish lodging or in connection with the furnishing of lodging, and
- 7) Property used by foreign persons or entities.

For more information on nonqualifying property, see *Nonqualifying Property* in Publication 946.

For the kind of property you lease on which you can claim the section 179 deduction, see *Qualifying Property* in Publication 946.

Production of income. Property you hold for the production of income includes investment property, rental property (if renting property is not your trade or business), and property that produces royalties. If you use property in the active conduct of a trade or business, you do not hold it **only** for the production of income.

Acquired from certain groups or persons. Property does not qualify for the section 179 deduction if:

- 1) The property is acquired by one member of a controlled group from a member of the same group, or
- 2) The property's basis is either:
 - a) Determined in whole or in part by its adjusted basis in the hands of the person from whom it was acquired, or
 - b) Determined under stepped-up basis rules for property acquired from a decedent, or

- The property is acquired from a related person.

For the preceding rules, a “related person” generally means a member of your immediate family (including your spouse, an ancestor, and a lineal descendant).

For more information on related parties, see Publication 946.

How To Make the Election

You make the election by taking your deduction on Form 4562. You attach and file Form 4562 with:

- Your original tax return filed for the tax year the property was placed in service (whether or not you filed it timely), or
- An amended return filed by the due date (including extensions) for your return for the tax year the property was placed in service.

You cannot make an election for the section 179 deduction on an amended return filed after the due date (including extensions).

How To Figure the Deduction

The total business cost you can elect to deduct under section 179 for 1997 cannot be more than \$18,000. This \$18,000 maximum dollar limit applies to each taxpayer, not to each business. You do not have to claim the full \$18,000. You can decide how much of the business cost of your qualifying property you want to deduct under section 179. You may be able to depreciate any cost you do not deduct under section 179. To figure depreciation, see *MACRS*, later.

If you acquire and place in service more than one item of qualifying property during the year, you can divide the deduction between the items in any way, as long as the total deduction is not more than the limits. If you have only one item of qualifying property and it does not cost more than \$18,000, your deduction is limited to the lesser of:

- Your taxable income from your trade or business (the taxable income limit is discussed later), or
- The cost of the item.

You must figure your section 179 deduction before figuring your depreciation deduction.

You must subtract the amount you elect to deduct under section 179 from the business/investment cost of the qualifying property. This result is called your unadjusted basis and is the amount you use to figure any depreciation deduction.

Deduction Limits

Your section 179 deduction cannot be more than the business cost of the qualifying property. In addition, in figuring your section 179 deduction, you must apply the following limits:

- Maximum dollar limit,
- Investment limit, and
- Taxable income limit.

Maximum dollar limit. The total cost that you can elect to deduct for 1997 cannot be more than \$18,000. This maximum dollar limit

is reduced if you go over the investment limit (discussed later) in any tax year.



The total cost of section 179 property that you can deduct increases as shown below:

Tax Year	Maximum Amount Deductible
1998	\$18,500
1999	19,000
2000	20,000
2001 – 2002	24,000
After 2002	25,000

Joint returns. A husband and wife who file a joint return are treated as one taxpayer in determining any reduction to the maximum dollar limit, regardless of which spouse acquired the property or placed it in service.

Married taxpayers filing separate returns. A husband and wife filing separate returns for a tax year are treated as one taxpayer for the maximum dollar limit and for the \$200,000 investment limit. Unless they elect otherwise, 50% of the maximum dollar limit (after applying the investment limit) will be allocated to each spouse. If the percentages elected by each spouse do not total 100%, 50% will be allocated to each spouse.

Joint return after filing separate returns. If you filed a separate return and after the due date choose to file a joint return, the maximum dollar limit on the joint return is the lesser of:

- The maximum dollar limit (after the investment limit), or
- The total cost of section 179 property you both elected to expense on your separate returns.

Investment limit. For each dollar of business cost over \$200,000 for section 179 property placed in service in 1997, reduce the maximum dollar limit by one dollar (but not below zero). If your business cost of section 179 property placed in service during a tax year is \$218,000 or more, you cannot take a section 179 deduction, and you are not allowed to carry over the cost that is more than \$218,000.

Example. In 1997, James Smith placed in service machinery costing \$207,000. Because this cost is \$7,000 more than \$200,000, he must reduce the maximum dollar limit of \$18,000 by \$7,000. If his taxable income is at least \$11,000, James can claim an \$11,000 section 179 deduction for 1997.

Taxable income limit. The total cost that you can deduct each year is limited to the taxable income from the active conduct of any trade or business during the tax year. Generally, you are considered to actively conduct a trade or business if you meaningfully participate in the management or operations of the trade or business.

Figure taxable income for this purpose by totaling the net income (or loss) from all trades and businesses you actively conducted during the tax year. Items of income derived from a trade or business actively conducted by you include section 1231 gains (or losses) as discussed in chapter 11 and interest from working capital of your trade or business. Also include in total taxable income any wages, salaries, tips, or other pay earned as an employee. When figuring taxable income, do not take into account any unreimbursed employee business expenses you may have as an employee.

In addition, figure taxable income without regard to:

- The section 179 deduction,
- The self-employment tax deduction, and
- Any net operating loss carryback or carryforward.



Any cost that is not deductible in one tax year under section 179 because of this limit can be carried to the next tax year.

The amount you carry over will be taken into account in determining your section 179 deduction in the next year; however, it is subject to the limits in that year. You may select the properties for which costs will be carried forward and you may allocate the portion of the costs to these properties.

Example. Last year, Joyce Jones placed in service a machine that cost \$8,000. The taxable income from her business last year (determined without a section 179 deduction for the cost of the machine and without the self-employment tax deduction) was \$6,000. Her section 179 deduction is limited to \$6,000. The \$2,000 cost that is not allowed as a current section 179 deduction (because of the taxable income limit) is carried to this year.

This year, Joyce placed another machine in service that cost \$9,000. Her taxable income from business (determined without a section 179 deduction for the cost of the machine and without the self-employment tax deduction) is \$10,000. Joyce can deduct the full cost of the machine (\$9,000) but only \$1,000 of the carryover from last year because of the limits. However, she can carry the balance of \$1,000 as a carryover to next year.

More information. See *Carryover of disallowed deduction* in Publication 946 for information on figuring the carryover, or use the *Section 179 Worksheet* in chapter 2 of Publication 946 to figure your carryover.

Two different taxable income limits. The section 179 deduction is subject to a taxable income limit. You also may have to figure another deduction that has a limit based on taxable income. You may have to figure the limit for this other deduction taking into account the section 179 deduction. If so, complete the steps discussed next.

Step 1. Figure taxable income without either a section 179 deduction or the other deduction.

Step 2. Figure a hypothetical section 179 deduction using the taxable income figured in Step 1.

Step 3. Subtract the hypothetical section 179 deduction figured in Step 2 from the taxable income figured in Step 1.

Step 4. Figure a hypothetical amount for the other deduction using the amount figured in Step 3 as taxable income.

Step 5. Subtract the hypothetical other deduction figured in Step 4 from the taxable income figured in Step 1.

Step 6. Now figure your actual section 179 deduction using the taxable income figured in Step 5.

Step 7. Subtract your actual section 179 deduction figured in Step 6 from the taxable income figured in Step 1.

Step 8. Figure your actual other deduction using the taxable income figured in Step 7.

Example. XYZ is a farm corporation. During the tax year, the corporation purchased and placed in service qualifying section 179 property that cost \$10,000. It elects to expense as much as possible under section 179. The XYZ corporation also gave a charitable contribution of \$1,000 during the tax year. A corporation's deduction for charitable contributions cannot be more than 10% of its taxable income, figured after subtracting any section 179 deduction. The taxable income limit for the section 179 deduction is figured after subtracting any allowable charitable contributions. XYZ's taxable income figured without taking into account either any section 179 deduction or any deduction for the charitable contributions is \$12,000. XYZ figures its section 179 deduction and its deduction for charitable contributions as follows:

Step 1. Taxable income figured without either deduction is \$12,000.

Step 2. Using \$12,000 as taxable income, a hypothetical section 179 deduction of \$10,000 would be allowable.

Step 3. \$12,000 (from Step 1) minus \$10,000 (from Step 2) equals \$2,000.

Step 4. Using \$2,000 (from Step 3) as taxable income, a hypothetical charitable contribution (limited to 10% of taxable income) of \$200 is figured.

Step 5. \$12,000 (from Step 1) minus \$200 (from Step 5) equals \$11,800.


Step 6. Using \$11,800 (from Step 5) as taxable income, the actual section 179 deduction is figured. Because the taxable income is at least \$10,000, XYZ can take a \$10,000 section 179 deduction.

Step 7. \$12,000 (from Step 1) minus \$10,000 (from Step 6) equals \$2,000.

Step 8. Using \$2,000 (from Step 7) as taxable income, the actual charitable contribution (limited to 10% of taxable income) of \$200 is figured.

Passenger automobiles. For passenger automobiles placed in service in 1997, your total section 179 deduction and depreciation cannot be more than \$3,160 for 1997. For more information, see *Maximum deduction for 1997 under Special Rules for Passenger Automobiles*, later.

How to figure the deduction. You must figure your section 179 deduction before figuring your depreciation deduction. You must subtract the amount you elect to deduct under section 179 from the business and investment cost of the qualifying property. This result is called your unadjusted basis and is the amount you use to figure any depreciation deduction.

 **You cannot take depreciation on the cost of property you deduct under section 179.**

Example. This year, you bought a tractor for \$16,000 and a mower for \$6,200 for use in your farming business. You placed both items in service this year. You elect to deduct the entire \$6,200 for the mower and \$11,800 for the tractor, a total of \$18,000. This is the most you can deduct. Your \$6,200 deduction

for the mower completely recovered its cost. The cost of your tractor is adjusted by \$11,800. Its unadjusted basis for depreciation is \$4,200. You figure this by subtracting the amount of your section 179 deduction, \$11,800, from the cost of the tractor, \$16,000.

Section 179 Recapture

Section 179 recapture occurs when you add back to income the section 179 deduction you took in an earlier year.

When To Recapture the Deduction

If you claim a section 179 deduction for the cost of property and, in a year after you place the property in service, you do not use it more than 50% for business, you may have to recapture part of the deduction. This can occur in any tax year during the recovery period for the property. Recovery periods for property are discussed later.

If you elect the section 179 deduction, treat the amount deducted as depreciation for purposes of the recapture rules. You may have to treat any gain you realize from a sale, exchange, or other disposition of property as ordinary income up to the section 179 and depreciation deductions you claimed. Ordinary income is income that is all taxable.

Where to report recapture. Report any recapture of the section 179 deduction on Form 4797 and Schedule F.

How To Figure the Recapture

To figure the amount to recapture (include in income), subtract the depreciation that would have been allowable on the section 179 amount for prior tax years and the tax year of recapture from the section 179 deduction claimed. The section 179 amount is the part of the cost deducted under section 179.

Example. Paul Lamb, a calendar year taxpayer, bought and placed in service on August 1, 1995, an item of 3-year property costing \$10,000. The property is not listed property. He used the property only for business in 1995 and 1996. He elected a section 179 deduction of \$5,000. During 1997, he used the property 40% for business and 60% for personal use. He figures his recapture amount as follows:

Section 179 deduction claimed (1995) ...	\$5,000.00	
Allowable depreciation (instead of section 179):		
1995 —		
\$5,000 × 25.00%*	.....	\$1,250.00
1996 —		
\$5,000 × 37.50%*	.....	1,875.00
1997 —		
\$5,000 × 25.00%*		
× 40% (business)	.....	500.00
Recapture amount	.....	<u>\$1,375.00</u>

*Rates from the 150% table, later.

Paul reports the \$1,375 on Form 4797 and Schedule F.

Dispositions. If you dispose of property, the amount you deducted under section 179 is subject to recapture as ordinary income. For more information, see chapter 11.

MACRS

MACRS consists of two systems that determine how you depreciate your property. The main system is called the **General Depreciation System (GDS)**. The second system is called the **Alternative Depreciation System (ADS)**. Unless you are specifically required by law to use ADS or you elect it, you generally use GDS to figure your depreciation deduction. Property for which you are required by law to use ADS and how to elect ADS are discussed in *What Can Be Depreciated Under MACRS*, next. The main **difference between the two systems** is that ADS generally provides for a longer recovery period and uses only the straight line method of depreciation to figure a deduction.

What Can Be Depreciated Under MACRS

MACRS applies to most tangible depreciable property placed in service after 1986. Property that you cannot use MACRS for is discussed later in *What Cannot Be Depreciated Under MACRS*.

Use of real property changed. You must use MACRS to depreciate all real property you acquired before 1987 that you changed from personal use to business or income-producing use after 1986.

When To Use GDS

Most tangible depreciable property falls within the general rule of MACRS, also called the General Depreciation System (GDS). As discussed earlier in *MACRS*, the major differences between GDS and ADS are the recovery period and method of depreciation you use to figure the deduction. Because GDS permits use of the declining balance method over a shorter recovery period, the deduction is greater in the earlier years.

However, the law requires you to use ADS for certain property as discussed under *When To Use ADS*, later.

Although your property may qualify for GDS, you can elect on a property-by-property or class of assets basis to use ADS. If you make this election, however, you can never revoke it. How to make this election is discussed in *Election*, under *ADS method*, later.

When To Use ADS

You must use ADS for:

- 1) Any property used predominantly in a farming business and placed in service during any tax year in which you make an election not to apply the uniform capitalization rules to certain farming costs,
- 2) Any tax-exempt use property,
- 3) Any tax-exempt bond-financed property,
- 4) Any imported property covered by an executive order of the President of the United States, and
- 5) Any tangible property used predominantly outside the United States during the year.

What Cannot Be Depreciated Under MACRS

You cannot use MACRS for certain property. You can choose to exclude certain other property from being depreciated under MACRS.

Property that you cannot depreciate using MACRS includes:

- 1) Intangible property,
- 2) Any motion picture film or video tape,
- 3) Any sound recording, and
- 4) Certain real and personal property placed in service before 1987

You can choose to exclude from MACRS property that is properly depreciated under a method of depreciation that is not based on a term of years.

Election To Exclude Certain Property From MACRS

If you properly depreciate any of your property under a method not based on a term of years, such as the unit-of-production method (discussed later), you can elect to exclude that property from MACRS. You must make this election by the return due date (including extensions) for the tax year you place your property in service. You make it by reporting your depreciation for the property on line 18 of Part III of Form 4562 and attaching a separate sheet as described in the Instructions for Form 4562.

Standard mileage rate. If you use the standard mileage rate to figure your tax deduction for your business automobile, you are treated as having made an election to exclude the automobile from MACRS. See Publication 463 for a discussion of the standard mileage rate.

Property Placed in Service Before 1987

There are special rules that may prevent you from using MACRS for property placed in service by anyone (for any purpose) before 1987 (before August 1, 1986, if MACRS was elected). These rules apply to both personal and real property. However, the rules for personal property are more restrictive.



Do not treat either real or personal property as owned before you placed it in service. If you owned property in 1986 but did not place it in service until 1987, you do not treat it as owned in 1986.

Personal property. You cannot use MACRS for most personal property (section 1245 property) that you acquired after 1986 (after July 31, 1986, if MACRS was elected) if:

- 1) You or someone related to you owned or used the property in 1986,
- 2) The property was acquired from a person who owned it in 1986 and as part of the transaction the property user did not change,
- 3) You leased the property to a person (or someone related to this person) who owned or used the property in 1986, or
- 4) The property was acquired in a transaction in which:

- a) The property user did not change, and
- b) The property was not MACRS property in the hands of the person from whom it was acquired because of 2) or 3).

Special rule. The excluded property rules discussed above do not apply to any property if the allowable deduction for the property for the first tax year it was placed in service using ACRS was greater than the deduction under MACRS applying the half-year convention. For more information on other special rules, see Publication 946.

Real property. You cannot use MACRS for certain real property. This includes property acquired after 1986 (after July 31, 1986, if MACRS was elected), if:

- 1) You or someone related to you owned the property in 1986,
- 2) You leased the property back to the person (or someone related to this person) who owned the property in 1986, or
- 3) You acquired the property in a transaction in which some of your gain or loss was not recognized. MACRS applies only to that part of your basis in the acquired property that represents cash paid or unlike property given up. It does not apply to the substituted portion of the basis.



This rule does not apply to nonresidential real property or residential rental property.

Related Parties

For the preceding rules, a related party includes members of your immediate family (including your spouse, ancestors, and lineal descendants).

For more information on related parties, see Publication 946.

How To Figure the Deduction Using Percentage Tables

Once you determine that your property can be depreciated under MACRS and whether it falls under GDS or ADS, you are ready to figure your deduction. To help you figure your deduction, the IRS has established percentage tables. To use these percentage tables to figure your MACRS deduction each year, you need to know the following information about your property:

- 1) Its basis.
- 2) Its placed-in-service date.
- 3) Its property class and recovery period.
- 4) Which convention to use.
- 5) Which depreciation method to use.

Basis

To figure your depreciation deduction, you must determine the basis of your property. To determine basis, you need to know the cost or other basis of your property. If you bought the property, your basis is the amount

you paid for the property plus any sales tax, freight charges, and installation and testing fees. Other basis refers to basis that is determined by the way you received the property. For example, you may have received the property through a taxable or nontaxable exchange, for services you performed, as a gift, or as an inheritance. If you received property in this or some other way, see chapter 7 to determine your basis.

Basis of property changed from personal use. If you held property for personal use and later change it to business use or use in the production of income, your basis is the lesser of:

- 1) The fair market value (FMV) of the property on the date you change it from personal use, or
- 2) Your original cost or other basis adjusted as follows:
 - a) Increased by the cost of any permanent improvements or additions and other additions to basis, and
 - b) Decreased by any tax deductions you claimed for casualty losses and other charges to basis claimed on earlier years' income tax returns.

Adjusted basis. After you determine your basis, you may have to make certain adjustments (increases and decreases) for items occurring between the time you acquired the property and the time you placed it in service. These items include: costs for having utility lines installed, costs for legal fees for perfecting the title, costs of barrier removal, zoning costs, and rebates. For a discussion of items that may affect the basis of your property before you put it in service, see *Adjusted Basis* in Publication 551.

Placed in Service Date

For depreciation purposes, property is considered placed in service when it is ready and available for a specific use, whether in a trade or business, the production of income, a tax-exempt activity, or a personal activity. Even if the property is not being used, it is in service when it is ready and available for its specific use.

Example 1. A corn planter that is delivered to the farm ready to be used in December 1997 is considered placed in service in the 1997 calendar year even though it will not be used until the spring of 1998.

Example 2. If the planter comes unassembled in December 1997 and is put together in February 1998, it is not considered placed in service until the 1998 calendar year.

Example 3. If the planter was delivered and assembled in February 1997 but not used until April 1997, its placed-in-service date is February 1997, since this is when the planter was in a condition of readiness for its specified use.

Fruit or nut trees and vines. If you acquire an orchard, grove, or vineyard and the trees or vines have not yet reached the income-producing stage, your depreciation will begin when they reach the income-producing stage.

Immature livestock. If you acquire immature livestock for draft, dairy, or breeding purposes, your depreciation will begin when it

Table 8-1. Farm Property Recovery Periods

Assets	Recovery Period in Years for:	
	GDS	ADS
Agricultural structures (single purpose)	10	15
Airplanes (including helicopters) ¹	5	6
Automobiles	5	5
Calculators and copiers	5	6
Cattle (dairy or breeding)	5	7
Communication equipment ²	7	10
Computers and peripheral equipment	5	5
Cotton ginning assets	7	12
Drainage facilities	15	20
Farm buildings ³	20	25
Farm machinery and equipment	7	10
Fences (agricultural)	7	10
Goats and sheep (breeding)	5	5
Grain bin	7	10
Hogs (breeding)	3	3
Horses (age when placed in service)		
Breeding and working (12 years or less)	7	10
Breeding and working (more than 12 years)	3	10
Racing horses (more than 2 years)	3	12
Horticultural structures (single purpose)	10	15
Logging machinery and equipment ⁴	5	6
Nonresidential real property	39 ⁵	40
Office equipment (not calculators, copiers, or typewriters)	7	10
Office furniture or fixtures	7	10
Residential rental property	27.5	40
Tractor units (over-the-road)	3	4
Trees or vines bearing fruit or nuts	10	20
Truck (heavy duty, unloaded weight 13,000 lbs. or more)	5	6
Truck (weight less than 13,000 lbs.)	5	5
Typewriter	5	6

¹ Not including airplanes used in commercial or contract carrying of passengers.
² Not including communication equipment listed in other classes.
³ Not including single purpose agricultural or horticultural structures.
⁴ Used by logging and sawmill operators for cutting of timber.
⁵ For property placed in service after May 12, 1993; for property placed in service before May 13, 1993, the recovery period is 31.5 years.

reaches maturity. This means depreciation begins when it reaches the age when it can be worked, milked, or bred. When this occurs, your basis for depreciation is your initial cost for the immature livestock.

Property Classes and Recovery Periods

Each item of property depreciated under MACRS is assigned to a property class. The property class establishes the number of years over which you recover the basis of your property. This period of time is called a recovery period.

Property classes. Under MACRS, tangible property that you place in service after 1986, or after July 31, 1986, if elected, falls into one of the following classes:

- 1) 3-year property,
- 2) 5-year property,
- 3) 7-year property,
- 4) 10-year property,
- 5) 15-year property,
- 6) 20-year property,
- 7) Residential rental property, and

- 8) Nonresidential real property.

Recovery periods. See Table 8-1 for recovery periods under both GDS and ADS for some commonly used assets. For a more complete listing of the class lives and recovery periods for most assets, see the *Table of Class Lives and Recovery Periods* in Appendix B of Publication 946.

House trailers for farm laborers. Depreciate a house trailer you supply as housing for those who work on your farm using the recovery period listed below. Whether the house trailer is mobile or not determines which recovery period you can use.

- 1) If the house trailer is mobile and has wheels and a history of movement, depreciate its costs over a 10-year recovery period under ADS, or over a 7-year recovery period under GDS.
- 2) If the house trailer is not mobile, its wheels removed, and permanent utilities and pipes are attached to the it, depreciate its costs over a 25-year recovery period under ADS or over a 20-year recovery period under GDS.

Water wells. Depreciable water wells used to provide water for raising poultry and livestock are land improvements and have a

15-year recovery period under GDS and a 20-year recovery period under ADS.

The types of water wells that can be depreciated are discussed earlier in *Irrigation systems and water wells*.

Conventions

To figure your depreciation deduction for both GDS and ADS, use one of three conventions:

- 1) The half-year convention,
- 2) The mid-month convention, or
- 3) The mid-quarter convention.

Half-year convention. Generally, you use this convention for property other than non-residential real and residential rental property. Under the half-year convention, you treat all property placed in service, or disposed of, during a tax year as placed in service, or disposed of, at the midpoint of that tax year. This means that no matter when in the year you begin or end the use of the property, you treat it as if you began or ended its use in the middle of the year.

Mid-quarter convention. You must use this convention for property (other than nonresidential real property and residential rental property) in certain circumstances.

These circumstances occur during any tax year when the total depreciable bases of MACRS property you placed in service during the last 3 months of that year are more than 40% of the total depreciable bases of all MACRS property you placed in service during the entire year. When that happens, you must use this convention for all MACRS property you placed in service during the year. To determine the total bases of property, do not include the basis of either:

- 1) Residential rental property,
- 2) Nonresidential real property, or
- 3) Property you placed in service and disposed of in the same tax year.

To determine whether you must use the mid-quarter convention, the depreciable basis of property is your basis multiplied by the percentage of business/investment use and then reduced by:

- 1) The amortization taken on the property,
- 2) Any section 179 deduction claimed on the property, and
- 3) Any deduction claimed for clean-fuel vehicles or for clean-fuel vehicle refueling property.

Under the mid-quarter convention, you treat all property placed in service or disposed of during a tax year as placed in service in the middle of the quarter.

To figure your MACRS deduction using the mid-quarter convention, you must first figure your depreciation for the full tax year. Then multiply that amount by the following percentages for the quarter of the tax year the property is placed in service.

Quarter of Tax Year	Percentage
First	87.5%
Second	62.5%
Third	37.5%
Fourth	12.5%

For more information, including percentage tables based on the mid-quarter convention, see Publication 946.

Mid-month convention. This convention is used for:

- 1) Nonresidential real property, and
- 2) Residential rental property.

Under this convention, you treat all property placed in service or disposed of during a month as placed in service or disposed of at the midpoint of the month. This means that regardless of when during a month you place property in service or dispose of it, you treat it as being placed in service or disposed of in the middle of that month.

Depreciation Methods

You depreciate property placed in service after 1988 in a farming business using one of the following methods :

- 1) The 150% declining balance method over the GDS recovery period, which switches to the straight line method when that method provides a greater deduction.
- 2) The straight line method over the GDS recovery period.
- 3) The 150% declining balance method over fixed ADS recovery periods, which switches to the straight line method when that method provides a greater deduction.
- 4) The straight line method over fixed ADS recovery periods.



If you use the MACRS percentage tables, you do not need to determine in which year your deduction is greater using the straight line method. The tables have the switch to the straight line method built into their rates.

For the specific method to use for a property class, see the *Depreciation Methods Chart*, later.

For farm property placed in service before 1989 in the 3-, 5-, 7-, or 10-year class, you use the double (200%) declining balance method over 3, 5, 7, or 10 years. For 15- or 20-year property, you must use the 150% declining balance method over 15 or 20 years.

Farming business. A farming business is any trade or business involving cultivating land or raising or harvesting any agricultural or horticultural commodity. A farming business includes:

- 1) Operating a nursery or sod farm,
- 2) Raising or harvesting crops,
- 3) Raising or harvesting trees bearing fruit, nuts, or other crops,
- 4) Raising ornamental trees, and
- 5) Raising, shearing, feeding, caring for, training, and managing animals.

An evergreen tree is not considered an ornamental tree if it is more than 6 years old when it is severed from its roots.

Farming does not include processing commodities or products if the processing is not normally part of growing, raising, or harvesting these products. It does include processing activities which are normally part of growing, raising, or harvesting agricultural products.

Fruit or nut trees and vines. Depreciate trees and vines bearing fruit or nuts under GDS using the straight line method over a 10-year recovery period.

ADS required for some farmers. If you elect not to apply the uniform capitalization rules to any plant produced in your farming business, you must use ADS. You must use ADS for all property you place in service in any tax year the election is in effect. See chapter 7 for a discussion of the application of the uniform capitalization rules to farm property.

Declining balance method. To figure your MACRS deduction using the declining balance method, you can use the percentage tables or, if you want to figure your own percentage, see *How To Figure the Deduction Without Using the Tables* in chapter 3 of Publication 946.

Straight line election. Instead of using the declining balance method, you can elect to use the straight line method over the GDS recovery period.



The election to use the straight line method for one item in a property class applies to all property in that class placed in service in the tax year of the election. Once you make the election, you cannot change it.

ADS method. Although your property may come under GDS, you can elect to use ADS. ADS uses the straight line method of depreciation over fixed ADS recovery periods. The ADS recovery periods for many assets used in the business of farming are listed in Table 8-1. Additional ADS recovery periods for other classes of property may be found in the *Table of Class Lives and Recovery Periods* in Appendix B of Publication 946.

Election. Make the election by completing line 16, Part II of Form 4562. File Form 4562 with your tax return by the due date (including extensions) for the year you placed the property in service.



The election of the ADS method for one item of property in a property class applies to all property in that class placed in service during the tax year of the election. However, the election applies on a property-by-property basis for residential rental and nonresidential real property. Once you make the election, you cannot change it.

Depreciation Methods Chart

The following depreciation methods chart will help you determine the proper method to use for a specific property class. The declining balance method is shown as DB and the straight line method as SL.

Depreciation Methods Chart

Property Class	Method-Recovery Period
3, 5, 7, 10-Year (Farm)	150% DB-GDS 150% DB-ADS* SL-GDS* SL-ADS*
15, 20-Year (Farm)	150% DB-GDS SL-GDS* SL-ADS*

3, 5, 7, 10-Year (Nonfarm)	200% DB-GDS 150% DB-ADS* SL-GDS* SL-ADS*
15, 20-Year (Nonfarm)	150% DB-GDS SL-GDS* SL-ADS*
Nonresidential Real Property Residential Rental Property Trees, Vines, or Bushes Bearing Fruit or Nuts	SL-GDS
Tax-Exempt-Use Property Tax-Exempt Bond-Financed Property Imported Property Foreign-Use Property (Used Outside U.S.)	SL-ADS

*Elective Method

Figuring MACRS Deductions

You can determine your MACRS depreciation deduction in one of two ways. You can use the percentage tables or you can actually figure the deduction using the applicable depreciation method and convention over the recovery period.



Figuring MACRS deductions without using the tables will generally result in a slightly different amount than using the tables.

Rules covering the use of the tables. The following four rules cover the use of the percentage tables:

- 1) You must apply the rates in the percentage tables to your property's **unadjusted basis**.
- 2) You cannot use the percentage tables for a short tax year.
- 3) When using the percentage tables to figure your depreciation, you must continue to use them for the entire recovery period unless there are adjustments to the basis of your property for reasons other than:
 - a) Depreciation allowed or allowable, or
 - b) An addition or improvement to that property that is depreciated as a separate item of property.
- 4) You cannot continue to use the tables if there is an adjustment to the basis of your property other than for a reason listed in (3) above.

Figuring unadjusted basis. You must apply the table rates to your property's unadjusted basis each year of the recovery period. **Unadjusted basis** is the same amount you would use to figure gain on a sale but you figure it without taking into account any depreciation taken in earlier years. However, you do reduce your original basis by:

- 1) Amortization taken on the property,
- 2) Any section 179 deduction claimed on the property,
- 3) Any deduction claimed for clean-fuel vehicle or clean-fuel vehicle refueling property, and
- 4) Any qualified electric vehicle credit.

For business property you purchase during the tax year, the unadjusted basis is its cost minus any amortization, any section 179 deduction, any deduction claimed for clean-

fuel vehicles or for clean-fuel vehicle refueling property, and any electric vehicle credit claimed for the property.

If you trade property, your unadjusted basis in the property received is the cash paid plus the adjusted basis of the property traded minus any amortization, any section 179 deduction, any deduction claimed for clean-fuel vehicles or for clean-fuel vehicle refueling property, and any electric vehicle credit claimed for the property.

The clean-fuel vehicle and clean-fuel vehicle refueling property deductions and the credit for electric vehicles are discussed in chapter 15 of Publication 535.

Short tax year. You cannot use the tables if you have a short tax year. If this occurs, see *MACRS Deduction in Short Tax Year* in chapter 3 of Publication 946.

Adjustment due to casualty loss. If you reduce the basis of your property because of a casualty, you cannot continue to use the tables. For the year of adjustment and the rest of the recovery period, figure the depreciation using the property's adjusted basis at the end of the year of adjustment.

150% table applying the half-year convention. The following table has the percentages for 3-, 5-, 7-, and 20-year property. The percentages are based on the 150% declining balance method with a change to the straight line method. This table applies for only the half-year convention and only covers the first 8 years for 20-year property. See Appendix A in Publication 946 for complete MACRS tables, including tables for the mid-quarter and mid-month convention.

Example 1. This year, you buy and place in service an item of 7-year property for \$10,000. You do not elect a section 179 deduction for this property. The unadjusted basis of the property is \$10,000. You use the percentage tables to figure your deduction.

Since this is 7-year property, you multiply \$10,000 by 10.71% to get your depreciation this year of \$1,071. For next year, you figure your depreciation deduction by multiplying \$10,000 by 19.13% to get \$1,913.

Example 2. You have a barn constructed on your farm at a cost of \$20,000. This year, you place the barn in service. The barn is 20-year property and you use the table percentages to figure your deduction. You use the calendar year as your tax year. You figure the depreciation for it by multiplying \$20,000 (unadjusted basis) by 3.75% to get \$750. For next year, your depreciation will be \$20,000 multiplied by 7.219%, or \$1,443.80.

Straight line table applying the half-year convention. The following table has the percentages for 3-, 5-, 7-, and 20-year property. The percentages are based on the straight line method and apply for only the half-year convention. The table only covers the first 8 years for 20-year property. See Appendix A in Publication 946 for complete MACRS tables, including tables for the mid-quarter and mid-month convention.

Year	3-Year	5-Year	7-Year	20-Year
1	16.67%	10%	7.14%	2.5%
2	33.33%	20%	14.29%	5%
3	33.33%	20%	14.29%	5%
4	16.67%	20%	14.28%	5%
5		20%	14.29%	5%
6		10%	14.28%	5%
7			14.29%	5%
8			7.14%	5%

Table 8-2. 150% Declining Balance Method

Year	3-Year	5-Year	7-Year	20-Year
1	25.0%	15.00%	10.71%	3.750%
2	37.5	25.50	19.13	7.219
3	25.0	17.85	15.03	6.677
4	12.5	16.66	12.25	6.177
5		16.66	12.25	5.713
6		8.33	12.25	5.285
7			12.25	4.888
8			6.13	4.522

Figuring MACRS deductions without the tables. If you are required or would prefer to figure your own depreciation without using the tables, see *How To Figure the Deduction Without Using the Tables* in chapter 3 of Publication 946.

Dispositions

If you dispose of depreciable property at a gain, you may have to report, as ordinary income, all or part of the gain. See chapter 11.

General Asset Accounts

To make it easier for you to figure MACRS depreciation, you can group separate properties into one or more general asset accounts. You can then depreciate all of the properties in each account as a single item of property. Each account can include only property with similar characteristics, such as asset class and recovery period. Some property cannot be included in a general asset account. There are additional rules for passenger automobiles, disposing of property, converting property to personal use, and property that generates foreign source income.

After you have set up a general asset account, you generally figure the amount of depreciation for each general asset account by using the depreciation method, recovery period, and convention that applies to the property in the account. For each general asset account, record the depreciation allowance in a separate depreciation reserve account.

Property you cannot include. You cannot include property in a general asset account if you use it in both a trade or business (or for the production of income) and in a personal activity in the tax year in which you first place it in service.

How To Group Property in General Asset Accounts

Each general asset account must include only property that you placed in service in the same tax year and that has the same:

- 1) Asset class,
- 2) Recovery period,
- 3) Depreciation method, and
- 4) Convention.

The following rules also apply when you establish a general asset account.

- 1) **No asset class.** Property without an asset class, but with the same depreciation method, recovery period, and convention, that you place in service in the same tax year, can be grouped into the same general asset account.
- 2) **Mid-quarter convention.** Property subject to the mid-quarter convention can

only be grouped into a general asset account with property that is placed in service in the same quarter of the tax year.

- 3) **Mid-month convention.** Property subject to the mid-month convention can only be grouped into a general asset account with property that is placed in service in the same month of the tax year.
- 4) **Passenger automobiles.** Passenger automobiles subject to the limits on passenger automobile depreciation must be grouped into a separate general asset account.

Dispositions and Conversions

Property in a general asset account is considered disposed of when you:

- 1) Permanently withdraw it from use in your trade or business or from the production of income,
- 2) Transfer it to a supplies, scrap, or similar account, or
- 3) Sell, exchange, retire, physically abandon, or destroy it.

The retirement of a structural component of real property is not a disposal.

The unadjusted depreciable basis and the depreciation reserve of the general asset account are not affected by your disposition of property from the general asset account.

You must remove from the general asset account any property you change to personal use.

Unadjusted depreciable basis. The unadjusted depreciable basis of an item of property in a general asset account is the same amount you would use to figure gain on the sale of the property, but it is figured without taking into account any depreciation taken in earlier years.

The unadjusted depreciable basis of a general asset account is the total of the unadjusted depreciable bases of all of the property in the account.

For more information on general asset accounts, see chapter 3 in Publication 946.

Listed Property

If listed property is not used predominantly (more than 50%) in a qualified business use, as discussed in *Predominant Use Test* later, the section 179 deduction is not allowable and the property must be depreciated using ADS (straight line method) over the ADS recovery period. For more information on listed property that is leased, see chapter 4 in Publication 946.

A rule that pertains only to passenger automobiles limits the amount of your section

179 and depreciation deductions. See *Special Rules for Passenger Automobiles*, later.

Listed Property Defined

Listed property is any of the following.

- 1) Any passenger automobile (defined later).
- 2) Any other vehicle used for transportation.
- 3) Any property of a type generally used for entertainment, recreation, or amusement.
- 4) Any computer and related peripheral equipment *unless* it is used only at a regular business establishment and owned or leased by the person operating the establishment.
- 5) Any cellular telephone (or similar telecommunication equipment) placed in service or leased in a tax year beginning after 1989.

Other property used for transportation. This includes trucks, buses, boats, airplanes, motorcycles, and other vehicles used for transporting persons or goods.

Vehicles that are not listed property. The following vehicles, because of their design, are unlikely to be used very often for personal purposes. They are *not* listed property:

- 1) Tractors and other special purpose farm vehicles,
- 2) Bucket trucks (cherry pickers), dump trucks, flatbed trucks, and refrigerated trucks,
- 3) Combines, cranes and derricks, and forklifts, and
- 4) Passenger buses with a capacity of at least 20 passengers that are used as passenger buses.

Predominant Use Test

Listed property meets the predominant use test for any tax year if its business use is more than 50% of its total use. You must allocate the use of any item of listed property used for more than one purpose during the tax year among its various uses. You cannot use the percentage of investment use of listed property as part of the percentage of qualified business use to meet the predominant use test. However, you do use the combined total of business and investment use to figure your depreciation deduction for the property.



Property does not stop being predominantly used in a qualified business use because of a transfer at death.

Special Rules for Passenger Automobiles

For passenger automobiles, the total depreciation deduction (including the section 179 deduction) that you can claim is limited.

Maximum deductions for 1997. Determine the maximum depreciation deduction (including section 179) you can claim for a passenger automobile by the date you place it in

service. The maximum deductions for 1997 are:

Maximum Depreciation Deduction				
Year Placed In Service	1st Year	2nd Year	3rd Year	4th Year and Later
1997	\$3,160	\$5,000	\$3,050	\$1,775
1996		4,900	2,950	1,775
1995			2,950	1,775
1994				1,675
1993				1,675
Pre-1993				1,575

For automobiles placed in service during 1997, the depreciation deduction, including the section 179 deduction, cannot be more than \$3,160 for 1997 (the first tax year of the recovery period). For 1998 and 1999 (second and third tax years), the depreciation deduction will be limited to \$5,000 and \$3,050, respectively. The maximum will be \$1,775 in each succeeding tax year.

You must reduce these limits further if your business/investment use is less than 100%.

Exceptions for clean-fuel vehicles. There are two exceptions to the depreciation limits. These exceptions are effective after August 5, 1997, for automobiles that run on clean-fuel.

- 1) The first exception is for an automobile that was produced to run primarily on electricity and that you place in service after August 5, 1997. For this type of automobile the depreciation limit is increased as shown below.
 - a) \$9,480 for the first year of recovery.
 - b) \$15,100 for the second year of recovery.
 - c) \$9,050 for the third year of recovery.
 - d) \$5,425 for each later tax year.
- 2) The second exception is for costs you pay to retrofit parts and components to modify an automobile to run on clean fuel. These costs are *not subject to* the limits on depreciation for automobiles. Only the cost of the automobile excluding this modification is subject to the limit. This exception applies to modifications you place in service after August 5, 1997.

For more information on clean-fuel vehicles, see chapter 15 in Publication 535.

Fully depreciated automobile. If you have fully depreciated a car that you are still using in your business, you can continue to claim your other operating expenses for the business use of your car. Continue to keep records, as explained later.

Passenger automobile defined. A passenger automobile is any four-wheeled vehicle made primarily for use on public streets, roads, and highways and rated at 6,000 pounds or less of unloaded gross vehicle weight (6,000 pounds or less of gross vehicle weight for trucks and vans). It includes any part, component, or other item physically attached to the automobile or usually included in the purchase price of an automobile. For more information on passenger automobiles, see Publication 463.

What Records Must Be Kept



You cannot take any depreciation or section 179 deduction for the use of listed property (including passenger automobiles) unless you can prove business and investment use with adequate records or sufficient evidence to support your own statements.

Adequate records. To meet the adequate records requirement, you must maintain an account book, diary, log, statement of expense, trip sheet, or similar record or other documentary evidence that, together with the receipt, is sufficient to establish each element of an expenditure or use. You do not have to record information in an account book, diary, or similar record if the information is already shown on the receipt. However, your records should back up your receipts in an orderly manner.

How long to keep records. For listed property, you must keep records for as long as any excess depreciation can be recaptured (included in income).

Recapture can occur in any tax year of the ADS recovery period.

For more information on records, see chapter 4 in Publication 946.

Depletion

Depletion occurs when natural resources are used up, by mining, quarrying, drilling, or felling. The depletion deduction is for the reduction of a product's reserves.

If you have an economic interest in mineral property or standing timber, you can take a deduction for depletion. More than one person can have an economic interest in the same mineral deposit or timber.

There are two ways of figuring depletion: cost depletion or percentage depletion. For mineral property, you generally must use the method that gives you the larger deduction; for standing timber, you must use cost depletion.

You have an economic interest if both of the following apply.

- 1) You have acquired by investment a legal interest in mineral deposits or standing timber.
- 2) You have the right to income from the extraction of the mineral or the cutting of the timber to which you must look for a return of your capital investment.

A contractual relation you have that allows you an economic or monetary advantage from products of the mineral deposit or standing timber is not, in itself, an economic interest.

The term "mineral property" means each separate interest you own in each mineral deposit in each separate tract or parcel of land. You can treat mineral properties separately or as a group. See section 614 of the Internal Revenue Code for rules on how to treat separate properties.

The term "timber property" means your economic interest in standing timber in each tract or block representing a separate timber account.

To figure the deduction, first determine the total number of units that can be recovered. This number of recoverable units can be

measured in tons, barrels, board feet, etc., and is determined using the existing methods for the particular industry.

Figure cost depletion by dividing the property's basis for depletion by the total recoverable units in the property's natural deposit. The result is the rate per unit. Multiply the rate per unit by the number of units sold during the tax year, which is:

- 1) The units sold based on your inventories, during the tax year, if you use the accrual method of accounting, or
- 2) The units sold for which you receive payment, during the year (regardless of the year of sale), if you use the cash method of accounting.

The number of units sold during the tax year does not include any on which depletion deductions were allowed or allowable in earlier years.

Cost depletion on ground water of Ogallala Formation. Farmers who extract ground water from the Ogallala Formation for irrigation are allowed cost depletion. Cost depletion is allowed when it can be demonstrated that the ground water is being depleted and that the rate of recharge is so low that, once extracted, the water is lost to the taxpayer and immediately succeeding generations.

For tax years ending prior to December 13, 1982, those extracting ground water for irrigation farming from areas in the Ogallala Formation outside the Southern High Plains were not required to reduce their basis in ground water by cost depletion that was allowable but not claimed.

Timber depletion. You can take depletion on timber (including Christmas trees) only if you cut it yourself or have it cut for you. To figure timber depletion, you multiply the number of units of standing timber cut by your depletion unit.

Figure your depletion unit as follows:

- 1) Determine your cost or adjusted basis of the timber on hand at the beginning of the year.
- 2) Add to the amount determined in 1) the cost of any units acquired during the year and any additions to capital.
- 3) Figure the number of units to take into account by adding the number of units acquired during the year to the number of units on hand in the account at the beginning of the year and then adding (or subtracting) any correction to the estimate of the number of units remaining in the account.
- 4) Divide the result of 2) by the result of 3). This is your depletion unit.

Generally, you can deduct depletion only in the tax year that the products (such as logs, cordwood, and lumber) from the timber are sold. The number of units sold will depend on your accounting method, discussed in chapter 3. You should include the depletion that you cannot deduct for that year in the closing inventory on those products.

Form T. Attach Form T to your income tax return if you are claiming a deduction for timber depletion.

Example. Sam Brown bought a farm that included standing timber. This year Sam determined that the standing timber could

produce 300,000 units when cut. At that time, the adjusted basis of the standing timber was \$24,000. Sam then cut and sold 27,000 units. Sam did not elect to treat the cutting of the timber as a sale or exchange. Sam's depletion for each unit for the year is \$.08 ($\$24,000 \div 300,000$). His deduction for depletion is \$2,160 ($27,000 \times \$.08$). If Sam had cut 27,000 units but sold only 20,000 units during the year, his depletion for each unit would have remained at \$.08. However, his depletion deduction would have been \$1,600 for this year and he would have included the balance of \$560 ($7,000 \times \$.08$) in the closing inventory for the year.

Percentage depletion. You can use percentage depletion on certain mines, wells, and other natural deposits. You cannot use the percentage method to figure depletion for standing timber, soil, sod, dirt, or turf.

Figure percentage depletion by multiplying a certain percentage, specified for each mineral, by your gross income from the property during the tax year. The depletion deduction under this method cannot be more than 50% (100% for oil and gas property) of your taxable income from the property figured without the depletion deduction.

Taxable income. In figuring the taxable income limit, do not take a net operating loss deduction from the gross income of the property.

More information. For more information on depletion, see chapter 13 in Publication 535.

Figuring the Deduction

You can generally figure the deduction for depletion by either cost depletion or percentage depletion. You cannot use the percentage method to figure the depletion deduction for standing timber.

Amortization

You may be able to amortize and deduct each year a part of certain capital expenses. Amortization allows you to recover these expenses similar to straight line depreciation. See chapter 12 in Publication 535 for more information.

Section 197 Intangibles

You must amortize over 15 years the capitalized costs of "section 197 intangibles" you acquired after August 10, 1993. These costs are defined later. You must amortize these costs if you hold the section 197 intangible in connection with your trade or business or in an activity engaged in for the production of income. Your deduction each year is the part of the adjusted basis (for purposes of determining gain) of the intangible amortized ratably over a 15-year, period beginning with the month acquired. You are not allowed any other depreciation or amortization deduction for any section 197 intangibles.

Section 197 Intangibles Defined

The following assets are section 197 intangibles:

- 1) Goodwill,
- 2) Going concern value,

- 3) Workforce in place, including its composition, and terms and conditions (contractual or otherwise) of its employment,
- 4) Business books and records, operating systems, or any other information base, including lists or other information concerning current or prospective customers,
- 5) A patent, copyright, formula, process, design, pattern, know-how, format, or similar item,
- 6) A customer-based intangible,
- 7) A supplier-based intangible,
- 8) Any item similar to items 3) through 7),
- 9) A license, permit, or other right granted by a governmental unit or agency (including renewals),
- 10) A covenant not to compete entered into in connection with the acquisition of an interest in a trade or business, and
- 11) A franchise, trademark, or trade name (including renewals).



You cannot amortize any of the intangibles listed in items 1) through 8) that you created, unless you created it in connection with the acquisition of assets constituting a trade or business or a substantial part of a trade or business.

For more information on these section 197 intangibles, see chapter 12 of Publication 535.

Other intangibles. The following assets are not section 197 intangibles:

- 1) Any interest in land,
- 2) Most computer software (see *Computer software*, later),
- 3) An interest under:
 - a) An existing lease or sublease,
 - b) A debt that was in existence when the interest was acquired.

For a complete list of nonsection 197 intangibles, see chapter 12 of Publication 535.

Computer software. Section 197 intangibles do not include computer software that is:

- 1) Readily available for purchase by the general public,
- 2) Subject to a nonexclusive license,
- 3) Not substantially changed, and
- 4) Not acquired in the acquisition of a substantial part of a business.

If you are allowed to depreciate any computer software that is not a section 197 intangible, use the straight line method with a useful life of 36 months.

For more information on depreciation of computer software, see Publication 946.

Costs associated with non-section 197 intangibles. Amounts you take into account in determining the cost of non-section 197 property are not considered section 197 intangibles. These amounts are added to the basis of the real property. For example, none of the costs of acquiring real property held for the production of rental income are considered goodwill, going concern value, or any other section 197 intangible.

Dispositions

A section 197 intangible is treated as depreciable property used in your trade or business. If you dispose of property held for more than one year, any gain on the disposition, up to the amount of allowable amortization, is ordinary income (section 1245 gain). Any remaining gain, or loss, is a section 1231 gain or loss. If you held the property one year or less, any gain or loss on its disposition is an ordinary gain or loss. For more information, see chapter 2 in Publication 544, *Sales and Other Dispositions of Assets*.

If you acquire more than one section 197 intangible in a transaction (or series of related transactions) and later dispose of one of them or one of them becomes worthless, you cannot recognize any loss on the intangible. Instead, increase the adjusted basis of each remaining amortizable section 197 intangible by part of the loss not recognized.

For more information on dispositions of amortizable section 197 property, see chapter 12 in Publication 535.

Anti-Churning Rules

You cannot amortize certain section 197 intangibles over 15 years.

Special rules prevent you from converting section 197 intangibles from property that does not qualify for amortization to property that would qualify for amortization. You cannot use 15-year amortization for goodwill, going concern value, or any intangible for which you cannot claim a depreciation or amortization deduction that would not have been allowable before August 10, 1993, to amortizable property.

For more information, see chapter 12 in Publication 535.

Anti-Abuse Rule

You cannot amortize any section 197 intangible acquired in a transaction in which one of the principal purposes was to:

- 1) Avoid the requirement that the intangible be acquired after August 10, 1993, or
- 2) Avoid any of the anti-churning rules.

For more information on amortizable section 197 intangibles, see chapter 12 in Publication 535.

Reforestation Expenses

You can elect to amortize part of your qualified timber property reforestation expenses. Qualifying expenses that you have during the tax year are set up as an amortizable basis for the tax year and amortized over an 84-month period.

Annual limit. Each year you can elect to amortize up to \$10,000 (\$5,000 if you are married filing separate returns) of qualified expenses you incur during the tax year. You cannot carry over or carry back qualifying expenses in excess of the annual limit. If you incur more than \$10,000 in expenses for more than one piece of timber property, you can allocate the annual limit among the properties in any proportion.

Qualifying expenses. Qualifying expenses include only those costs you must capitalize and include in the adjusted basis of the property. They include costs for:

- 1) Site preparation,
- 2) Seeds or seedlings,
- 3) Labor,
- 4) Tools, and
- 5) Depreciation on equipment used in planting and seeding.

Costs you can deduct currently are not qualifying expenses. Include in these costs depreciation on equipment such as tractors, trucks, tree planters, and similar machines used in planting and seeding. Qualifying expenses include only those costs that you must capitalize and include in the adjusted basis of the property. Costs you can deduct currently are not qualifying expenses.

If the government reimburses you for expenses under a cost-sharing program, you can amortize these expenses only if you include the reimbursement in your income.

Qualified timber property. Qualified timber property can be a woodlot or other site that you own or lease. To qualify, the property must:

- 1) Be located in the United States,
- 2) Be held for the growing and cutting of timber you will:
 - a) Use in the commercial production of timber products,
 - b) Sell for use in the commercial production of timber products, and
- 3) Consist of at least one acre planted with tree seedlings in the manner normally used in forestation or reforestation.

Qualified timber property does not include property on which you have planted shelter belts and ornamental trees, such as Christmas trees.

Maximum annual amortization. The maximum annual deduction you are allowed for expenses incurred in any tax year is \$1,428.57 ($\$10,000 \div 7$). The maximum deduction in the first and last years of the 84-month period is $(\frac{1}{2})$ one half of \$1,428.57 or \$714.29.

Estates. The reforestation deduction is available to estates in the same manner as to individuals. The deduction is divided between the income beneficiary and the fiduciary based on the income of the estate allocable to each. A beneficiary will include any amount so allocated as part of his or her limit.

Trusts. Trusts are not allowed the reforestation deduction.

Investment credit. Reforestation expenses eligible to be amortized qualify for the investment credit, whether or not they are amortized. See chapter 9.

How to elect amortization. To make this election, attach Form 4562 to your income tax return and enter the deduction in Part VI of that form. Also, attach a statement to Form 4562 that describes the expenses and provides the dates you incurred them. Show the type of timber being grown and the purpose for which it is grown. Attach a separate statement for each property for which you amortize reforestation expenses. You can make the election only on a timely filed return

(including extensions) for the tax year in which you incurred the expenses.

Recapture. If you dispose of qualified timber property within 10 years after the tax year you elect to amortize reforestation expenses for it, report any gain as ordinary income up to the amount of the amortization taken.

Pollution Control Facilities

You can elect to amortize over 60 months the cost of a certified pollution control facility used with a plant (or other property) that was in operation before 1976.

Certified pollution control facility. A certified pollution control facility is a new identifiable treatment facility used to reduce or control water or atmospheric pollution or contamination. The facility must do so by removing, changing, disposing, storing, or preventing the creation or emission of pollutants, contaminants, wastes, or heat. The facility must be certified by the state and federal certifying authorities. Examples of such a facility include septic tanks and manure-control facilities.

For information regarding certification procedures, see section 1.169-2(c) of the income tax regulations.

If it appears you will recover all or part of the cost of a facility from the profit based on its operation (such as through sales of recovered wastes), the federal certifying authority will not certify that part of the amortizable basis. You must then reduce the amortizable basis of the facility. For more information, see section 169 of the Internal Revenue Code and the related regulations.

Example. This year, you purchase a new \$7,500 manure control facility for use on your dairy farm. The farm has been in operation since you bought it in 1976 and all of the dairy plant was in operation before that date. You have no intention of recovering the cost of the facility through sale of the waste and a federal certifying authority has so certified.

Your manure control facility qualifies for amortization. You can choose to amortize its cost over 60 months. Otherwise, you can capitalize the cost and depreciate the facility.

Going Into Business

When you go into business, treat all costs you incur to get your business started as capital expenses. Capital expenses are a part of your basis in the business. Generally, you recover costs for particular assets through depreciation deductions. However, you generally cannot recover other costs until you sell the business or otherwise go out of business.

Business Start-Up Costs

Start-up costs are costs for setting up an active trade or business or investigating the possibility of creating or acquiring an active trade or business. Start-up costs include any amounts paid or incurred in connection with an activity engaged in for profit and the production of income in anticipation of the activity becoming an active trade or business.

For more information, see *Going Into Business* in chapter 12 of Publication 535.

General Business Credit

Important Changes for 1998

Carrybacks and carryforwards. The periods to which you carry any excess current year general business credit have been changed. For a credit occurring in tax years beginning after 1997, the carryback period is reduced to one year and the carryforward period is increased to 20 years. See *Carrybacks and Carryforwards*, later.

New welfare-to-work credit. You may be able to claim the new welfare-to-work credit for certain individuals who begin working for you after 1997. See Publication 553.

Introduction

Your general business credit consists of your carryforward of business credits from prior years plus your total current year business credits. Current year business credits include the:

- ☞ Alcohol used as fuel credit (Form 6478),
- ☞ Contributions to selected community development corporations credit (Form 8847),
- ☞ Disabled access credit (Form 8826),
- ☞ Employer social security and Medicare taxes paid on certain employee tips credit (Form 8846),
- ☞ Empowerment zone employment credit (Form 8844),
- ☞ Enhanced oil recovery credit (Form 8830),
- ☞ Increasing research activities credit (Form 6765),
- ☞ Indian employment credit (Form 8845),
- ☞ Investment credit (Form 3468),
- ☞ Low-income housing credit (Form 8586),
- ☞ Orphan drug credit (Form 8820),
- ☞ Renewable electricity production credit (Form 8835),
- ☞ Welfare-to-work credit (Form 8861), and
- ☞ Work opportunity credit (Form 5884).

In addition, your general business credit for the current year may be increased later by the carryback of business credits from later years.

If you need more information about these credits than you find in this chapter, get the

credit forms listed above.

Topics

This chapter discusses:

- ☞ How to claim the credit
- ☞ Carrybacks and carryforwards
- ☞ Investment credit

Useful Items

You may want to see:

Form (and Instructions)

- 1040X** Amended U.S. Individual Income Tax Return
- 1045** Application for Tentative Refund
- 1120X** Amended U.S. Corporation Income Tax Return
- 1139** Corporation Application for Tentative Refund
- 3468** Investment Credit
- 3800** General Business Credit
- 4255** Recapture of Investment Credit
- 4626** Alternative Minimum Tax—Corporations
- 6251** Alternative Minimum Tax—Individuals
- 8582—CR** Passive Activity Credit Limitations

See chapter 21 for information about getting these publications and forms.

How To Claim the Credit

To claim the general business credit, you will first need to get the form or forms you need to claim your current year business credits. The introduction to this chapter contains a list of current year business credits. The form you need to claim a credit is shown in parentheses.

In addition to the credit form, you may also need to file Form 3800. To decide whether you need to file Form 3800, see *Who must file Form 3800*, next.

Who must file Form 3800. You must file Form 3800 if any of the following apply:

- 1) You have more than one of the credits listed earlier (other than the empowerment zone employment credit).
- 2) You have a carryback or carryforward of any of these credits (other than the empowerment zone employment credit).
- 3) Any of these credits (other than the low-income housing credit or the empowerment zone employment credit) is from a passive activity. (For information about passive activity credits, get Form 8582—CR.)

Claiming the empowerment zone employment credit. The empowerment zone employment credit is subject to special rules. The credit is figured separately on Form 8844 and is not carried to Form 3800. For more information, see the instructions for Form 8844.

Carrybacks and Carryforwards



The following discussion does not apply to the empowerment zone employment credit.

There is a limit on how much general business credit you can take in any one tax year. If your credit is more than this limit, you can generally carry the excess to another tax year and subtract it from your income tax for that year. See *Rule for carrybacks and carryforwards*, later.

Credit limit. Your general business credit is limited to your **net income tax** minus the larger of:

- 1) Your **tentative minimum tax**, or
- 2) 25% of your **net regular tax liability** that is more than \$25,000.

Net income tax. Your net income tax is your net regular tax liability plus any alternative minimum tax.

Net regular tax liability. Your net regular tax liability is your regular tax liability minus certain credits. For more information, see Form 3800 or any of the credit forms listed under *Introduction*, earlier.

Tentative minimum tax. You must figure your tentative minimum tax before you figure your general business credit. Use Form 6251 (Form 4626 for a corporation) to figure your tentative minimum tax.

Example. Your general business credit for the year is \$30,000. Your net income tax is \$27,500. Your tentative minimum tax, figured on Form 6251, is \$18,487. The general business credit you can take for the tax year is limited to \$9,013. This is your net income tax, \$27,500, minus the **larger of** your tentative minimum tax, \$18,487, or 25% of your net regular tax liability that is more than \$25,000 (25% of \$2,500 = \$625).

Married persons filing separate returns. If you are married and file a separate return, you and your spouse must each figure your credit limit separately. In figuring your separate limit, use \$12,500 instead of \$25,000. However, if one spouse has no credit for the tax year and no carryforwards or carrybacks of any credit to that year, the other spouse can use the full \$25,000 instead of \$12,500 in figuring the limit based on the separate tax.

Rule for carrybacks and carryforwards. In general, you can carry the unused portion of your credit back to your last 3 tax years and then forward to your next 15 tax years to reduce your tax in those years. First, carry the unused portion to the earliest of your last 3 years. Then, if you cannot use it all in that year, carry the remaining unused portion to the second earliest year and so on. Any unused credit that you could not take in these 3 earlier years can be carried forward in the same way to the next 15 tax years until it is used up.



For a credit occurring in tax years beginning after 1997, the carryback period is reduced to one year and the carryforward period is increased to 20 years.

There are generally limits on the carryback of a new credit to periods before the

enactment of the credit provision. See the instructions for Form 3800 for more information on these limits.

Credits must be used in the order in which they are earned.

- 1) First, for any tax year, use your credit carryforward (earliest year first).
- 2) Next, use the current year's credit.
- 3) Finally, use your credit carrybacks (earliest year first).

Unused carryforward. If you have any unused credit carryforward in the year following the end of the 15-year carryforward period, you can generally deduct the unused amount. If an individual dies or a corporation, trust, or estate ceases to exist, the deduction is generally allowed for the tax year in which the death or cessation occurs.

Claiming carryforwards. Use Form 3800 to claim a carryforward of an unused credit from a previous tax year. The carryforward becomes part of your general business credit for the tax year to which it is carried.

Claiming carrybacks. You can make a claim for refund based on your general business credit carryback to a prior tax year by filing an amended return for the tax year to which you carry the unused credit. Use Form 1040X if your original return was a Form 1040. Use Form 1120X if your original return was a Form 1120 or 1120-A. Attach Form 3800 to your amended return.

Generally, you must file the amended return for the carryback year within 3 years after the due date, including extensions, for filing the return for the year that resulted in the credit carryback.

Quick refunds. You can apply for a quick refund of taxes for a prior year by filing **Form 1045 (Form 1139** for a corporation) to claim a tentative adjustment of tax from a general business credit carryback. The application should be filed on or after the date of filing the tax return for the carryback year, but must be filed within 12 months after the end of the tax year in which you earn the credit.

Investment Credit

The investment credit is the total of the:

- 1) Reforestation credit,
- 2) Rehabilitation credit, and
- 3) Energy credit.

Reforestation credit. The 10% reforestation credit applies to up to \$10,000 (\$5,000 if you are married filing a separate return) of the costs you incur each year to forest or reforest property you hold for growing trees for sale or use in the commercial production of timber products. These costs must qualify for amortization. You can take the investment credit for reforestation costs whether you choose to amortize them or add them to the basis of your property. There is no carryforward or carryback of costs exceeding the dollar limit. For more information about these costs, see *Amortization* in chapter 8.

Example. You elected to amortize qualified reforestation costs of \$9,000 incurred during the year. You may take a reforestation credit of \$900 (10% of \$9,000) for the year.

Rehabilitation credit. The rehabilitation credit applies to costs you incur for rehabilitation and reconstruction of certain buildings. Rehabilitation includes renovation, restoration, or reconstruction. It does not include enlargement or new construction. Generally, the percentage of costs you can take as a credit is 10% for buildings placed in service before 1936 and 20% for certified historic structures. See the instructions for Form 3468 for more information.

Energy credit. The 10% energy credit applies to certain costs for solar or geothermal energy property you placed in service during your tax year. See the instructions for Form 3468 for more information.

Basis adjustment. You generally must reduce the depreciable basis of assets on which you take an investment credit. The reduction is 100% of the rehabilitation credit and 50% of the reforestation and energy credits. See the instructions for Form 3468 for more information.

Example. You elected to amortize qualified reforestation costs of \$9,000 incurred during the year. You are also taking a \$900 reforestation credit. You must reduce your amortizable basis by \$450 (50% of \$900). As a result, your amortizable basis will be \$8,550 (\$9,000 – \$450).

How to take the investment credit. Use **Form 3468** to figure your credit. You may also need to file Form 3800. See *How To Claim the Credit*, earlier.

Carrybacks and carryforwards. Even if you cannot take an investment credit for the year, you may have unused credits from earlier years that may reduce your tax. These unused credits from earlier years are carried to your current tax year as general business credit carryforwards and the rules for the general business credit, discussed earlier, apply.

Recapture of Investment Credit

At the end of each tax year, you must determine whether you disposed of or stopped using in your business (either partially or entirely) any property for which you claimed an investment credit in a prior year. If you dispose of property before the end of the recapture period, you must recapture a percentage of the credit by adding it to your tax. See *Recapture Rule*, later, for a discussion of recapture period.

Use **Form 4255** to figure the recapture tax or attach a detailed statement to your return for the year you dispose of the asset showing the computation of the recapture tax and the decrease in any investment credit carryforward.

Dispositions

An outright sale of property is the clearest example of a disposition. Another type of disposition occurs when you exchange or trade worn-out or obsolete business assets for new ones. If the property ceases to be qualifying property, it is considered to be disposed of for investment credit recapture purposes. For example, the conversion of business property to personal use is considered

a disposal for investment credit recapture purposes.

Certain transactions result in dispositions for investment credit recapture purposes. The following illustrate those that are and those that are not dispositions.

Mortgaging and foreclosure. There is no disposition if title to property is transferred as security for a loan. However, a disposition does occur if there is a transfer of property by foreclosure.

Leased property. The leasing of investment credit property by the lessor who took the credit is generally not a disposition. However, if the lease is treated as a sale for income tax purposes, it is a disposition. A disposition also occurs if property ceases to be investment credit property in the hands of the lessor, the lessee, or any sublessee.

Decrease in basis. If the basis of investment credit property decreases, the decrease is considered to be a disposition. This occurs, for example, if you buy property and later receive a refund of part of the original purchase price. You must then refigure the credit as if the decrease in basis was never part of the original basis. If your refigured credit is less than the credit you originally took, you must add the difference to your tax.

Retirement or abandonment. You dispose of property if you abandon it or otherwise retire it from use. Normal retirements are also dispositions.

Transfer by reason of death. There is no disposition of investment credit property if the property is transferred because the owner-taxpayer died.

Gifts. You are considered to have disposed of property that you transferred by gift.

Transfers between spouses. If you transfer investment credit property to your spouse, or you transfer the property to your former spouse incident to a divorce, you generally are not considered to have disposed of the property. This also applies if the transfer is made in trust for the benefit of your spouse or former spouse. However, if your spouse or former spouse later transfers the property, your spouse or former spouse will receive the same tax treatment that would have applied to you if you had made the transfer.

Casualty or theft loss. You are considered to have disposed of property that was destroyed by casualty or lost by theft.

Choosing S corporation status. The choice by a corporation to become an S corporation generally will not cause the recapture of investment credit previously claimed by the corporation. The choice is treated as a change in the form of doing business and not as a disposition of property. No disposition occurs when an S corporation terminates or revokes its choice not to be taxed as a corporation.

Disposition of assets by S corporation, partnership, estate, or trust. If you are a shareholder of an S corporation that disposes of assets on which you figured the investment credit, you are treated as having disposed of the share of the investment on which you figured your credit. This same rule applies if

you are a member of a partnership or a beneficiary of an estate or trust.

Change in form of doing business. A disposition does not occur because of a change in the form of doing business if certain conditions are met. For more information, see section 1.47-3(f) of the Income Tax Regulations.

Sale and leaseback. There is no disposition when investment credit property is sold by the taxpayer who claimed the credit and then is leased back to that taxpayer as part of the same transaction.

At-risk reduction. If your investment for which you are at risk is reduced, you are subject to the recapture rule (discussed next). See the instructions for Form 3468 for more information.

Recapture Rule

If you dispose of investment credit property before the end of the recapture period (defined in the next paragraph), you must recapture, as an additional tax, part of the original credit you claimed. You may also have to recapture part or all of the credit if you change the use of investment credit property to one that would not have originally qualified for the credit.

The credit you must recapture depends on when during the recapture period you dispose of, or change the use of, the property. The **recapture period** is the length of time the property must be used to get the full investment credit.

Use Form 4255 to figure the recapture amount. The credit recapture is figured by multiplying the original investment credit taken by the recapture percentage from the tables on Form 4255. The result of this computation is the recapture amount. See Form 4255 for more information.

If the refigured credit is less than the credit you originally took, you must add the difference to your tax.

Net operating loss carrybacks. If you have a net operating loss carryback from the recapture year or a later year that reduces your tax for the recapture year or an earlier year, you may have to refigure your recapture. See section 1.47-1(b)(3) of the Income Tax Regulations.

10. Gains and Losses

Important Changes for 1997

Maximum tax rate on capital gains. For individuals, the maximum capital gain tax rate is generally reduced for sales of certain

property after May 6, 1997. For more information, see Publication 544 or Schedule D (Form 1040).

Sale of main home. You may be able to exclude up to \$250,000 of gain (\$500,000 if married filing a joint return) on the sale of your main home after May 6, 1997. For more information, see Publication 523, *Selling Your Home*.

Introduction

During the year, you may have sold or exchanged property. This chapter explains how to figure your gain or loss on the sale or exchange and determine the effect it has on your taxes.

Topics

This chapter discusses:

- Sales and exchanges
- Nontaxable exchanges
- Transfers between spouses
- Capital and noncapital assets
- Hedging (commodity futures)
- Livestock
- Converted wetland and erodible cropland
- Timber
- Sale of a farm
- Foreclosures, repossessions, and abandonments

Useful Items

You may want to see:

Publication

- 504** Divorced or Separated Individuals
- 523** Selling Your Home
- 544** Sales and Other Dispositions of Assets
- 547** Casualties, Disasters, and Thefts (Business and Nonbusiness)
- 550** Investment Income and Expenses
- 551** Basis of Assets

Form (and Instructions)

- Sch D (Form 1040)** Capital Gains and Losses
- Sch F (Form 1040)** Profit or Loss From Farming
- 4684** Casualties and Thefts
- 4797** Sales of Business Property
- 8824** Like-Kind Exchanges

See chapter 21 for information about getting these publications and forms.

Sales and Exchanges

If you sell, exchange, or otherwise dispose of your property, you usually have a gain or a loss. This section explains some of the rules

for determining whether any gain you have is taxable, and whether any loss you have is deductible.

A **sale** is a transfer of property for money or a mortgage, note, or other promise to pay money. An **exchange** is a transfer of property for other property or services.

Determining Gain or Loss

You usually realize a gain or loss when you sell or exchange property. A **gain** is the excess of the amount you realize from a sale or exchange of property over its adjusted basis. A **loss** is the excess of the adjusted basis of the property over the amount you realize.

See chapter 7 for the definition of basis, adjusted basis, and fair market value.

Amount realized. The amount you realize from a sale or exchange is the total of all money you receive plus the fair market value of all property or services you receive. The amount you realize also includes any of your liabilities that were assumed by the buyer and any liabilities to which the property you transferred is subject, such as real estate taxes or a mortgage.

If the liabilities relate to an exchange of multiple properties, see *Multiple Property Exchanges*, and its discussion *Treatment of liabilities*, in chapter 1 of Publication 544.

Amount recognized. Your gain or loss realized from a sale or exchange of property is usually a recognized gain or loss for tax purposes. A recognized gain is a gain that you must include in gross income. A recognized loss is a loss that you deduct from gross income. For example, if your recognized gain from the sale of your tractor is \$5,300, you include that amount in gross income on Form 1040. However, your gain or loss realized from certain exchanges of property is not recognized for tax purposes. See *Nontaxable Like-Kind Exchanges* next. Also, a loss from the disposition of property held for personal use is not deductible.

Nontaxable Like-Kind Exchanges

Certain exchanges are not taxable. This means that any gain from the exchange is not taxed, and any loss cannot be deducted. In other words, even though you may **realize** a gain or loss on the exchange, it will not be **recognized** until you sell or otherwise dispose of the property you receive.

The exchange of property for the same kind of property is the most common type of nontaxable exchange. To be a like-kind exchange, the property traded and the property received must be both:

- 1) Qualifying property, and
- 2) Like property.

These two requirements are discussed later.

If the like-kind exchange includes the receipt of money or unlike property or the assumption of your liabilities, you may have a taxable gain. See *Partially nontaxable exchange*, later.

Additional requirements apply to exchanges in which the property received is not received immediately upon the transfer of the property given up. See *Deferred exchanges*, later.

Multiple-party transactions. The like-kind exchange rules also apply to property exchanges that involve three- and four-party transactions. Any part of these multiple-party transactions can qualify as a like-kind exchange if it meets all of the requirements described in this section.

Receipt of title from third party. If you receive property in a like-kind exchange and the other party who transfers the property to you does not give you the title but a third party does, you may still treat this transaction as a like-kind exchange if it meets all the requirements.

Basis of property received. If you acquire property in a like-kind exchange, the basis of that property is the same as the basis of the property you transferred. See chapter 7 for more information about basis.

Money paid. If, in addition to giving up like property, you pay money in a like-kind exchange, you still have no taxable gain or deductible loss. The basis of the property received is the basis of the property given up increased by the money paid.

Example. Bill Smith trades an old tractor for a new one. The new tractor costs \$10,800. He is allowed \$2,000 for the old tractor, and pays \$8,800 cash. He has no taxable gain or deductible loss on the transaction, regardless of the adjusted basis of his old tractor. If Bill sold the old tractor to a third party for \$2,000 and bought a new one, he would have a recognized gain or loss on the sale of his old tractor equal to the difference between the amount realized and the adjusted basis of the old tractor.

Reporting the exchange. Report the exchange of like-kind property on Form 8824. The instructions for the form explain how to report the details of the exchange. Report the exchange even though no gain or loss is recognized.

If you have any taxable gain because you received money or unlike property, report it on Schedule D (Form 1040) or Form 4797, whichever applies. You may also have to report taxable gain as ordinary income because of depreciation recapture on Form 4797. See chapter 11 for more information.

Qualifying property. In a like-kind exchange, both the property you give up and the property you receive must be held by you for investment or for productive use in your trade or business. Machinery, buildings, land, trucks, and rental houses are examples of property that may qualify.

The rules for like-kind exchanges do not apply to exchanges of the following property.

- Property you use for personal purposes, such as your home and your family car.
- Stock in trade or other property held primarily for sale, such as crops and produce.
- Stocks, bonds, notes, or other securities or evidences of indebtedness, such as accounts receivable.
- Partnership interests.

However, you might have a nontaxable exchange under other rules. See *Other Nontaxable Exchanges*, in chapter 1 of Publication 544.

Like property. There must be an exchange of like property. An exchange of a truck for a tractor is an exchange of like-kind property, and so is an exchange of timberland for crop acreage. An exchange of a tractor for acreage, however, is not an exchange of like-kind property. Neither is the exchange of livestock of one sex for livestock of the other sex. An exchange of the assets of a business for the assets of a similar business cannot be treated as an exchange of one property for another property. Whether you engaged in a like-kind exchange depends on an analysis of each asset involved in the exchange. See *Personal property*, next.

Personal property. Depreciable tangible personal property can be either "like kind" or "like class" to qualify for nonrecognition treatment. Like-class properties are depreciable tangible personal properties within the same General Asset Class or Product Class.

General Asset Classes. General Asset Classes describe the types of property frequently used in many businesses. They include:

- 1) Office furniture, fixtures, and equipment (asset class 00.11),
- 2) Information systems, such as computers and peripheral equipment (asset class 00.12),
- 3) Data handling equipment except computers (asset class 00.13),
- 4) Airplanes (airframes and engines), except planes used in commercial or contract carrying of passengers or freight, and all helicopters (airframes and engines) (asset class 00.21),
- 5) Automobiles and taxis (asset class 00.22),
- 6) Buses (asset class 00.23),
- 7) Light general purpose trucks (asset class 00.241),
- 8) Heavy general purpose trucks (asset class 00.242),
- 9) Railroad cars and locomotives except those owned by railroad transportation companies (asset class 00.25),
- 10) Tractor units for use over the road (asset class 00.26),
- 11) Trailers and trailer-mounted containers (asset class 00.27),
- 12) Vessels, barges, tugs, and similar water-transportation equipment, except those used in marine construction (asset class 00.28), and
- 13) Industrial steam and electric generation or distribution systems (asset class 00.4).

Product Classes. Product Classes include property listed in a 4-digit product class (except any ending in "9," a miscellaneous category) in Division D of the Standard Industrial Classification codes of the Executive Office of the President, Office of Management and Budget, Standard Industrial Classification Manual (SIC Manual). Copies of the SIC Manual may be obtained from the National Technical Information Service, an agency of the U.S. Department of Commerce.

Partially nontaxable exchange. If you exchange your property for like-kind property and also receive money or unlike property in

an exchange in which you realize gain, you have a partially nontaxable exchange. You are taxed on the gain you realize, but only to the extent of the money and the fair market value of the unlike property received. A loss is not deductible.

Example 1. You trade farm land that cost you \$30,000 for \$10,000 cash and other land to be used in farming with a fair market value of \$50,000. You have a gain of \$30,000, but only \$10,000, the cash received, is taxable. If, instead of money, you received a tractor with a fair market value of \$10,000, your taxable gain is still limited to \$10,000, the value of the tractor.

Example 2. Assume in Example 1 that the fair market value of the land you received was only \$15,000. Your \$5,000 loss is not deductible.

Unlike property given up. If you trade property for like-kind property and also give up unlike property in the exchange, you have a taxable gain or deductible loss on the unlike property you give up. This gain or loss is the difference between the fair market value and the adjusted basis of the unlike property.

Like-kind exchanges between related parties. Special rules apply to like-kind exchanges made between related parties. These rules affect both direct and indirect exchanges. Under these rules, if either party disposes of the property within 2 years after the exchange, then the exchange is disqualified from nonrecognition treatment. The gain or loss on the original exchange must be recognized as of the date of that later disposition. The 2-year holding period begins on the date of the last transfer of property that was part of the like-kind exchange.

Related parties. Under these rules, a related party generally includes: a member of your family (spouse, brother, sister, parent, child, etc.), a corporation in which you have more than 50% ownership, a partnership in which you directly or indirectly own more than 50% interest of the capital or profits, and two partnerships in which you directly or indirectly own more than 50% of the capital interests or profits interests.

For the list of related parties, see *Non-deductible Loss*, under *Sales and Exchanges Between Related Parties* in chapter 2 of Publication 544.

Exceptions to the related-party rules. The following kinds of property dispositions are excluded from these rules:

- 1) Dispositions due to the death of either related person,
- 2) Involuntary conversions, or
- 3) Dispositions if it is established to the satisfaction of the IRS that their main purpose is not the avoidance of federal income tax.

Exchanges of multiple properties. Under the like-kind exchange rules, you must generally make a property-by-property comparison to figure your recognized gain and the basis of the property you receive in the exchange. However, for exchanges of multiple properties, you do not make a property-by-property comparison if you:

- 1) Transfer and receive properties in two or more exchange groups, or

- 2) Transfer or receive more than one property within a single exchange group.

For more information, see *Multiple Property Exchanges* in chapter 1 of Publication 544.

Deferred exchanges. A deferred exchange is one in which you transfer property you use in business or hold for investment and, at a later time, you receive like-kind property you will use in business or hold for investment. The property you receive is **replacement property**. The transaction must be an exchange (that is, property for property) rather than a transfer of property for money that is used to purchase replacement property.

For more information, see *Deferred Exchanges* in chapter 1 of Publication 544.

Transfers Between Spouses

No gain or loss is recognized (included in income) on a transfer of property from an individual to (or in trust for the benefit of) a spouse, or a former spouse if incident to divorce. This rule does not apply if the transferee spouse is a nonresident alien. Nor does this rule apply to a transfer in trust to the extent the adjusted basis of the property is less than the amount of the liabilities assumed and the liabilities on the property.

Any transfer of property to a spouse or former spouse on which gain or loss is not recognized is treated by the recipient as a gift and is not considered a sale or exchange. The recipient's basis in the property will be the same as the adjusted basis of the giver immediately before the transfer. This carryover basis rule applies whether the adjusted basis of the transferred property is less than, equal to, or greater than either its fair market value at the time of transfer or any consideration paid by the recipient. This rule applies for purposes of determining loss as well as gain. Any gain recognized on a transfer in trust increases the basis.

For more information on transfers of property that are incident to divorce, see *Property Settlements* in Publication 504.

Foreclosures and Repossessions

If the borrower (buyer) does not make payments due on a loan secured by property, the lender (mortgagee or creditor) may foreclose on the mortgage or repossess the property. The foreclosure or repossession is treated as a sale or exchange from which the borrower may realize gain or loss. This is true even if the property is voluntarily returned to the lender. The borrower may also realize ordinary income from cancellation of debt if the loan balance is more than the property's fair market value.

Gain or loss on foreclosure or repossession. The borrower's gain or loss from the foreclosure or repossession described earlier is generally figured and reported in the same way as gain or loss from a sale or exchange. The gain or loss is the difference between the borrower's adjusted basis in the transferred property and the amount realized. See *Determining Gain or Loss*, earlier.

TIP You can use Table 10-1 to figure your gain or loss from a foreclosure or repossession.

Table 10-1. **Worksheet for Foreclosures and Repossessions**

(Keep for your records)



Part 1. Figure your income from cancellation of debt. (<i>Note: If you are not personally liable for the debt, you do not have income from cancellation of debt. Skip Part 1 and go to Part 2.</i>)	
1. Enter amount of debt canceled by the transfer of property	_____
2. Enter the fair market value of the transferred property	_____
3. Income from cancellation of debt.* Subtract line 2 from line 1. If less than zero, enter zero	_____
Part 2. Figure your gain or loss from foreclosure or repossession.	
4. Enter the smaller of line 1 or line 2. (If you are not personally liable for the debt, enter the amount of debt canceled by the transfer of property.)	_____
5. Enter the adjusted basis of the transferred property	_____
6. Gain or loss from foreclosure or repossession. Subtract line 5 from line 4	_____

*The income may not be taxable. See *Cancellation of debt*.

Amount realized on a nonrecourse debt. If the borrower is not personally liable for repaying the debt (nonrecourse debt) secured by the transferred property, the amount realized by the borrower includes the full amount of the debt canceled by the transfer. The full amount of the canceled debt is included even if the property's fair market value is less than the canceled debt.

Example. In 1992, Ann paid \$200,000 for farm land. She paid \$15,000 down and borrowed the remaining \$185,000 from a bank. Ann is not personally liable on the loan (nonrecourse debt), but pledges the land as security. In 1997, the bank foreclosed on the loan because Ann stopped making payments. When the bank foreclosed on the loan, the balance due was \$180,000 and the fair market value of the land was \$170,000. The amount Ann realized on the foreclosure is \$180,000, the debt canceled by the foreclosure. She figures her gain or loss by comparing the amount realized (\$180,000) with her adjusted basis (\$200,000). She has a \$20,000 deductible loss.

Amount realized on a recourse debt. If the borrower is personally liable for the debt (recourse debt), the amount realized on the foreclosure or repossession does not include the amount of the canceled debt that is income to the borrower from cancellation of debt. However, if the fair market value of the transferred property is less than the canceled debt, the amount realized by the borrower includes the canceled debt up to the fair market value of the property. The borrower is treated as receiving ordinary income from the canceled debt for that part of the debt not included in the amount realized. See *Cancellation of debt*, later.

Example. Assume the same facts as in the example above except that Ann is personally liable for the loan (recourse debt). In this case, the amount she realizes is \$170,000. This is the amount of the canceled debt (\$180,000) up to the farm land's fair market value (\$170,000). Ann figures her gain or loss on the foreclosure by comparing the amount realized (\$170,000) with her adjusted

basis (\$200,000). She has a \$30,000 deductible loss. She is also treated as receiving ordinary income from cancellation of debt. That income is \$10,000 (\$180,000 – \$170,000). This is the part of the canceled debt not included in the amount realized.

Seller's (lender's) gain or loss on repossession. If you finance a buyer's purchase of property and later acquire an interest in it through foreclosure or repossession, you may have a gain or loss on the acquisition. For more information, see *Repossession* in Publication 537.

Cancellation of debt. If property that is repossessed or foreclosed upon secures a debt for which you are personally liable (recourse debt), you generally must report, as ordinary income, the amount by which the canceled debt exceeds the fair market value of the property. This income is separate from any gain or loss realized from the foreclosure or repossession. Report the income from cancellation of a business debt on Schedule F, line 10. Report the income from cancellation of a nonbusiness debt as miscellaneous income on line 21, Form 1040.

TIP You can use Table 10-1 to figure your income from cancellation of debt.

However, income from cancellation of debt is not taxed if:

- 1) The cancellation is intended as a gift,
- 2) The debt is qualified farm debt (see chapter 4),
- 3) The debt is qualified real property debt (see chapter 5 of Publication 334, *Tax Guide for Small Business*), or
- 4) You are insolvent or bankrupt (see Publication 908, *Bankruptcy Tax Guide*).

Forms 1099-A and 1099-C. A lender who acquires an interest in your property in a foreclosure or repossession should send you Form 1099-A showing information you need to figure your gain or loss. However, if the lender also cancels part of your debt and

must file Form 1099-C, the lender may include the information about the foreclosure or repossession on that form instead of on Form 1099-A. The lender must file Form 1099-C and send you a copy if the amount of debt canceled is \$600 or more and the lender is a financial institution, credit union, or federal government agency. For foreclosures or repossessions occurring in 1997, these forms should be sent to you by February 2, 1998.

Ordinary or Capital Gain or Loss

You must classify your gains and losses as either ordinary or capital gains or losses (and your capital gains or losses as either short-term or long-term gains or losses). You must do this to figure your net capital gain or loss.

Your net capital gains may be taxed at a lower tax rate than ordinary income. See *Maximum Tax Rate on Capital Gains*, later. Your deduction for net capital losses may be limited. See *Treatment of Capital Losses*, later.

Capital gain or loss. Generally, you will have a capital gain or loss if you sell or exchange a capital asset. You may also have a capital gain if your section 1231 transactions result in a net gain.

Section 1231 transactions. These are sales and exchanges of property held more than 1 year and either used in a trade or business or held for the production of rents or royalties. They also include certain involuntary conversions of business or investment property, including capital assets. See *Section 1231 Gains and Losses* in chapter 11 for more information.

Capital Assets

For the most part, all property you own and use for personal purposes or investment is a capital asset.

Some **examples of capital assets** include:

- 1) A home owned and occupied by you and your family.
- 2) Household furnishings.
- 3) A car used for pleasure. If your car is used both for pleasure and for farm business, it is partly a capital asset and partly a noncapital asset, defined later.
- 4) Stocks and bonds. Losses on certain small business stock, however, may be treated as losses on property that is not a capital asset. For more information on this subject, see *Losses on Small Business Investment Company Stock* in chapter 4, Publication 550.

Personal-use property. Property held for personal use is a capital asset. **Gain** from a sale or exchange of that property is a capital gain and is taxable. **Loss** from the sale or exchange of that property is not deductible. You can deduct a loss relating to personal-use property only if it results from a casualty or theft. For information about casualties and thefts, see chapter 13.

Long and Short Term

The treatment of a capital gain or loss depends on how long you own the asset before you sell or exchange it. The time you own an asset before disposing of it is the holding period.

If you hold a capital asset 1 year or less, the gain or loss resulting from its disposition is short term. If you hold a capital asset for more than 1 year, the gain or loss resulting from its disposition is long term.

Holding period. To figure if you held property more than 1 year, start counting on the day after the day you acquire the property. This same date of each following month is the beginning of a new month regardless of the number of days in the preceding month. The day you dispose of the property is part of your holding period.

Example. If you bought an asset on June 18, 1997, you should start counting on June 19, 1997. If you sell the asset on June 18, 1998, your holding period is not more than 1 year, but if you sell it on June 19, 1998, your holding period is more than 1 year.

Inherited property. If you inherit property, you are considered to have held the property for more than 1 year even if you dispose of it within 1 year after the decedent's death. This rule does not apply to livestock used in a farm business. See *Holding period* under *Livestock*, later.

Bad debt. A nonbusiness bad debt is always treated as a short-term capital loss.

Nontaxable exchanges. If you acquire an asset in exchange for another asset and your basis for the new asset is determined, in whole or in part, by your basis in the old property, the holding period of the new property includes the holding period of the old property. That is, it begins on the same day as your holding period for the old property.

Gifts. If you receive a gift of property and your basis is figured using the donor's basis, your holding period includes the donor's holding period.

Real property. To figure how long you held real property, start counting on the day after you received title to it, or, if earlier, on the day after you took possession of it and assumed all of the burdens and privileges of ownership.

However, taking possession of real property under an option agreement is not enough to start the holding period. The holding period cannot start until there is an actual contract of sale. The holding period of the seller cannot end before that time.

Figuring Net Gain or Loss

The totals for short-term capital gains and losses and the totals for long-term capital gains and losses must be figured separately.

Net short-term capital gain or loss. Combine your short-term capital gains and losses. Do this by adding all your short-term capital gains. Then add all your short-term capital losses. Subtract one total from the other. The result is your net short-term capital gain or loss.

Net long-term capital gain or loss. Follow the same steps to merge your long-term capital gains and losses. The result is your net long-term capital gain or loss.

Net gain. If the total of your capital gains is more than the total of your capital losses, the excess is taxable. This net gain is generally taxed at the same rate as your ordinary income. However, the tax on the part that is not more than your net long-term capital gain is taxed at a rate no higher than 28%. See *Maximum Tax Rate on Capital Gains*, later.

Net loss. If the total of your capital losses is more than the total of your capital gains, the excess is deductible. But there are limits on how much loss you can deduct, and when you can deduct it. See *Treatment of Capital Losses*, next.

Treatment of Capital Losses

If your capital losses are more than your capital gains, you must deduct the excess even if you do not have ordinary income to offset it. The yearly limit on the amount of the capital loss you can deduct is \$3,000 (\$1,500 if you are married and file a separate return).

Capital loss carryover. Generally, you have a capital loss carryover if either of the following situations applies to you.

- 1) Your excess capital loss is more than the yearly limit, or
- 2) The amount shown on line 36, Form 1040 (your taxable income without your deduction for exemptions), is less than zero.

If either of these situations applies to you in 1997, complete the *Capital Loss Carryover Worksheet*, provided in the instructions to Schedule D (Form 1040), to figure the amount of your loss that you can carry over to 1998.

Maximum Tax Rate on Capital Gains

The 31%, 36%, and 39.6% income tax rates for individuals do not apply to net capital gains. Net capital gain is the excess of net long-term capital gain for the year over the net short-term capital loss for the year. For details about the maximum tax rate on net capital gains, get Publication 544 or Schedule D (Form 1040).

If you elect to include any part of a net capital gain from a disposition of investment property in investment income for figuring your investment interest deduction, you must reduce the net capital gain eligible for the maximum tax rate by the same amount. You make this election on Form 4952, line 4e. For information on making this election, see the instructions to Form 4952. For information on the investment interest deduction, see chapter 3 in Publication 550.

Figuring tax on net capital gains. If both lines 16 and 17 of Schedule D are gains, and line 38 of Form 1040 is more than zero, use Part IV of Schedule D to figure your tax.

Noncapital Assets

Noncapital assets include properties such as inventory and depreciable property used in a trade or business. A list of properties that are not capital assets is provided in the Schedule D Instructions.

Property held for sale in the ordinary course of your farm business. Property you hold mainly for sale to customers such

as livestock, poultry, livestock products, and crops, are noncapital assets. Gain or loss from sales or other dispositions of this property is reported on Schedule F (not on Schedule D or Form 4797). Their treatment is discussed in chapter 4.

Land and depreciable properties. Non-capital assets include land and depreciable properties you use in farming. They also include livestock held for draft, breeding, dairy, or sporting purposes. However, as explained in chapter 11 under *Section 1231 Gains and Losses*, your gains and losses from sales and exchanges of your farm land and depreciable properties must be considered together with certain other transactions to determine whether the gains and losses are treated as capital or ordinary gains and losses.

Hedging (Commodity Futures)

For tax purposes, hedging transactions are transactions that you enter into in the normal course of business primarily to reduce the risk of interest rate or price changes or currency fluctuations with respect to borrowings, ordinary property, or ordinary obligations. (Ordinary property or obligations are those that cannot produce capital gain or loss under any circumstances.)

A commodity futures contract is a standardized, exchange-traded contract for the sale or purchase of a fixed amount of a commodity at a future date for a fixed price. The holder of an option on a futures contract has the right (but not the obligation) for a specified period of time to enter into a futures contract to buy or sell at a particular price. A forward contract is generally similar to a futures contract except that the terms are not standardized and the contract is not exchange traded.

Businesses may enter into commodity futures contracts or forward contracts and may acquire options on commodity futures contracts as either:

- 1) Hedging transactions, **OR**
- 2) Transactions that are not hedging transactions.

Futures transactions that are not hedging transactions generally result in capital gain or loss. There is a limit on the amount of capital losses you can deduct each year.

If, as a farmer-producer, to protect yourself from the risk of unfavorable price fluctuations, you enter into commodity forward contracts, futures contracts, or options on futures contracts **and** the contracts are within your range of production, the transactions are generally considered hedging transactions. They can take place at any time you have the commodity under production, have it on hand for sale, or reasonably expect to have it on hand.

The gain or loss on the termination of these hedges is generally ordinary gain or loss. Farmers who file their income tax returns on the cash method report any profit or loss on the hedge on line 10 of Schedule F.

Moreover, the gain or loss on transactions that hedge the purchase of a noninventory supply (for example, animal feed) may be ordinary. If a business sells only a negligible amount of a noninventory supply, a transaction to hedge the purchase of that supply

is treated as a hedging transaction if it occurred after July 17, 1994. Ordinary gain or loss treatment is also available for certain hedges of the purchase of noninventory supplies that occurred in a tax year that ended before July 18, 1994, and that, as of September 1, 1994, was still open for assessment of tax.



If you have numerous transactions in the commodity futures market during the year, you must be able to show which transactions are hedging transactions. Clearly identify a hedging transaction on your books and records before the end of the day you entered into the transaction. It may be helpful to have separate brokerage accounts for your hedging and speculation transactions.

The identification must not only be on, and retained as part of, your books and records but must specify both the hedging transaction and the item, items, or aggregate risk that is being hedged. The identification of the hedged item, items, or risk must be made no more than 35 days after entering into the hedging transaction. These rules apply to hedging transactions entered into after 1993, or hedging transactions entered into before 1994 and remaining in existence on March 31, 1994.

For more information on the tax treatment of futures and options contracts, see *Commodity Futures* and *Section 1256 Contracts Marked to Market* in Publication 550.

Accounting methods for hedging transactions. Hedging transactions must be accounted for under special rules if you use an accounting method other than the:

- 1) Cash method,
- 2) Farm-price method, or
- 3) Unit-livestock-price method.

Under these rules, the accounting method you use for a hedging transaction must clearly reflect income. This means that your accounting method must reasonably match the timing of income, deduction, gain, or loss from a hedging transaction with the timing of income, deduction, gain, or loss from the item or items being hedged. There are requirements and limitations on the method you can use for certain hedging transactions. See Regulation section 1.446-4(e) for those requirements and limitations.

Once you adopt a method, you must apply it consistently and must have IRS approval before changing it.

Your books and records must describe the accounting method used for each type of hedging transaction. They must also contain any additional identification necessary to verify the application of the accounting method you used for the transaction. You must make the additional identification no more than 35 days after entering into the hedging transaction.

Example of a hedging transaction. You file your income tax returns on the cash method. On July 2, 1997, you anticipate a yield of 50,000 bushels of corn this crop year. The present December futures price is \$2.75 a bushel, but there are indications that by harvest time the price will drop. To protect yourself against a drop in the sales price of your corn inventory, you enter into the following hedging transaction. You sell 10 December

futures contracts of 5,000 bushels each for a total of 50,000 bushels of corn at \$2.75 a bushel.

The price did not drop as anticipated but rose to \$3 a bushel. In November, you sell your crop at a local elevator for \$3 a bushel. You also close out your futures position by buying 10 December contracts for \$3 a bushel. You paid a broker's commission of \$700 (\$70 per contract) for the complete in and out position in the futures market.

The result is that the price of corn rose 25 cents a bushel and the actual selling price is \$3 a bushel. Your loss on the hedge is 25 cents a bushel. In effect, the net selling price of your corn is \$2.75 a bushel.

Report the results of your futures transactions and your sale of corn separately on Schedule F.

The loss on your futures transactions is \$13,200, figured as follows:

July 2, 1997—Sold Dec. corn futures 50,000 bu. @ \$2.75	\$137,500
Nov. 6, 1997—Bought Dec. corn futures 50,000 bu. @ \$3 (plus broker's commis- sion)	150,700
Futures loss	<u>(\$13,200)</u>

This loss is reported as a negative figure on line 10, Part I of Schedule F.

The proceeds from your corn sale at the local elevator are \$150,000 (50,000 bu. × \$3). Report it on line 4, Part I of Schedule F.

Assume you were right and the price went down 25 cents a bushel. In effect, you would still net \$2.75 a bushel, figured as follows:

Sold cash corn, per bushel	\$2.50
Gain on hedge, per bushel .....	.25
	<u>\$2.75</u>

The gain on your futures transactions would have been \$11,800, figured as follows:

July 2, 1997—Sold Dec. corn futures 50,000 bu. @ \$2.75	\$137,500
Nov. 6, 1997—Bought Dec. corn futures 50,000 bu. @ \$2.50 (plus broker's com- mission)	125,700
Futures gain	<u>\$11,800</u>

The \$11,800 is reported on line 10, Part I of Schedule F.

The proceeds from the sale of your corn at the local elevator, \$125,000, are reported on line 4, Part I of Schedule F.

Livestock

This part discusses the sale or exchange of livestock used in your farm business. Gain or loss from the sale or exchange of this livestock may qualify as a section 1231 transaction (discussed in chapter 11).



The rules discussed here do not apply to the sale of livestock held primarily for sale to customers. This livestock is reported on Schedule F. See chapter 4.

Holding period. The sale or exchange of livestock used in your farm business qualifies as a section 1231 transaction if you held the livestock for 12 months or more (24 months or more for horses and cattle).

Livestock. For purposes of section 1231, livestock includes cattle, hogs, horses, mules, donkeys, sheep, goats, fur-bearing animals (such as mink), and other mammals (see chapter 11). Livestock does not include chickens, turkeys, pigeons, geese, emus, ostriches, rheas, or other birds, fish, frogs, reptiles, etc.

Livestock used in farm business. If livestock is held primarily for draft, breeding, dairy, or sporting purposes, it is used in your farm business. The purpose for which an animal is held ordinarily is determined by a farmer's actual use of the animal. An animal is not held for draft, breeding, dairy, or sporting purposes merely because it is suitable for that purpose, or because it is held for sale to other persons for use by them for that purpose.

Example 1. You discover an animal that you intend to use for breeding purposes is sterile. You dispose of it within a reasonable time. This animal was held for breeding purposes.

Example 2. You retire and sell your entire herd, including young animals that you would have used for breeding or dairy purposes had you remained in business. These young animals were held for breeding or dairy purposes. Also, if you sell young animals to reduce your breeding or dairy herd because of, for example, drought, these animals are treated as having been held for breeding or dairy purposes.

Example 3. You are in the business of raising hogs for slaughter. Customarily, before selling your sows, you obtain a single litter of pigs that you will raise for sale. You sell the brood sows after obtaining the litter. Even though you hold these brood sows for ultimate sale to customers in the ordinary course of your business, they are considered to be held for breeding purposes.

Example 4. You are in the business of raising registered cattle for sale to others for use as breeding cattle. It is the business practice to breed the cattle before sale to establish their fitness as registered breeding cattle. Your use of the young cattle for breeding purposes is ordinary and necessary for selling them as registered breeding cattle. Such use does not demonstrate that you are holding the cattle for breeding purposes. However, those cattle held by you as additions or replacements to your own breeding herd to produce calves that you add to your herd are considered to be held for breeding purposes even though they may not actually have produced calves. The same applies to hog and sheep breeders.

Example 5. You are in the business of breeding and raising mink that you pelt for the fur trade. You take breeders from the herd when they are no longer useful as breeders and pelt them. Although these breeders are processed and pelted, they are still considered to be held for breeding purposes. The same applies to breeders of other fur-bearing animals.

Example 6. You breed, raise, and train horses for racing purposes. Every year you cull some horses from your racing stable. In 1997, you decided that to prevent your racing stable from getting too large to be effectively operated, you must cull six horses from it. All six of these horses had been raced at public tracks in 1996. These horses are all considered held for sporting purposes.

Figuring gain or loss on the cash method. Farmers or ranchers who use the cash method of accounting figure their gain or loss on the sale of livestock used in their farming business as follows.

Raised livestock. The gross sales price reduced by any expenses of the sale is gain. Expenses of sale include sales commissions, freight or hauling from farm to commission company, and other similar expenses. The basis of the animal sold is zero if the costs of raising it were deducted during the years the animal was being raised. However, see *Uniform Capitalization Rules* in chapter 7.

Purchased livestock. The gross sales price less your adjusted basis and any expenses of sale is the gain or loss.

Example. A farmer sold a breeding cow on January 6, 1997, for \$1,250. Expenses of sale were \$125. The cow was bought July 2, 1994, for \$1,300. Depreciation (not less than the amount allowable) was \$759.

Gross sales price	\$1,250
Cost (basis)	\$1,300
Less: Depreciation deduction	759
Unrecovered cost (adjusted basis)	\$541
Expense of sale	125
Gain realized	\$584

Converted Wetland and Highly Erodible Cropland

Special rules apply to dispositions of land converted to farming use after March 1, 1986. Any gain realized on the disposition of converted wetland or highly erodible cropland is treated as ordinary income. Any loss on the disposition of such property is treated as a long-term capital loss.

Converted wetland. This is generally land that must have been drained or filled to make the production of agricultural commodities possible. It includes converted wetland held by the person who originally converted it or held by any other person who used the converted wetland at any time after conversion for farming purposes.

A wetland (before conversion) is land that meets all of the following conditions:

- 1) It is mostly soil that, in its undrained condition, is saturated, flooded, or ponded long enough during a growing season to develop an oxygen-deficient state that supports the growth and regeneration of plants growing in water.
- 2) It is saturated by surface or groundwater at a frequency and duration sufficient to support mostly plants that are adapted for life in saturated soil.
- 3) It supports under normal circumstances mostly plants that grow in saturated soil.

Highly erodible cropland. This is cropland that is subject to erosion that you used at any time for farming purposes other than for the grazing of animals. Generally, highly erodible cropland is land that is currently classified by the Department of Agriculture as Class IV, VI, VII, or VIII under its classification system. Highly erodible cropland also includes land that would have an excessive average annual erosion rate in relation to the soil loss tolerance level, as determined by the Department of Agriculture.

Successors. Converted wetland or highly erodible cropland is also land held by any person whose basis in the land is figured by reference to the adjusted basis of a person in whose hands the property was converted wetland or highly erodible cropland.

Timber

Standing timber you held as investment property is a capital asset. Gain or loss from its sale is capital gain or loss reported on Schedule D (Form 1040). If you held the timber primarily for sale to customers, it is not a capital asset. Gain or loss on its sale is ordinary business income or loss. It is reported in the gross receipts/sales and cost of goods sold lines of Schedule F.

Farmers who cut timber on their land and sell it as logs, firewood, or pulpwood usually have no cost or other basis for that timber. These sales constitute a very minor part of their farm businesses. In these cases, amounts realized from such sales, and the expenses incurred in cutting, hauling, etc., are ordinary farm income and expenses on Schedule F (Form 1040).

Special rules apply if you owned the timber more than 1 year and choose to either treat timber cutting as a sale or exchange, or enter into a cutting contract discussed below. Depletion on timber is discussed under *Depletion* in chapter 8.

Timber considered cut. Timber is considered cut on the date when in the ordinary course of business the quantity of felled timber is first definitely determined. This is true whether the timber is cut under contract or whether you cut it yourself.

Christmas trees. Evergreen trees, such as Christmas trees, that are more than 6 years old when severed from their roots and sold for ornamental purposes, are included in the term "timber." They qualify for both special rules, discussed next.

Election to treat cutting as a sale or exchange. Under the general rule, the cutting of timber results in no gain or loss. It is not until a sale or exchange occurs that gain or loss is realized. But if you owned or had a contractual right to cut timber, you may elect to treat the cutting of timber as a section 1231 transaction in the year it is cut. Even though the cut timber is not actually sold or exchanged, you report your gain or loss on the cutting for the year the timber is cut. Any later sale results in ordinary business income or loss.

To choose this treatment, you must:

- 1) Own, or hold a contractual right to cut, the timber for a period of more than 1 year before it is cut, and
- 2) Cut the timber for sale or use it in your trade or business.

Making the election. You make your election on your return for the year the cutting takes place by including in income the gain or loss on the cutting, and including a computation of your gain or loss. You do not have to make the election in the first year you cut the timber. You may choose to make it in any year to which the election would apply. If the timber is partnership property, the election is made on the partnership return. This election cannot be made on an amended return.

Once you have made the election, it remains in effect for all later years unless you revoke it.

Revoking a post-1986 election. You can revoke an election you made for a tax year beginning after 1986 only if you can show undue hardship and get the consent of the

Internal Revenue Service (IRS). Thereafter, you may not make any new election unless you have the consent of the IRS.

Revoking a pre-1987 election. You can revoke an election you made for a tax year beginning before 1987 without the consent of the IRS. You can revoke the election by attaching a statement to your tax return for the year the election is to be effective. If you make this special revocation, which can be made only once, you can make a new election without the consent of IRS. Any further revocation will require the consent of IRS.

The statement must provide:

- 1) Your name, address, and identification number,
- 2) The year the revocation is effective and the timber to which it applies,
- 3) That the revocation being made is of the election to treat the cutting of timber as a sale or exchange under section 631(a) of the Internal Revenue Code,
- 4) That the revocation is being made under section 311(d) of Public Law 99-514, and
- 5) That you are entitled to make the revocation under section 311(d) of Public Law 99-514 and temporary regulations section 301.9100-7T.

Gain or loss. Your gain or loss on the cutting of standing timber is the difference between its adjusted basis for depletion and its fair market value on the first day of your tax year in which it is cut.

Your adjusted basis for depletion of cut timber is based on the number of units (feet board measure, log scale, or other units) of timber cut during the tax year and considered to be sold or exchanged. Your adjusted basis for depletion is also based on the depletion unit of timber in the account used for the cut timber, and should be figured in the same manner as shown in section 611 of the Internal Revenue Code and Income Tax Regulation 1.611-3.

Example. In April 1997, you have owned 4,000 MBF (1,000 board feet) of standing timber for more than 12 months. It had an adjusted basis for depletion of \$40 per MBF. You are a calendar year taxpayer. On January 1, 1997, the timber had a fair market value (FMV) of \$120 per MBF. It was cut in April for sale. On your 1997 tax return, you elect to treat the cutting of the timber as a sale or exchange. You report the difference between the FMV and your adjusted basis for depletion as a gain. This amount is reported on Form 4797 along with your other section 1231 gains and losses to figure whether it is treated as long-term capital gain or as ordinary gain. You figure your gain as follows:

FMV of timber January 1, 1997	\$480,000
Minus: Adjusted basis for depletion	160,000
Section 1231 gain	<u>\$320,000</u>

The FMV becomes your basis in the timber cut, and a later sale of the timber cut, including any by-product or tree tops, will result in ordinary business income or loss.

Cutting contract. You must treat the disposal of standing timber under a cutting contract as a section 1231 transaction if:

- 1) You are the owner of the timber,

- 2) You held the timber for more than 1 year before its disposal, and
- 3) You retained an economic interest in the timber.

The difference between the amount realized from the disposal of the timber and its adjusted basis for depletion is treated as gain or loss on its sale. Include this amount on Form 4797 along with your other section 1231 gains and losses to figure whether it is treated as capital or ordinary gain or loss.

Date of disposal. The date of disposal of the timber is the date the timber is cut. However, if you receive payment under the contract before the timber is cut, you may elect to treat the date of payment as the date of disposal. This election is effective only to figure the holding period of the timber. It has no effect on the time for reporting gain or loss. To make this election, attach a statement to the tax return filed by the due date (including extensions) for the year payment is received. The statement must identify the advance payments subject to the election and the contract under which they were made.

Owner. An owner is any person who owns an interest in the timber, including a sublessor and the holder of a contract to cut the timber. You own an interest in timber if you have the right to cut it for sale on your own account or for use in your business.

Economic interest. You have retained an economic interest in standing timber if, under the cutting contract, the expected return on your investment is conditioned on the cutting of the timber.

Tree stumps. Tree stumps are a capital asset if they are on land held by an investor who is not in the timber or stump business, either as a buyer, seller, or processor. Gain from the sale of stumps sold in one lot by such a holder is taxed as a capital gain. However, tree stumps held by timber operators, after the saleable standing timber was cut and removed from the land, are considered by-products. Gain from the sale of stumps in lots or tonnage by such operators is taxed as ordinary income.

Sale of a Farm

The sale of your farm usually will involve the sale of both nonbusiness property (your home) and business property (the land and buildings used in the farm operation and perhaps machinery and livestock). If you have a gain from the sale, you may be allowed to postpone or exclude the gain on your home. The gain on the sale of your business property is taxable. A loss on the sale of your business property to an unrelated party is deducted as an ordinary loss. Losses, other than casualty, theft, etc., from nonbusiness property are not deductible. If payments for your farm are received in installments, you may be permitted to pay the tax on your gain over the period of years that the payments are received. See chapter 12.

When you sell your farm, the gain or loss on each asset is figured separately. The tax treatment of gain or loss on the sale of each asset is determined by the classification of the asset. All of the assets sold must be classified as:

- 1) Capital asset held 1 year or less,
- 2) Capital asset held more than 1 year,

- 3) Property (including real estate) used in your business and held 1 year or less (include draft, breeding, dairy, and sporting animals if held less than the holding periods discussed earlier under *Livestock*),
- 4) Property (including real estate) used in your business and held more than 1 year (include draft, breeding, dairy, and sporting animals only if held for the holding periods discussed earlier), or
- 5) Property held primarily for sale or which is of the kind that would be included in inventory if on hand at the close of your tax year.

Allocation of consideration paid for a farm.

The sale of a farm for a lump sum is considered a sale of each individual asset rather than a single asset. Except for assets exchanged under the like-kind exchange rules (discussed earlier), both the buyer and seller of a farm must use the **residual method** to allocate the consideration to each business asset transferred. This method determines gain or loss from the transfer of each asset. It also determines the buyer's basis in the business assets.

Residual method. The residual method provides for the consideration to be reduced first by the amount of cash, demand deposits, and similar accounts transferred by the seller. The amount of consideration remaining after this reduction must be allocated among the various business assets in a specified order.

The allocation must be made among the following assets in proportion to (but not in excess of) their fair market value on the purchase date in the following order:

- 1) Certificates of deposit, U.S. government securities, readily marketable stock or securities, and foreign currency,
- 2) All other assets except section 197 intangibles, and
- 3) Section 197 intangibles (discussed in chapter 8).

For more information about the residual method and how to report the allocation of the sales price on Form 1040, see chapter 2 in Publication 544.

Property used in farm operation. The rules for postponing or excluding the gain on a voluntary sale, described later under *Sale of your home*, do not apply to the part of your farm used for business. Taxable gains and deductible losses on this property must be reported on your return for the year of the sale. If the property was held for more than 1 year, it may qualify as section 1231 property (see chapter 11) and be reported as ordinary income or loss or as capital gain or loss.

Example. You sell your farm, including your home, which you have owned since December 1992, and realize gain as follows:

	Farm With Home	Home Only	Farm Without Home
Selling price	\$182,000	\$58,000	\$124,000
Cost (or other basis) .	<u>40,000</u>	<u>10,000</u>	<u>30,000</u>
Gain	<u>\$142,000</u>	<u>\$48,000</u>	<u>\$94,000</u>

You must report the \$94,000 gain from the sale of the property used in your farm business. All or a part of that gain may have to be reported as ordinary income from the recapture of depreciation or soil and water

conservation expenses. Treat the balance as section 1231 gain.

The \$48,000 gain from the sale of your home is a capital gain. This gain is taxable unless you purchase or build another home for at least \$58,000 within the required period of time or can exclude the gain as explained later under *Gain on sale of your main home*.

Partial sale. If you sell a part of your farm, you must report any taxable gain or deductible loss on that part on your tax return for the year of the sale. You may not wait until you have sold enough of the farm to recover its entire cost before reporting gain or loss.

Adjusted basis of the part sold. This is the properly allocated part of your original cost or other basis of the entire farm, plus or minus necessary adjustments for improvements, depreciation, etc., on the part sold.

Example. You bought a 600-acre farm for \$700,000. The farm included land and buildings. The purchase contract designated \$600,000 of the purchase price to the land. You later sold 60 acres of land on which you had installed a fence. Your adjusted basis for the part of your farm sold is \$60,000 (60/600 or 1/10 of \$600,000), plus any unrecovered cost (cost not depreciated) of the fence on the 60 acres at the time of sale. Use this amount to determine your gain or loss on the sale of the 60 acres.

Assessed values for local property taxes. If you paid a flat sum for the entire farm and no other facts are available for properly allocating a part of your original cost or other basis to the part sold, you may use assessed value for local property taxes for the year of purchase as evidence of value to allocate the costs to basis.

Example. Assume that in the preceding example there was no breakdown of the \$700,000 purchase price between land and buildings. However, in the year of purchase, local taxes on the entire property were based on assessed valuations of \$420,000 for land and \$140,000 for improvements, or a total of \$560,000. The assessed valuation of the land is $\frac{3}{4}$ (75%) of the total assessed valuation. You can multiply 75% by the \$700,000 total purchase price to arrive at a basis of \$525,000 for the 600 acres of land. The unadjusted basis of the 60 acres you sold would then be \$52,500 (60/600 or 1/10 of \$525,000). If your home is on the farm, you must properly adjust the basis to exclude those costs from your farm asset costs, as discussed next.

Sale of your home. Your home is a capital asset and not property used in the trade or business of farming. If you sell a farm that

includes a house you and your family occupy, you must determine the part of the selling price and the part of the cost or other basis that are allocable to your home. Your home includes the immediate surroundings and outbuildings relating to it.

If you use a part of your home for business, you must make an appropriate adjustment to the basis for depreciation allowed or allowable. For more information on basis, see *Allocating the Basis* in chapter 7.

Gain on sale of your main home. When you have a gain on the sale of your main home before May 7, 1997, you must postpone the tax on the gain if, within the period beginning 2 years before and ending 2 years after the sale, you buy and occupy another home that you purchase at a cost equal to or more than the adjusted sale price of your old home.

If you sell your main home at a gain after May 6, 1997, you may be able to exclude up to \$250,000 of gain (\$500,000 if married filing a joint return).

Gain from condemnation. If you have a gain from a condemnation or sale under threat of condemnation, you may use the preceding rules for postponing or excluding the gain, rather than the rules discussed under *Postponing Gain* in chapter 13. However, any gain that cannot be excluded (because it is more than the limit) may be postponed under the rules discussed under *Postponing Gain* in chapter 13.

Age 55 or older. If you are 55 or older and sell your main home before May 7, 1997, you may not have to pay tax on all or part of the gain up to \$125,000 (\$62,500, if married filing separately) even though you do not invest in another home.

A loss on your home. You cannot deduct a loss on your home from a voluntary sale, condemnation, or a sale under threat of condemnation.

More information. For more information on selling your home, see Publication 523.

Abandonments

Abandonment of property occurs when you voluntarily give up possession of property with the intention of ending your ownership, but without passing it on to anyone else.

Loss from abandonment of business or investment property is deductible as an ordinary loss, even if the property is a capital asset. The loss is the amount of the property's adjusted basis when abandoned. Report the loss on Form 4797, Part II, line 10. This rule also applies to leasehold improvements the lessor made for the lessee that were abandoned after June 12, 1996. However, if the property is later foreclosed on or repos-

sessed, gain or loss is figured as discussed earlier under *Foreclosures and Repossessions*. The abandonment loss is taken in the tax year in which the loss is sustained.

You may not deduct any loss from abandonment of your home or other property held for personal use.

Example. Ann lost her contract with the local poultry processor and abandoned her poultry facilities that she built for \$100,000. At the time she abandoned the facilities, her mortgage balance was \$85,000. She has a deductible loss of \$66,554 (the adjusted basis). If the bank later forecloses on the loan or repossesses the facilities, she will have to figure her gain or loss as discussed earlier under *Foreclosures and Repossessions*.

Cancellation of debt. If the abandoned property secures a debt for which you are personally liable and the debt is canceled, you will realize ordinary income equal to the amount of canceled debt. This income is separate from any loss realized from abandonment of the property. Report income from cancellation of a debt related to a business or rental activity as business or rental income. Report income from cancellation of a non-business debt as miscellaneous income on line 21, Form 1040.

However, income from cancellation of debt is not taxed if:

- 1) The cancellation is intended as a gift,
- 2) The debt is qualified farm debt (see chapter 4),
- 3) The debt is qualified real property debt (see chapter 5 of Publication 334, *Tax Guide for Small Business*), or
- 4) You are insolvent or bankrupt (see Publication 908, *Bankruptcy Tax Guide*).

Forms 1099-A and 1099-C. If your abandoned property secures a loan and the lender knows the property has been abandoned, the lender should send you Form 1099-A showing information you need to figure your loss from the abandonment. However, if your debt is canceled and the lender must file Form 1099-C, the lender may include the information about the abandonment on that form instead of on Form 1099-A. The lender must file Form 1099-C and send you a copy if the amount of debt canceled is \$600 or more and the lender is a financial institution, credit union, or federal government agency. For abandonments of property and debt cancellations occurring in 1997, these forms should be sent to you by February 2, 1998.

11.

Dispositions of Property Used in Farming

Introduction

When you dispose of property used in your farm business, your taxable gain or loss is usually a section 1231 gain or loss. Its treatment as ordinary or capital is determined under special rules for section 1231 transactions.

When you dispose of depreciable property (section 1245 property or section 1250 property) at a gain, you may have to recognize all or part of the gain as ordinary income under the depreciation recapture rules. Any remaining gain is a section 1231 gain.

Gains and losses from property used in farming are reported on Form 4797. Table 11-1 shows examples of items reported on Form 4797 and refers to the part of that form on which they first should be reported.

Topics

This chapter discusses:

- ☞ Section 1231 gains and losses
- ☞ Depreciation recapture on section 1245 property
- ☞ Depreciation recapture on section 1250 property
- ☞ Depreciation recapture on installment sales
- ☞ Section 1252 and Section 1255 property
- ☞ How to use Form 4797

Useful Items

You may want to see:

Publication

- 544** Sales and Other Dispositions of Assets

Form (and Instructions)

- 4797** Sales of Business Property

See chapter 21 for information about getting these publications and forms.

Section 1231 Gains and Losses

Section 1231 gains and losses are the taxable gains and losses from section 1231 transactions. Their treatment as ordinary or capital depends on whether you have a net gain or a net loss from all your section 1231 transactions.

Table 11-1. Where To Report Items on Form 4797

Type of property	Held one year or less	Held more than one year
1 Depreciable trade or business property: a Sold or exchanged at a gain b Sold or exchanged at a loss	Part II Part II	Part III (1245, 1250) Part I
2 Depreciable residential rental property: a Sold or exchanged at a gain b Sold or exchanged at a loss	Part II Part II	Part III (1250) Part I
3 Farm land held less than 10 years upon which soil, water, or land clearing expenses were deducted: a Sold at a gain b Sold at a loss	Part II Part II	Part III (1252) Part I
4 Disposition of cost-sharing payment property described in section 126.	Part II	Part III (1255)
5 Cattle and horses used in a trade or business for draft, breeding, dairy, or sporting purposes: a Sold at a gain b Sold at a loss c Raised livestock sold at a gain	Held less than 24 mos.	Held 24 mos. or more
	Part II Part II Part II	Part III (1245) Part I Part I
	6 Livestock other than cattle and horses used in a trade or business for draft, breeding, dairy, or sporting purposes: a Sold at a gain b Sold at a loss c Raised livestock sold at a gain	Held less than 12 mos.	Held 12 mos. or more
Part II Part II Part II		Part III (1245) Part I Part I



If you have a gain from a section 1231 transaction, first determine whether any of the gain is ordinary income under the depreciation recapture rules (explained later). Do not take that gain into account as section 1231 gain.

Section 1231 transactions. Transactions that result in gain or loss subject to section 1231 treatment are—

Sales or exchanges of cattle and horses. The cattle and horses must be held for draft, breeding, dairy, or sporting purposes and held 24 months or longer.

Sales or exchanges of other livestock. This livestock must be held for draft, breeding, dairy, or sporting purposes and held 12 months or longer. Other livestock includes hogs, mules, sheep, and goats, but does not include poultry.

Sales or exchanges of depreciable personal property. This property must be used in your business or held for the production of rents or royalties and held for more than 1 year. Examples are farm machinery and trucks. Depreciable personal property also includes amortizable section 197 intangibles.

Sales or exchanges of real estate. This property must be used in your business or held for the production of rents or royalties and held for more than 1 year. Examples are your farm or ranch (including barns and sheds).

Sales or exchanges of unharvested crops. The crop and land must be sold, exchanged, or involuntarily converted at the same time and to the same person and the land must be held for more than 1 year. Growing crops sold with a lease on the land, though sold to the same person in a single transaction, are not included. The taxpayer cannot retain any right or option to reacquire the land directly or indirectly (other than a

right customarily incident to a mortgage or other security transaction).

Your distributive share of partnership gains and losses. Your distributive share must be from the sale or exchange of property listed above held more than 1 year, or for the required period for certain livestock.

Timber. The cutting or disposal of timber must be treated as a sale, as described in chapter 10 under *Timber*.

Condemnations. The condemned property (described in chapter 13) must have been held for more than 1 year. It must be business property or a capital asset held in connection with a trade or business or a transaction entered into for profit, such as investment property. It cannot be property held for personal use.

Casualties and thefts. These must have been a casualty to or theft of business property, property held for the production of rents and royalties, or investment property (such as notes and bonds). You must have held the property for more than 1 year. However, if your casualty or theft losses exceed your casualty or theft gains, neither the gains nor losses are taken into account in the section 1231 computation.

Section 1231 does not apply to personal casualty gains and losses. See chapter 13 for information on how to treat these gains and losses.

Property for sale to customers. A sale, exchange, or involuntary conversion of property held mainly for sale to customers is not a section 1231 transaction. If you will get back all, or nearly all, of your investment in the property by selling it rather than by using it up in your business, it is property held mainly for sale to customers.

Treatment as ordinary or capital. To determine the treatment of section 1231 gains and losses, combine all your section 1231 gains and losses for the year.

- ¶ If you have a **net section 1231 loss**, it is ordinary loss.
- ¶ If you have a **net section 1231 gain**, it is ordinary income up to the amount of your **nonrecaptured section 1231 losses** from previous years. The rest, if any, is long-term capital gain.

Nonrecaptured section 1231 losses.

Your nonrecaptured section 1231 losses are your net section 1231 losses for the previous 5 years that have not been previously applied against a net section 1231 gain by treating the gain as ordinary income. These losses are applied against your net section 1231 gain beginning with the earliest loss in the 5-year period.

Example. In 1994, you had a net section 1231 loss of \$2,500. For tax years 1996 and 1997, you had net section 1231 gains of \$1,800 and \$2,000, respectively. In 1992, 1993, and 1995, you had no section 1231 gains or losses. In figuring taxable income for 1996, you treated your net section 1231 gain of \$1,800 as ordinary income by recapturing \$1,800 of your \$2,500 net section 1231 loss. For 1997, you apply your remaining \$700 net section 1231 loss (\$2,500 – \$1,800) against your net section 1231 gain of \$2,000. For 1997, you report \$700 as ordinary income and \$1,300 (\$2,000 – \$700) as long-term capital gain.

Depreciation Recapture

If you dispose of depreciable or amortizable property at a gain, you may have to treat all or part of the gain (even if otherwise nontaxable) as ordinary income.

Section 1245 Property

A gain on the disposition of section 1245 property is treated as ordinary income to the extent of depreciation allowed or allowable. See *Gain Treated as Ordinary Income*, later.

Section 1245 property. This includes any property that is or has been subject to an allowance for depreciation or amortization and that is:

- 1) Personal property (either tangible or intangible),
- 2) Other tangible property (except buildings and their structural components) used as:
 - a) An integral part of manufacturing, production, or extraction or of furnishing transportation, communications, electricity, gas, water, or sewage disposal services,
 - b) A research facility in any of the activities in (a) above, or
 - c) A facility in any of the activities in (a) for the bulk storage of fungible commodities,
- 3) That part of real property (not included in (2)) having an adjusted basis that was reduced by certain amortization deductions (including those for certified pollution control facilities, child-care facilities, removal of architectural barriers

- to persons with disabilities and the elderly, or reforestation expenditures), or a section 179 deduction,
- 4) Single purpose agricultural (livestock) or horticultural structures, or
- 5) Storage facilities (except buildings and their structural components) used in distributing petroleum or any primary product of petroleum.

Buildings and structural components.

Section 1245 property does not include buildings and structural components. The term “building” includes a house, barn, warehouse, or garage. The term “structural component” includes walls, floors, windows, doors, central air conditioning systems, light fixtures, etc.

A structure that is essentially machinery or equipment is not considered a building or structural component. Also, a structure that houses property used as an integral part of an activity is not considered a building or structural component if the structure’s use is so closely related to the use of the property that the structure can be expected to be replaced when the property it initially houses is replaced.

The fact that the structure is specially designed to withstand the stress and other demands of the property and the fact that the structure cannot be used economically for other purposes indicate that it is closely related to the use of the property it houses. Thus, structures such as oil and gas storage tanks, grain storage bins, and silos are not treated as buildings, but as section 1245 property.

Storage facility. This is a facility used mainly for the bulk storage of fungible commodities. To be fungible, a commodity must be such that one part may be used in place of another. Bulk storage means storage of a commodity in a large mass before it is used. Thus, if a facility is used to store oranges that have been sorted and boxed, it is not used for bulk storage.

Gain Treated as Ordinary Income

The amount of gain treated as ordinary income on the sale, exchange, or involuntary conversion of section 1245 property, including a sale and leaseback transaction, is limited to the **lower** of:

- 1) The depreciation and amortization allowed or allowable on the property (the recomputed basis of the property minus the adjusted basis of the property), or
- 2) The gain realized on the disposition (the amount realized from the disposition minus the adjusted basis of the property).

For any other disposition of section 1245 property, ordinary income is the lower of (1) above or the amount by which its fair market value exceeds its adjusted basis. See chapter 4 of Publication 544.

Use Part III of Form 4797 to figure the ordinary income part of the gain.

Recomputed basis. The recomputed basis of your section 1245 property is the total of its adjusted basis plus depreciation and amortization adjustments (allowed or allowable) reflected in the adjusted basis. These include adjustments:

- 1) On property you exchanged for, or converted to, your section 1245 property in

a like-kind exchange or involuntary conversion, and

- 2) Allowed or allowable to a previous owner, if your basis is determined with reference to that person’s adjusted basis.

Allowed adjustments are the amounts you deducted and that reduced your income tax. *Allowable* adjustments are the amounts you were entitled to deduct by law.

Property received in an exchange or conversion. If you received property in a like-kind exchange or involuntary conversion, the recomputed basis of that property includes a depreciation or amortization adjustment allowed or allowable on the old property you exchanged or converted. This adjustment is reduced by any gain you recognized on the exchange or conversion of the old property.

Property received as a gift. If you received property as a gift, the recomputed basis includes any depreciation or amortization adjustments allowed or allowable to the donor for that property.

Depreciation and amortization. Depreciation and amortization that must be recaptured as ordinary income include (but are not limited to) the following items:

- 1) Ordinary depreciation deductions;
- 2) Amortization deductions for—
 - a) The cost of acquiring a lease,
 - b) The cost of lessee improvements,
 - c) Pollution control facilities,
 - d) Reforestation expenses,
 - e) Section 197 intangibles,
 - f) Child care facility expenditures made before 1982, and
 - g) Franchises, trademarks, and trade names acquired before August 10, 1993;
- 3) The section 179 expense deduction;
- 4) Deductions for—
 - a) The cost of removing barriers to the disabled and the elderly,
 - b) Tertiary injectant expenses, and
 - c) Depreciable clean-fuel vehicles and refueling property (less the amount of any recaptured deduction);
- 5) The amount of any basis reduction for the investment credit (less the amount of any basis increase for any credit recapture); and
- 6) The amount of any basis reduction for qualified electric vehicle credit (less the amount of any basis increase for credit recapture).

Example. You file your returns on a calendar year basis. In February 1995, you purchased and placed in service for 100% use in your farming business a light-duty truck (5-year property) that cost \$10,000. You used the half-year convention and your MACRS deductions for the truck were \$1,500 in 1995 and \$2,550 in 1996. You did not take the section 179 deduction on it. You sold the truck in May 1997 for \$7,000. The MACRS deduction in 1997, the year of sale, is \$893 (1/2 of \$1,785). Figure the gain treated as ordinary income as follows:

1) Cost (Feb. 1995)	\$10,000
2) Minus: MACRS deductions: (\$1,500 + \$2,550 + \$893)	<u>4,943</u>
3) Adjusted basis (May 1997)	\$5,057
4) Depreciation allowed or allowable: Recomputed basis	\$10,000
Minus: Adjusted basis	<u>5,057</u>
5) Gain realized: Amount realized	\$7,000
Minus: Adjusted basis	<u>5,057</u>
6) Gain treated as ordinary income (lower of line 4 or line 5)	<u>\$1,943</u>

Depreciation allowed or allowable. The greater of the depreciation allowed or allowable is generally the amount to use in figuring the part of gain to report as ordinary income. If, in prior years, you have consistently taken proper deductions under one method, the amount allowed for your prior years will not be increased even though a greater amount would have been allowed under another proper method. If you did not take any deduction at all for depreciation, your adjustments to basis for depreciation allowable are figured by using the straight line method.

This treatment applies only when figuring what part of gain is treated as ordinary income under the rules for section 1245 depreciation recapture.

Section 1231 gain. Any gain recognized that is more than the part that is ordinary income because of depreciation is a section 1231 gain. See *Treatment as ordinary or capital under Section 1231 Gains and Losses*, earlier.

Disposition of plants and animals. If you made the election not to apply the uniform capitalization rules, you must treat any plant or animal (if the animals were produced in 1987 or 1988) that you produce as section 1245 property. Further, you must **recapture the preproductive expenses** that you would have capitalized if you had not made the election by treating these expenses as ordinary income when you determine your gain on selling or disposing of the property. For section 1231 transactions, show these expenses as depreciation on line 22, Part III, of Form 4797. For plant sales that are reported on Schedule F (Form 1040), this recapture rule does not change the reporting of income because the gain is already ordinary income. To figure the amount of these expenses, you may use the farm-price method or the unit-livestock-price method discussed in chapter 3.

Example. Janet Maple sold her apple orchard in 1997 for \$80,000. Her adjusted basis at the time of sale was \$60,000. She purchased the orchard in 1990, but the trees did not produce a crop until 1993. Her preproductive expenses were \$6,000. She elected not to apply the uniform capitalization rules. Janet must treat the \$6,000 preproductive expenses as ordinary income when figuring the gain on the sale.

Livestock costs incurred before 1989. For livestock costs incurred before 1989, the IRS provided two safe-harbor elections. These safe-harbor elections were not available to corporations, partnerships, or tax shelters that were required to use an accrual method of accounting. For information on these elections, see Notice 88-24 in the Internal Revenue Cumulative Bulletin 1988-1

on page 491 and Notice 88-113 modifying Notice 88-24 in Cumulative Bulletin 1988-2 on page 448.

For information on the uniform capitalization rules, see chapter 7.

Section 1250 Property

A gain on the disposition of section 1250 property is treated as ordinary income to the extent of additional depreciation allowed or allowable. To determine the additional depreciation on section 1250 property, see *Additional Depreciation*, later.

You will not have additional depreciation if:

- 1) You figured depreciation for the property using the straight line method or any other method that does not result in depreciation that is more than the amount figured by the straight line method, and you have held the property more than a year,
- 2) You chose the alternate ACRS (straight line) method for the types of 15-, 18-, or 19-year real property covered by the section 1250 rules, or
- 3) You dispose of residential rental property or nonresidential real property placed in service after 1986 (or after July 31, 1986, if the election to use MACRS was made). These properties are depreciated using the straight line method.

Section 1250 property. This includes all real property that is subject to an allowance for depreciation and that is not and never has been section 1245 property. It includes a leasehold of land or section 1250 property that is subject to an allowance for depreciation. A fee simple interest in land is not section 1250 property because it is not depreciable.

Gain Treated as Ordinary Income

To find what part of the gain from the disposition of section 1250 property is treated as ordinary income, follow these steps:

- 1) In a sale, exchange, or involuntary conversion of the property, figure the excess of the amount realized over the adjusted basis of the property (in any other disposition of the property, figure the excess of fair market value over adjusted basis).
- 2) Figure the additional depreciation for the periods after 1975.
- 3) Multiply the smaller of (1) or (2) by the applicable percentage, discussed later. Stop here if this is residential rental property, or if (2) is equal to or more than (1). This is the gain that is treated as ordinary income because of additional depreciation.
- 4) Subtract (2) from (1).
- 5) Figure the additional depreciation for periods after 1969 but before 1976.
- 6) Add the smaller of (4) or (5) to the result in (3). This is the gain that is treated as ordinary income because of additional depreciation.

Use Part III, Form 4797, to figure the ordinary income part of the gain.

Additional Depreciation

If you hold section 1250 property longer than 1 year, the additional depreciation is the excess of actual depreciation adjustments over the depreciation figured using the straight line method. For a list of items treated as depreciation adjustments, see *Depreciation and amortization under Section 1245 Property*, earlier.

Figure straight line depreciation for ACRS real property by using its 15-, 18-, or 19-year recovery period as the property's useful life.

The straight line method is applied without any basis reduction for the investment credit.

If you hold section 1250 property for 1 year or less, all of the depreciation is additional depreciation.

You will have additional depreciation if you use the regular ACRS method, the declining balance method, the sum-of-the-years-digits method, the units-of-production method, or any other method of rapid depreciation. You also have additional depreciation if you elect amortization, other than amortization on real property that qualifies as section 1245 property, discussed earlier.

Depreciation taken by other taxpayers or on other property. Additional depreciation includes all depreciation adjustments to the basis of section 1250 property whether allowed to you or another person (as for carryover basis property).

Depreciation allowed or allowable. The greater of depreciation allowed or allowable (to any person who held the property if the depreciation was used in figuring its adjusted basis in your hands) is generally the amount to use in figuring the part of the gain to be reported as ordinary income. If you can show that the deduction allowed for any tax year was less than the amount allowable, the smaller figure will be the depreciation adjustment for figuring additional depreciation.

Applicable Percentage

The applicable percentage used to figure the ordinary income because of additional depreciation depends on whether the real property you disposed of is nonresidential real property, residential rental property, or low-income housing. The applicable percentages for nonresidential real property and residential rental property are explained next. The applicable percentage for low-income housing is explained in chapter 4 of Publication 544.

Nonresidential real property. For real property that is not residential rental property, the applicable percentage for periods after 1969 is 100%. For periods before 1970, the applicable percentage is zero and no ordinary income will result on its disposition because of additional depreciation before 1970.

Residential rental property. For residential rental property (80% or more of the gross income is from dwelling units) other than low-income housing, the applicable percentage for periods after 1975 is 100%. For residential rental property, the applicable percentage for periods before 1976 is zero. Therefore, no ordinary income will result from a disposition of residential rental property because of additional depreciation before 1976.

More information. For more information about depreciation recapture on section 1250 property, see chapter 4 of Publication 544.

Installment Sales

If you report the sale of property under the installment method, any depreciation recapture under section 1245 or 1250 is taxable as ordinary income in the year of sale. This applies even if no payments are received in that year. If the gain is more than the depreciation recapture income, report the rest of the gain using the rules of the installment method. For this purpose, add the recapture income to the property's adjusted basis.

If you dispose of **more than one asset** in a single transaction, you must separately figure the gain on each asset so that it may be properly reported. To do this, allocate the selling price and the payments you receive in the year of sale to each asset. Report any depreciation recapture income in the year of sale before using the installment method for any remaining gain.

For a detailed discussion of installment sales, get Publication 537.

Other Dispositions

Chapter 4 of Publication 544 discusses the tax treatment of transfers of depreciable property:

- ☒ By gift,
- ☒ At death,
- ☒ In like-kind exchanges, and
- ☒ In involuntary conversions.

Publication 544 also explains how to handle a single transaction involving multiple properties.

Other Farm Property

This section discusses gain on the disposition of farm land for which you were allowed:

- 1) Deductions for soil and water conservation expenditures (section 1252 property), or
- 2) Exclusions from income for certain cost sharing payments (section 1255 property).

Farm land (under section 1252). If you disposed of farm land you held less than 10 years at a gain and you were allowed deductions for soil and water conservation expenditures discussed in chapter 6, you must treat part of the gain as ordinary income and treat the balance as section 1231 gain.

Amount to report as ordinary income. You report as ordinary income the lesser of:

- 1) The total amount of deductions allowed for soil and water conservation expenditures multiplied by the applicable percentage, discussed below, or
- 2) Your gain (the result of subtracting the adjusted basis from the amount realized from a sale, exchange, or involuntary conversion, or the fair market value for all other dispositions).

Applicable percentage. The applicable percentage is based on the length of time you held the land. If you dispose of your farm land within 5 years after the date you got it, the applicable percentage is 100%. If you dispose of the land within 6 to 9 years after you got it, the applicable percentage is reduced by

20% a year for each year you hold the land after the 5th year. If you dispose of the land 10 years or more after you got it, the applicable percentage is zero (0), and the entire amount of the gain is a section 1231 gain.

Example. You acquired farm land on January 19, 1990. On October 3, 1997, you sold the land at a \$30,000 gain. Between January 1 and October 3, 1997, you make soil and water conservation expenditures of \$15,000 that are fully deductible in 1997. The applicable percentage is 40% since you sold the land within the 8th year after you got it. Thus, you treat \$6,000 (40% of \$15,000) of the \$30,000 gain as ordinary income and the \$24,000 balance as a section 1231 gain.

Section 1255 property. If you receive certain cost-sharing payments on property and you exclude those payments from income (discussed in chapter 4), you may have to treat part of any gain as ordinary income and treat the balance as a section 1231 gain. If you elected not to exclude these payments, you will not have to recognize ordinary income under this provision.

Amount to report as ordinary income. You report as ordinary income the lesser of:

- 1) The applicable percentage of the total excluded cost-sharing payments, or
- 2) The gain on the disposition of the property.

You do not report ordinary income under this rule to the extent the gain is recognized as ordinary income under sections 1231 through 1254, 1256, and 1257 of the Internal Revenue Code. However, you do report as ordinary income under this rule a gain or a part of a gain regardless of any contrary provisions (including nonrecognition provisions) under any other Code section.

Applicable percentage. The applicable percentage of the excluded cost-sharing payments to be reported as ordinary income is based on the length of time you hold the property after receiving the payments. If the property is held less than 10 years, the percentage is 100%. After 10 years, the percentage is reduced by 10% a year or part of a year until the rate is 0%.

Form 4797, Part III. Use Form 4797, Part III to figure the ordinary income portion of a gain from the sale, exchange, or involuntary conversion of section 1252 property and section 1255 property.

12.

Installment Sales

Introduction

An installment sale is a sale of property where you receive at least one payment after the close of the tax year of the sale. If you dispose of property in an installment sale, you report part of your gain or profit when you

receive each installment payment. You cannot use the installment method to report a loss.

The buyer's "installment obligation" to make future payments to you can be in the form of a deed of trust, note, land contract, mortgage, or other evidence of the buyer's debt to you. The rules discussed in this chapter apply regardless of the form of the installment obligation.

Topics

This chapter discusses:

- ☒ Installment method
- ☒ Figuring installment income
- ☒ Payments received
- ☒ Installment sale of a farm

Useful Items

You may want to see:

Publication

- 523** Selling Your Home
- 537** Installment Sales

Form (and Instructions)

- 6252** Installment Sale Income

See chapter 21 for information about getting these publications and the form.

Installment Method

An installment sale is a sale of property, except for inventory, where you receive at least one payment after the close of the tax year of the sale. A cash basis farmer who is not required to maintain an inventory can use the installment method to report gain from the sale of property used or produced in farming.

TIP *If you finance the buyer's purchase of your property, instead of having the buyer get a loan or mortgage from a third party, you probably have an installment sale. It is not an installment sale if the buyer borrows the money from a third party and then pays you the total selling price.*

You generally report your gain on an installment sale as you actually receive payment. Each payment consists of three parts:

- 1) Interest income.
- 2) Return of your adjusted basis in the property.
- 3) Gain on the sale.

You are taxed only on the part of each payment that represents interest and your gain on the sale. In this way, the installment method of reporting income relieves you of paying tax on income you have not yet collected. However, when reporting a sale of depreciable property, you must include any depreciation or amortization recapture income (up to the amount of gain) in income for the year of the sale. Any remaining gain can be reported on the installment method.

Sale at a loss. If your sale results in a loss, you cannot use the installment method. If the loss is on an installment sale of business assets, you can deduct it only in the tax year

of sale. You cannot deduct a loss on the sale of property owned for personal use.

Form 6252. Each year, including the year of sale, report your income from an installment sale on Form 6252. Attach this form to your tax return.

Disposition of installment obligation. If you sell or discount an installment obligation, you generally have a gain or loss to report. It is considered gain or loss on the sale of the property for which you received the installment obligation. If this takes place during the year of sale, report your entire gain on your return for that year. You do not have an installment sale. If it takes place in a later year, you may have a disposition of an installment obligation.

Cancellation. If an installment obligation is canceled or otherwise becomes unenforceable, it is treated as a disposition other than a sale or exchange. Your gain or loss is the difference between your basis in the obligation and its fair market value at the time you cancel it. (A reduction in the selling price changes the gross profit and gross profit percentage.)

Transfer due to death. The transfer of an installment obligation (other than to the buyer) as a result of the death of the seller (or other holder of the obligation) is not a disposition. Any unreported gain from the installment obligation is not treated as gross income to the decedent. No income is reported on the decedent's return due to the transfer. This means whoever receives the obligation as a result of the seller's death is taxed on the installment payments the same as the seller would have been if the seller had lived to receive the payments.

However, if the installment obligation is canceled, becomes unenforceable, or is transferred to the buyer, it is a disposition. The estate must figure gain or loss on the disposition.

More information. For more information on the disposition of an installment obligation, see Publication 537.

Inventory. The sale of farm inventory items cannot be reported on the installment method. All gain or loss on their sale must be reported in the year of sale, even if you are paid in later years. However, if you are a cash basis farmer and are not required to maintain an inventory, you may be able to use the installment method to report the sale of property you use or produce in your farming business. For a definition of farm inventory, see *Farm Inventory* in chapter 3.

If inventory items are included in an installment sale, you may have an agreement stating which payments are for inventory and which are for the other assets being sold. If you do not, each payment must be allocated between the inventory and the other assets sold.

Electing out. You are required to use the installment method to report an installment sale unless you elect not to use that method. If you make the election, you generally report the entire gain in the year of sale, even though you will not be paid all of the selling price in that year. You then do not report any gain from the payments you receive in later years.

To make this election, do not report your sale on Form 6252. Instead, report it on Schedule D (Form 1040) or Form 4797, whichever applies.

When to elect out. Make this election by the due date, including extensions, for filing your tax return for the year the sale takes place. Once made, the election generally cannot be revoked.

You may qualify for an automatic extension of six months from the due date of the return, **excluding extensions**, to make this election. See Revenue Procedure 92-85 for more information.

More information. See *Electing Out of Installment Method* in Publication 537 for more information on electing out of the installment method.



You must continue to report the interest income on payments you receive for subsequent years.

Figuring Installment Income

Each payment on an installment sale usually consists of three parts:

- 1) Interest income.
- 2) Return of your adjusted basis in the property.
- 3) Gain on the sale.

Each year you receive a payment, you include the interest part in income, as well as the part that is your gain on the sale. You do not include in income the part that is the return of your adjusted basis in the property.

Interest income. You must report interest as ordinary income. Interest is generally not included in a down payment. However, you may have to treat part of each later payment as interest, even if it is not called interest in your agreement with the buyer. See *Unstated interest*, later.

Return of basis and gain on sale. The rest of each payment is treated as if it were made up of two parts. One part is a tax-free return of your adjusted basis in the property. The other part is your gain.



Figuring gain part of payment. To figure what part of any payment is gain, multiply the payment (less interest) by the gross profit percentage. Completing the following worksheet gives you the gross profit percentage.

1) Selling price	_____
2) Installment sale basis:	
Adjusted basis of property ...	_____
Selling expenses	_____
Depreciation recapture	_____
3) Gross profit (line 1 – line 2)	_____
4) Contract price	_____
5) Gross profit percentage (line 3 ÷ line 4)	_____

Selling price. The selling price is the total cost of the property to the buyer. It includes any money and the fair market value of any property you are to receive. It also includes any debt the buyer pays, assumes, or takes the property subject to. The debt could be a note, mortgage, or any other liability, such as a lien, accrued interest, or taxes you owe on the property. If the buyer pays any of your selling expenses for you, that amount is also included in the selling price. The selling price

does not include interest, whether stated or unstated.

Installment sale basis. The adjusted basis plus selling expenses and depreciation recapture income is referred to in this chapter as the installment sale basis.

Adjusted basis. Basis is a way of measuring your investment in the property you are selling. The way you figure basis depends on how you first acquired the property. The basis of property you bought is often its cost to you. The basis of property you inherited, received as a gift, built yourself, or received in a tax-free exchange is figured differently. See chapter 7 for information on determining basis.

While you own personal-use property, various events may change your original basis in the property. Some events, such as adding rooms or making permanent improvements, increase basis. Others, such as damage from deductible casualty losses or depreciation allowed or allowable, decrease basis. The result is adjusted basis.

Selling expenses. Selling expenses are any expenses that relate to the sale of the property. They include commissions, attorney fees, and any other expenses paid on the sale. Selling expenses are added to the basis of the sold property.

Depreciation recapture. If you took depreciation deductions on the asset, part of the gain on the sale of the asset may be recaptured as ordinary income. See *Sale of depreciable property*, later.

Gross profit. For an installment sale, gross profit is the total gain you report on the installment method.

To figure your gross profit, subtract your installment sale basis from the selling price. If the property you sold was your home, subtract from the gross profit any gain you can postpone or exclude.

Contract price. The contract price is the total of all principal payments you are to receive on the installment sale. It includes payments you are considered to receive, even though you are not paid anything directly. See *Payments Received*, later.

If part of the selling price is paid in cash and you hold a mortgage payable from the buyer to you for the remainder, then the contract price equals the selling price.

Gross profit percentage. A certain percentage of each payment (after subtracting interest) is reported as gain from the sale. It is called the "gross profit percentage" and is figured by dividing your gross profit from the sale by the contract price.

The gross profit percentage generally remains the same for each payment you receive. However, see *Selling price reduced*, later, for an example of changing the gross profit percentage.

Example. You sell property at a contract price of \$200,000. The property has an adjusted basis of \$150,000. Your gross profit is \$50,000. Your gross profit percentage is 25% (\$50,000 ÷ \$200,000). After subtracting interest, 25% of each payment, including the down payment, is reported as gain from the sale for the tax year the payment is received.

Amount to include in income. Each year you receive a payment on the installment sale, multiply the payment (less interest) by the gross profit percentage to determine the amount you must include in income for the tax year.

Sale of depreciable property. You cannot use the installment method to report any depreciation recapture income up to the gain on the sale. Any remaining gain can be reported on the installment method.

Figure your depreciation recapture income (including the section 179 deduction and the section 179A deduction recapture) in Part III of Form 4797. Report the depreciation recapture income in Part II of Form 4797 as ordinary income in the year of sale.

For more information on the section 179 deduction, see *Section 179 Deduction* in chapter 8. For more information on the section 179A deductions, see chapter 15 in Publication 535. For more information on depreciation recapture, see *Depreciation Recapture* in chapter 11.

Selling price reduced. If the selling price is reduced at a later date, the gross profit on the sale will also change. You must then refigure your gross profit percentage for the remaining payments. Refigure your gross profit using the reduced sale price and then subtract the gain already reported. Spread the remaining gain evenly over the remaining installments. You cannot go back and refigure the gain you reported in earlier years.

Example. In 1995, you sold land with a basis of \$40,000 for \$100,000. Your gross profit was \$60,000. You received a \$20,000 down payment and the buyer's note for \$80,000. The note provides for four annual payments of \$20,000 each, plus 12% interest, beginning in 1996. Your gross profit percentage is 60%. You reported a gain of \$12,000 on each payment received in 1995 and 1996. In 1997, you and the buyer agreed to reduce the purchase price to \$85,000 and the payments for 1997, 1998, and 1999 are reduced to \$15,000 for each year.

The new gross profit percentage, 46.67%, is figured as follows. You will report a gain of \$7,000 on each of the \$15,000 installments due in 1997, 1998, and 1999.

1) Reduced selling price	\$85,000
2) Minus: Basis	<u>40,000</u>
3) Adjusted gross profit	\$45,000
4) Minus: Gain reported in 1995 & 1996 ..	<u>24,000</u>
5) Gain to be reported	<u>\$21,000</u>
6) Selling price to be received:	
Reduced selling price	\$85,000
Minus: Payments received	
in 1995 and 1996	<u>40,000</u>
	<u>\$45,000</u>
7) New gross profit percentage	
(line 5 ÷ line 6)	<u>46.67%</u>

Sale to related person. Special rules apply to an installment sale between related persons. Spouses, children, grandchildren, brothers, sisters, and parents are all considered related persons. A partnership or corporation in which you have an interest, or an estate or trust with which you have a connection, can also be considered a related person.

For information on these rules, see *Sale to Related Person* in Publication 537.

Trading for like-kind property. If you trade business or investment property for the same kind of property, you can postpone reporting part of the gain. See *Nontaxable Like-Kind Exchanges* in chapter 10 for a discussion of like-kind property.

If the trade includes an installment obligation, the following rules apply.

- 1) The contract price is reduced by the fair market value of the like-kind property received in the trade.

- 2) The gross profit is reduced by any gain on the trade that can be postponed.
- 3) Like-kind property received in the trade is not considered payment on the installment obligation.

Payments Received Including Payments Considered Received

You must figure your gain each year on the payments you receive, or are treated as receiving, from an installment sale. These payments include the down payment and each later payment of principal on the buyer's debt to you.

In certain situations, you are considered to have received a payment, even though the buyer does not pay you directly. These situations arise if the buyer assumes or pays any of your debts, such as a loan, or pays any of your expenses, such as a sales commission.

Buyer assumes expenses. If the buyer assumes and pays any of your expenses related to the sale your property, it is considered a payment to you in the year of sale. Include these expenses in the selling and contract prices when figuring the gross profit percentage.

Buyer assumes mortgage. If the buyer assumes or pays off your mortgage, or otherwise takes the property subject to the mortgage, the following rules apply.

Mortgage less than basis. If the buyer assumes a mortgage that is less than your installment sale basis in the property, it is not considered a payment to you. The contract price equals the selling price minus the mortgage. This difference is all you will directly collect from the buyer.

Example. You sell property with an adjusted basis of \$19,000. You have selling expenses of \$1,000. The buyer assumes your existing mortgage of \$15,000 and agrees to pay you \$10,000 (a cash down payment of \$2,000 and \$2,000 (plus 12% interest) in each of the next 4 years).

The selling price is \$25,000 (\$15,000 + \$10,000). Your gross profit is \$5,000 (\$25,000 - \$20,000 installment sale basis). The contract price is \$10,000 (\$25,000 - \$15,000 mortgage). Your gross profit percentage is 50% (\$5,000 ÷ \$10,000). You report half of each \$2,000 payment received as gain from the sale. You also report all interest you receive as ordinary income.

Mortgage more than basis. If the buyer assumes a mortgage that is more than your installment sale basis in the property, you recover your entire basis. You are also relieved of the obligation to repay the amount borrowed. The part of the mortgage greater than your basis is treated as a payment received in the year of sale. This is in addition to the buyer's other payments.

To figure the contract price, subtract the mortgage from the selling price. This is the total you will actually receive from the buyer. Add to this amount the "payment" you are considered to receive (the difference between the mortgage and your installment sale basis). The contract price is then the same as your gross profit from the sale.

If the mortgage the buyer assumes is equal to or more than your installment sale basis, the gross profit percentage will always be 100%.

Example. The selling price for your property is \$9,000. The buyer will pay you \$1,000 annually (plus 8% interest) over the next 3 years and assumes an existing mortgage of \$6,000. Your basis in the property is \$4,400. You have selling expenses of \$600, for a total installment sale basis of \$5,000. The part of the mortgage that is more than your installment sale basis is \$1,000 (\$6,000 - \$5,000). This amount is included in the contract price and treated as a payment received in the year of sale. The contract price is \$4,000:

Selling price	\$9,000
Minus: Mortgage	<u>(6,000)</u>
Amount actually received	\$3,000
Add difference:	
Mortgage	\$6,000
Less installment sale basis	<u>5,000</u>
	<u>1,000</u>
Contract price	<u>\$4,000</u>

Your gross profit on the sale is also \$4,000:

Selling price	\$9,000
Minus: Installment sale basis	<u>(5,000)</u>
Gross profit	<u>\$4,000</u>

Your gross profit percentage is 100%. Report 100% of each payment as gain from the sale. You also treat the \$1,000 difference between the mortgage and your installment sale basis as a payment and report 100% of it as gain in the year of sale.

Buyer assumes other debts. If the buyer assumes any of your debt, such as a loan or back taxes, it may be considered a payment to you in the year of sale.

If the buyer assumes the debt instead of paying it off, only part of it may have to be treated as a payment. Compare the debt to your installment sale basis in the property being sold. If the debt is less than your installment sale basis, none of it is treated as a payment. If it is more, only the difference is treated as a payment. If the buyer assumes more than one debt, any part of the total that is more than your installment sale basis is considered a payment. These rules are the same as the rules discussed earlier under *Buyer assumes mortgage*. However, they apply to only two types of debts the buyer assumes:

- 1) Those acquired from ownership of the property you are selling, such as a mortgage, lien, overdue interest, or back taxes.
- 2) Those acquired in the ordinary course of your business, such as a balance due for inventory you purchased.

If the buyer assumes any other type of debt, such as a personal loan, it is treated as if the buyer had paid off the debt at the time of the sale. The value of the assumed debt is considered a payment to you in the year of sale.

Payment of property. If you receive property rather than money from the buyer, it is still considered a payment. However, see *Trading for like-kind property*, discussed earlier. The value of the payment is the property's fair market value on the date you receive it.

Fair market value. This is the price at which property would change hands between a buyer and a seller, neither being required to buy or sell, and both having reasonable knowledge of all the necessary facts. If your installment sale fits this description, the value assigned to property in your agreement with the buyer is good evidence of its fair market value.

Third-party note. If the property the buyer gives you is a third-party note (or other obligation of a third party), you are considered to have received a payment equal to the note's fair market value. Because the note is itself a payment on your installment sale, any payments you later receive from the third party are not considered payments on your sale.

Example. You sold real estate in an installment sale. As part of the down payment, the buyer assigned to you a \$5,000, 8% note of a third party. The fair market value of the third-party note at the time of your sale was \$3,000. This amount, not \$5,000, is a payment to you in the year of sale. Because the third-party note had a fair market value equal to 60% of its face value (\$3,000 ÷ \$5,000), 60% of each payment of principal you receive on this note is a return of capital. The remaining 40% is ordinary income. The interest you receive is reported in full as ordinary income.

Bond. A bond or other evidence of debt you receive from the buyer that is payable on demand is treated as a payment in the year you receive it. If you receive a government or corporate bond that has interest coupons attached or that can be readily traded in an established securities market, you are considered to have received payment equal to the bond's fair market value. Accrual basis taxpayers should see Regulations section 15A.453-1(e)(2).

Buyer's note. The buyer's note (unless payable on demand) is not considered payment on the sale. Its full face value is included when figuring the selling price and the contract price. Payments you receive on the note are used to figure your gain in the year you receive them.

Guarantee. If a third party or government agency guarantees the buyer's payments to you on an installment obligation, the guarantee itself is not considered payment.

Deposit. A deposit you receive before the year of sale is treated as a payment in the year of sale if, under the contract, it becomes part of the down payment.

Unstated interest. An installment sale contract generally provides that each deferred payment on the sale will include interest or that there will be an interest payment in addition to the principal payment. Interest provided in the contract is called **stated interest**.

If an installment sale contract with some or all payments due more than one year after the date of sale does not provide for interest, part of each payment due more than 6 months after the date of sale may be treated as interest. The amount treated as interest is referred to as **unstated interest**.

When the stated interest rate in the contract is lower than the applicable federal rate, unstated interest is the difference between

interest figured at the federal rate and any interest figured at the rate specified in the sales contract.

The applicable federal rates are published monthly in the Internal Revenue Bulletin. You can get this information by contacting an IRS office.

Generally, the unstated interest rules do not apply to a debt given in consideration for a sale or exchange of personal-use property. Personal-use property is any property substantially all of the use of which by the buyer is not in a trade or business or an investment activity.

Unstated interest reduces the stated selling price of the property and the buyer's basis in the property. It increases the seller's interest income and the buyer's interest expense.

More information. For more information, see *Unstated Interest* in Publication 537.

Installment Sale of a Farm

The installment sale of a farm for one overall price under a single contract is not the sale of a single asset. It generally includes the sale of real and personal property that can be reported on the installment method. It may also include the sale of farm inventory, which cannot be reported on the installment sale method. See *Inventory*, earlier. The selling price must be allocated to determine the amount received for each class of asset.

The tax treatment of the gain or loss on the sale of each class of assets is determined by its classification as capital asset or property used in the business, and by the length of time held. Separate computations must be made to figure the gain or loss for each class of asset sold. See *Sale of a Farm* in chapter 10.

If you report the sale of property on the installment method, any depreciation recapture under section 1245 or 1250 of the Internal Revenue Code is taxable as ordinary income in the year of sale. This applies even if no payments are received in that year.

Example

On January 3, 1997, you sold your farm, including the equipment and livestock (cattle used for breeding). You received \$50,000 down and the buyer's note for \$200,000. In addition, the buyer assumed an outstanding \$50,000 mortgage on the farm land. The total selling price was \$300,000. The note payments of \$25,000 each, plus adequate interest, are due July 1 and January 1. Your selling expenses were \$15,000.

Adjusted basis and depreciation. The adjusted basis and depreciation claimed on each asset sold are as follows:

Asset	Depreciation Claimed	Adjusted Basis
Home	-0-	\$30,000
Land	-0-	61,250
Buildings	\$31,500	28,500
Truck	3,001	1,499
Equipment	15,811	9,189
Tractor	15,811	9,189
Cattle*	1,977	2,023
Cattle**	19,167	833

* Held less than 2 years

** Held 2 years or more

Gain on each asset. The following schedule shows the assets included in the sale, each asset's selling price based on its respective value, the selling expense allocated to each asset, the adjusted basis of each asset, and the gain on each asset. The selling expense for each asset is 5% of the selling price (\$15,000 selling expense ÷ \$300,000 selling price). The livestock and produce held for sale were sold before the end of 1996 in anticipation of selling the farm. There was no section 179 deduction claimed on any asset.

	Selling Price	Selling Expense	Adjusted Basis	Gain
Home	\$50,000	\$2,500	\$30,000	\$17,500
Land	125,000	6,250	61,250	57,500
Buildings	55,000	2,750	28,500	23,750
Truck	5,000	250	1,499	3,251
Equip.	17,000	850	9,189	6,961
Tractor	23,000	1,150	9,189	12,661
Cattle*	5,000	250	2,023	2,727
Cattle**	20,000	1,000	833	18,167
	<u>\$300,000</u>	<u>\$15,000</u>	<u>\$142,483</u>	<u>\$142,517</u>

* Held less than 2 years

** Held 2 years or more

Depreciation recapture. The buildings are section 1250 property. There is no depreciation recapture income for them because they were depreciated using the straight line method. See chapter 11 for more information on depreciation recapture.

The truck used for hauling is section 1245 property. The entire depreciation of \$3,001 is recapture income because it is less than the gain on the truck. The remaining gain of \$250 can be reported on the installment method.

The equipment and tractor are section 1245 property. The entire gain on each (\$6,961 and \$12,661, respectively) is depreciation recapture income.

The cattle used for breeding and held for less than 2 years are section 1245 property. The gain of \$2,727 is depreciation recapture income to the extent of the depreciation claimed (\$1,977). The remaining gain of \$750 can be reported on the installment method.

The cattle used for breeding and held for more than 2 years are also section 1245 property. Since the gain on the cattle of \$18,167 is less than the depreciation claimed (\$19,167), the total gain is depreciation recapture income.

The total depreciation recapture income reported in Part II of Form 4797 is \$42,767. (This is the sum of: \$3,001 + \$18,167 + \$6,961 + \$12,661 + \$1,977.) Depreciation recapture income is reported as ordinary income in the year of sale.

The part of the gains reported as depreciation recapture income on the truck and the cattle held less than 2 years (\$3,001 and \$1,977) is added to their adjusted basis when making the installment sale computations.

Assets not reported on installment method. In the year of sale, the gain on the cattle held 2 years or more, the equipment, and the tractor is reported in full. Their selling price (\$60,000) is subtracted from the total selling price (\$300,000). The selling price for the assets included in the installment sale is \$240,000.

Installment sale basis and gross profit. The following table shows each asset reported on the installment method, its selling price, "installment sale basis," and gross profit.

	Selling Price	Installment Sale Basis	Gross Profit
Home	\$50,000	\$32,500	\$17,500
Farm land	125,000	67,500	57,500
Buildings	55,000	31,250	23,750
Truck	5,000	4,750	250
Cattle*	5,000	4,250	750
	<u>\$240,000</u>	<u>\$140,250</u>	<u>\$99,750</u>

* Held less than 2 years

Section 1231 gains. Since the ordinary income part of the gain on the truck is reported in the year of sale, the remaining gain (\$250) and the gain on the land and buildings are reported as section 1231 gains. The cattle held for less than 2 years do not qualify for section 1231 treatment. The \$750 gain on their sale is reported as ordinary income as payments are received. See *Section 1231 Gains and Losses* in chapter 11.

Contract price and gross profit percentage. The contract price is \$190,000 for the part of the sale reported on the installment method. This is the selling price (\$300,000) minus the mortgage assumed (\$50,000) minus the selling price of the assets with gains fully reported in the year of sale (\$60,000).

Gross profit percentage for the sale is 52.5% (\$99,750 gross profit ÷ \$190,000 contract price). The gross profit percentage for each asset is figured as follows:

	Percent
Home (\$17,500 ÷ \$190,000)	9.2105
Farm land (\$57,500 ÷ \$190,000)	30.2632
Buildings (\$23,750 ÷ \$190,000)	12.5000
Truck (\$250 ÷ \$190,000)	0.1316
Cattle* (\$750 ÷ \$190,000)	<u>0.3947</u>
Total	<u>52.5000</u>

* Held less than 2 years

Figuring the gain to report on the installment method. Only 76% of each payment is reported on the installment method [\$190,000 contract price ÷ \$250,000 to be received on the sale (\$300,000 selling price - \$50,000 mortgage assumed)]. The total amount received on the installment sale in 1997 is \$75,000 (\$50,000 down payment + \$25,000 payment on July 1). The installment sale part of the total 1997 payments is \$57,000 (\$75,000 × .76). Figure the gain to report for each asset by multiplying its gross profit percentage times \$57,000.

	Income
Home—9.2105% × \$57,000	\$5,250
Farm land—30.2632% × \$57,000	17,250
Buildings—12.5% × \$57,000	7,125
Truck—0.1316% × \$57,000	75
Cattle*—0.3947% × \$57,000	<u>225</u>
Total installment income for 1997	<u>\$29,925</u>

* Held less than 2 years

Reporting the sale. Report the installment sale on Form 6252. Then report the amounts from Form 6252 on Form 4797 and Schedule

D (Form 1040). Attach a separate page to Form 6252 that shows the computations in the example.

Gain on home. Enter the \$5,250 gain on the sale of your home on Schedule D as a long-term capital gain unless you can exclude the gain. See *Sale of your home* in chapter 10. Different rules apply if you sold your home after May 6, 1997.

Section 1231 gains. The gains on the land, buildings, and truck are section 1231 gain and may be reported as capital or ordinary gain when combined with certain other gains and losses.

Depreciation recapture and gain on cattle. In the year of sale, you must report the total depreciation recapture income on Form 4797. The \$225 gain on the cattle held less than 2 years is ordinary income reported in Part II of Form 4797. See *Table 11-1* in chapter 11.

Installment income for years after 1997. You figure installment income for the years after 1997 by applying the same gross profit percentages to the payments you receive each year. If you receive \$50,000 during the year, \$38,000 is considered received on the installment sale (76% × \$50,000). You realize income as follows:

	Income
Home—9.2105% × \$38,000	\$3,500
Farm land—30.2632% × \$38,000	11,500
Buildings—12.5% × \$38,000	4,750
Truck—0.1316% × \$38,000	50
Cattle*—0.3947% × \$38,000	<u>150</u>
Total installment income	<u>\$19,950</u>

* Held less than 2 years

For each year you receive payments on the sale, you will report the gain on the sale of your home as long-term capital gain unless you can postpone or exclude it. You will report the gain on cattle held less than 2 years as ordinary income. You will combine your section 1231 gains with certain other gains and losses in each of the later years to determine whether to report them as ordinary or capital gains. The interest received with each payment will be included in full as ordinary income.

Summary. The installment income (rounded to the nearest dollar) from the sale of the farm is reported as follows:

Selling price	\$240,000
Minus: Installment basis	<u>140,250</u>
Gross profit	<u>\$99,750</u>
Gain reported in 1997 (year of sale)	\$29,925
Gain reported in 1998:	
\$38,000 × 52.50%	19,950
Gain reported in 1999:	
\$38,000 × 52.50%	19,950
Gain reported in 2000:	
\$38,000 × 52.50%	19,950
Gain reported in 2001:	
\$19,000 × 52.50%	<u>9,975</u>
Total gain reported	<u>\$99,750</u>

13.

Casualties, Thefts, and Condemnations

Important Changes

Weather-related sales of livestock. Sales or exchanges of livestock after 1996 because of flood or other weather-related conditions may qualify for special tax treatment. Previously, only sales or exchanges due to drought conditions qualified. See *Weather-related sales of livestock* later under *Other Involuntary Conversions*.

Postponing gain on involuntary conversions. You cannot postpone reporting gain on an involuntary conversion occurring after June 8, 1997, if you acquire replacement property or stock from a related party and your total realized gain from involuntary conversions during the year is more than \$100,000. For more information, see Publication 553, *Highlights of 1997 Tax Changes*.

Introduction

A **casualty** occurs when property is damaged, destroyed, or lost due to a sudden, unexpected, or unusual event. A **theft** occurs when property is stolen. A **condemnation** occurs when private property is legally taken for public use without the owner's consent. A casualty, theft, or condemnation may result in a deductible loss or taxable gain on your federal income tax return.

An **involuntary conversion** occurs when you receive money or other property, as reimbursement for a casualty, theft, condemnation, disposition of property under threat of condemnation, or certain other events discussed in this chapter.

If an involuntary conversion results in a gain, you can postpone recognition of the gain on your income tax return if you receive or buy qualified replacement property within the specified replacement period. For more information, see *Postponing Gain*, later.

Topics

This chapter discusses:

- ☞ Casualties and thefts
- ☞ How to figure gain or loss
- ☞ Other involuntary conversions
- ☞ Postponing gain
- ☞ Reporting gains and losses

Useful Items

You may want to see:

Publication

- 536** Net Operating Losses
- 544** Sales and Other Dispositions of Assets
- 547** Casualties, Disasters, and Thefts (Business and Nonbusiness)
- 584** Nonbusiness Disaster, Casualty, and Theft Loss Workbook

Form (and Instructions)

- Sch A (Form 1040)** Itemized Deductions
- Sch D (Form 1040)** Capital Gains and Losses
- Sch F (Form 1040)** Profit or Loss From Farming
- 4684** Casualties and Thefts
- 4797** Sales of Business Property

See chapter 21 for information about getting these publications and forms.

Casualties and Thefts

If your property is destroyed, damaged, or stolen, you may have a deductible loss. If the insurance or other reimbursement is more than the adjusted basis of the destroyed, damaged, or stolen property, you may have a taxable gain.

Casualty. A casualty is the damage, destruction, or loss of property resulting from an identifiable event that is sudden, unexpected, or unusual.

Events that may cause casualty damage, destruction, or loss include the following.

- 1) Fire, flood, storm, lightning, freezing, earthquake, shipwreck, airplane crash, hurricane, and similar occurrences.
- 2) Car or truck accidents not resulting from your willful act or willful negligence.

Progressive deterioration. Loss of property due to progressive deterioration is not deductible as a casualty loss. This is because the damage results from a steadily operating cause or a normal process, rather than from a sudden event. Examples of damage due to progressive deterioration include damage from rust, corrosion, or termites. However, drought or disease may cause another type of involuntary conversion. See *Other Involuntary Conversions*, later.

Theft. A theft is the taking and removing of money or property with the intent to deprive the owner of it. The taking of your property must be illegal under the law of the state where it occurred and it must have been done with criminal intent.

Theft includes the taking of money or property by blackmail, burglary, embezzlement, extortion, kidnapping for ransom, larceny, robbery, and threats.

Misrepresentation, however, is not a theft.

Example. You bought a farm. The seller assured you that a well produced adequate water, but the well went dry after you took

possession. You do not have a deductible theft loss.

Farming Losses

Certain casualty or theft losses that occur in the business of farming are deductible losses. The following is a discussion of some losses you can deduct and some you cannot deduct.

Livestock or produce purchased for sale.

Losses of livestock or produce bought for sale are deductible if you report your income on the cash method. If you report on an accrual method, take casualty and theft losses on property bought for sale by omitting the item from the closing inventory for the year of the loss. You cannot take a separate deduction.

Livestock, plants, produce, and crops raised for sale. Losses of livestock, plants, produce, and crops raised for sale are generally not deductible if you report on the cash method. You have already deducted the cost of raising these items as farm expenses.

For plants with a preproductive period of more than 2 years, you may have a deductible loss if you have a tax basis in the plants. You usually have a tax basis if you capitalized the expenses associated with these plants under the uniform capitalization rules. The uniform capitalization rules are discussed in chapter 7.

If you report on an accrual method, a casualty or theft loss is deductible only if you included the items in your inventory at the beginning of your tax year. You get the deduction by omitting the item from your inventory at the close of your tax year. You cannot take a separate deduction.

Loss of tree seedlings. If, because of an abnormal drought, the failure of planted tree seedlings is greater than normally anticipated, you may have a deductible casualty loss. The loss equals the previously capitalized reforestation costs you had to duplicate on replanting. You deduct the loss on the return for the year the seedlings died.

Income loss. A loss of future income is not deductible.

Example. An ice storm damaged your standing timber by reducing its rate of growth and its quality. The storm did not cause any physical damage, but you determined that the timber will sell for less than you anticipated because of the reduced growth rate and quality. The loss of future income is not deductible.

Loss of timber. If you sell timber downed by a casualty, treat the proceeds from the sale as a reimbursement. If you use the proceeds to buy qualified replacement property, you can postpone reporting the gain. See *Postponing Gain*, later.

Property used in farming. Casualty and theft losses of property used in the farm business usually result in deductible losses. If a fire or storm destroyed your barn, or you lose by casualty or theft an animal you bought for draft, breeding, dairy, or sport, you may have a deductible loss. See *How To Figure a Loss*, discussed later.

Raised draft, breeding, dairy, or sporting animals. Generally, losses of raised draft, breeding, dairy, or sporting animals do not result in deductible casualty or theft losses because you have no basis in the animals. However, you may be able to claim a deduction if either of the following situations applies to you.

- 1) You use inventories to determine your income and you included the animals in your inventory.
- 2) You did not elect out of the uniform capitalization rules and therefore have a tax basis in the animals that were subject to a casualty or theft.

When you include livestock in inventory, its last inventory value is its basis. This is true of both raised and purchased inventoried animals. When an inventoried animal held for draft, breeding, dairy, or sport is lost by casualty or theft during the year, decrease ending inventory by the value at which you included the animal in inventory. Use this inventory value, the basis of the animal, to determine your gain or loss. See Schedule D (Form 1040) or Form 4797.

How To Figure a Loss

How you figure the deductible casualty loss depends on whether the loss was to business or personal use property and whether the property was partly or completely destroyed.

Farm property. Farm property is the property you use in your farming business. If the property was *partially* damaged, use the steps given next under *Personal use property* to figure your casualty loss, but do *not* apply the deduction limits. If your farm property was completely destroyed or stolen, your casualty or theft loss is the adjusted basis of your property (discussed in chapter 7) minus any salvage value and insurance or other reimbursement you receive or expect to receive. Do not consider any decrease in fair market value.

Personal use property. Personal use property is property used by you or your family members for personal use. You figure the amount of your casualty or theft loss on this property by using the following steps.

- 1) Determine your **adjusted basis** in the property before the casualty or theft.
- 2) Determine the **decrease in fair market value** of the property as a result of the casualty or theft.
- 3) Your loss, before applying deduction limits, is the smaller of (1) or (2) minus any **insurance or other reimbursement** you receive or expect to receive.

You must apply the deduction limits, discussed later, to determine your deductible loss.



Publication 584 is available to help you make a list of your damaged goods and figure your loss. It includes schedules to help you figure the loss on your home and its contents, and on your motor vehicles.

Adjusted basis. Adjusted basis is your basis (usually cost) increased or decreased by various events, such as improvements and casualty losses. For more information about adjusted basis, see chapter 7.

Decrease in fair market value (FMV). The decrease in FMV is the difference between the property's value immediately before the casualty or theft and its value immediately afterward. FMV is defined in chapter 12.

Cost of cleaning up or making repairs. The cost of repairing damaged property is not part of a casualty or theft loss. Neither is the cost of cleaning up after a casualty. But you can use the cost of cleaning up or of making repairs after a casualty as a measure of the decrease in FMV if you meet all the following conditions.

- 1) The repairs are necessary to bring the property back to its condition before the casualty.
- 2) The amount spent for repairs is not excessive.
- 3) The repairs take care of the damage only.
- 4) The value of the property after the repairs is not, due to the repairs, more than the value of the property before the casualty.

More than one item of property. If more than one item of property is stolen or is damaged or destroyed by a casualty, you must figure your loss separately for each item of property. For example, if damage occurs to a farm building and to an orchard, both of which are part of the same realty, determine the decrease in FMV by taking them into account separately.



There is an exception for real property held for personal use. See Personal use real property later.

Example. A fire on your farm damaged a tractor and the barn in which it was stored. The tractor had an adjusted basis of \$3,300. Its FMV was \$2,800 just before the fire and \$1,000 immediately afterward. The barn had an adjusted basis of \$8,000. Its FMV was \$25,000 just before the fire and \$15,000 immediately afterward. You received insurance of \$600 on the tractor and \$6,000 on the barn. Figure your deductible casualty loss separately for the two items of property.

	Tractor	Barn
1) Adjusted basis	\$3,300	\$8,000
2) FMV before fire	\$2,800	\$25,000
3) FMV after fire	1,000	15,000
4) Decrease in FMV (2 minus 3) ..	\$1,800	\$10,000
5) Loss (lesser of 1 or 4)	\$1,800	\$8,000
6) Minus: Insurance	600	6,000
7) Deductible casualty loss	\$1,200	\$2,000

Personal use real property. In figuring the loss to personal use real property and improvements, consider all the improvements, such as buildings and ornamental trees, as part of one property, and figure only a single loss for the one property.

Example. You bought a farm in 1958 for \$20,000. The adjusted basis of the residential part is \$6,000. In 1997, a windstorm blew down shade trees and three ornamental trees planted at a cost of \$600 on the residential part. \$600 is included in the adjusted basis of the residential part. The fair market value (FMV) of the residential part immediately be-

fore the storm was \$30,000, and \$26,000 immediately after the storm. The trees were not covered by insurance.

1) Adjusted basis	\$6,000
2) FMV before the storm	\$30,000
3) FMV after the storm	26,000
4) Decrease in FMV (2 minus 3)	\$4,000
5) Loss before insurance (lesser of 1 or 4)	\$4,000
6) Minus: Insurance	-0-
7) Amount of loss	\$4,000

Items not included with deductible losses. The following are not deductible as casualty or theft losses.

- 1) Expenses related to a casualty or theft of property, such as temporary housing, car rental, lights and fuel, or moving expenses. (However, if the expense is related to your business, it may be a deductible business expense.)
- 2) Cost of repairing, replacing, or cleaning up after a casualty. But see *Cost of cleaning up or making repairs*, earlier.
- 3) Expenses because of injury to yourself or other persons.
- 4) Loss from mislaid cash or property.
- 5) Damage by rust or erosion.

Insurance and other reimbursements. If you receive insurance or another type of reimbursement, you must subtract the reimbursement when you figure your loss. You do not have a casualty or theft loss to the extent you are reimbursed.



Do not subtract insurance payments for living expenses. You may have to include these in your income. See Publication 547 for details.

If there is a reasonable prospect you will be reimbursed for part or all of your loss, you must subtract the expected reimbursement when you figure your loss. You must reduce your loss even if you do not receive payment until a later tax year.

Reimbursement in a later year. If you figured your casualty or theft loss using your expected reimbursement, you may have to adjust the tax return for the tax year in which you get your actual reimbursement.

If you later receive **less reimbursement** than you expected, you include that difference as a loss with your other losses (if any) on your return for the year in which you can reasonably expect no more reimbursement.

If you receive **more reimbursement** than you expected after you have claimed a deduction for the loss, you may have to include the extra reimbursement in your income for the year you receive it. However, if any part of your original deduction did not reduce your tax for the earlier year, do not include that part of the reimbursement in your income. You do not refigure your tax for the year you claimed the deduction.



If the total of all the reimbursements you receive is more than your adjusted basis in the destroyed or stolen property, you will have a gain on the casualty or theft. Get Publication 547 for more information on how to treat a gain from the reimbursement of a casualty or theft.

If you receive **exactly** the reimbursement you expected to receive, you do not have any amount to include in your income or any loss to deduct.

Lump-sum reimbursement. If you have a casualty or theft loss of several assets at the same time without an allocation of reimbursement to specific assets, divide the lump-sum reimbursement among the assets according to the fair market value of each asset at the time of the loss. Figure the gain or loss separately for each asset that has a separate basis.

Adjustments to basis. If your property is partly or totally destroyed by casualty and you are compensated for the loss by insurance or other reimbursement, decrease the basis of the property by the insurance or other reimbursement received. The insurance or reimbursement represents a return of part or all of the capital you invested in the property.

If a casualty to property results in a deductible loss, in addition to decreasing its basis by the insurance, also decrease the basis by the deductible loss. Increase the basis by any amounts spent to rebuild or restore the property.

Deduction Limits on Losses of Personal Use Property

Casualty and theft losses of property held for personal use may be deductible on your federal income tax return, if you itemize deductions on Schedule A (Form 1040).

There are two limits on the amount you can deduct for your casualty or theft loss of personal use property. You figure these limits on Form 4684.

\$100 rule. You must reduce each casualty or theft loss by \$100. This \$100 rule applies after you have subtracted any reimbursement.

10% rule. You must further reduce the total of all your losses by 10% of your adjusted gross income. This is the amount on line 32 of Form 1040.

Example. In June, you discovered that your house was burglarized. This was your only casualty or theft loss during the year. Your theft loss after insurance reimbursement was \$2,000. Your adjusted gross income was \$29,500. To figure your deduction, first apply the \$100 rule and then the 10% rule. Your loss after applying the \$100 rule is \$1,900 (\$2,000 - \$100). After you apply the 10% rule, you do not have a casualty or theft loss deduction because your loss (\$1,900) is less than 10% of your adjusted gross income (\$2,950).



If you have a casualty or theft gain in addition to a loss, you will have to make a special computation to figure your 10% limit. See 10% Rule in Publication 547.

When Loss Is Deductible

Casualty losses are generally deductible only in the year in which they occur. Theft losses are generally deductible only in the year they are discovered. However, see *Disaster area losses*, later.

Leased property. If you lease property from someone else, you can deduct a loss on the property in the year your liability for the loss is fixed, not the year it is paid. You are not entitled to a deduction until your liability under the lease is ascertainable with reasonable

accuracy. Your liability can be ascertained with reasonable accuracy when a claim for recovery is settled, adjudicated, or abandoned.

Net operating loss (NOL). If your deductions, including casualty or theft loss deductions, are more than your income for the year, you may have an NOL. An NOL can be carried back or carried forward and deducted from income in other years. See chapter 5.

Disaster area losses. If you have a deductible loss from a disaster in an area declared by the President of the United States to be eligible for federal disaster assistance, you can choose to deduct that loss on your return or amended return for the immediately preceding tax year. If you do this, consider this loss as occurring in the preceding year.

Make the election to deduct the loss in the preceding year by the later of:

- 1) The due date (without extensions) of your tax return for the year the disaster occurred, or
- 2) The due date (with extensions) of the preceding year's return.

For more information about disaster area losses, see Publication 547.

Proof of Loss

To take a deduction for a casualty or theft loss, you must be able to show that there was a casualty or theft, and support the amount deducted.

Casualty. For a casualty, you should be able to show:

- 1) The type of casualty (car accident, fire, storm, etc.) and when it occurred,
- 2) That the loss was a direct result of the casualty, and
- 3) That you were the owner of the property or, if you leased the property from someone else, that you were contractually liable to the owner for the damages.

Theft. For a theft, you should be able to show:

- 1) When you discovered that your property was missing,
- 2) That your property was stolen, and
- 3) That you were the owner of the property.

How To Figure a Gain

You have a gain from a casualty or theft if your reimbursement is more than the adjusted basis of the damaged, destroyed, or stolen property. Use the adjusted basis to figure your gain even if the decrease in FMV of your property is smaller. Reduce your gain by your expenses to collect the reimbursement. However, you can postpone reporting the gain if you acquire qualified replacement property, as explained later under *Postponing Gain*.

Example. A tornado severely damaged your barn. The adjusted basis of the barn was \$2,500. Your insurance company reimbursed you \$4,000 for the damaged barn. However, you had legal expenses of \$200 to collect that insurance. Since your insurance minus your

expenses to collect the insurance is more than your adjusted basis in the barn, you have a gain.

1) Adjusted basis	\$2,500
2) Insurance received	4,000
3) Gain (2 minus 1)	\$1,500
4) Minus: Expenses to collect insurance ...	200
5) Gain on casualty	<u>\$1,300</u>

Other Involuntary Conversions

In addition to casualties and thefts, there are other events that cause involuntary conversions of property. Some of these are described in the following paragraphs.

Condemnation

Condemnation is the process by which private property is legally taken for public use without the owner's consent. The property may be taken by the federal government, a state government, a political subdivision, or a private organization that has the power to legally take property. The owner receives a condemnation award (money or property) in exchange for the property taken. A condemnation is like a forced sale, the owner being the seller and the condemning authority being the buyer.

For information on how to figure the gain or loss on condemned property, see chapter 1 in Publication 544. Also see *Postponing Gain*, later to find out if you can postpone reporting the gain.

Threat of condemnation. Treat the sale of your property under threat of condemnation as a condemnation.

Personal residence. You can choose to treat the condemnation of your personal residence as an involuntary conversion (a forced sale) or a voluntary sale. See chapter 10.

Irrigation project. Property located within an irrigation project sold or otherwise disposed of to conform to the acreage limits of federal reclamation laws is a condemnation.

Livestock Losses

Diseased livestock. If livestock die from disease, or are destroyed, sold, or exchanged because of disease, even though the disease is not of epidemic proportions, treat these occurrences as involuntary conversions. If the livestock was raised or purchased for resale, follow the rules for livestock discussed earlier under *Farming Losses*. Otherwise, figure the gain or loss from these conversions using the rules discussed under *Determining Gain or Loss* in chapter 10. If you replace the livestock, you may be able to postpone reporting the gain. See *Postponing Gain*, later.

Weather-related sales of livestock. When you sell or exchange livestock (other than poultry) held for draft, breeding, or dairy purposes solely because of drought, flood, or other weather-related conditions, treat the sale or exchange as an involuntary conversion. Only livestock sold in excess of the number you normally would sell under usual business practice, in the absence of weather-related conditions, are considered

involuntary conversions. Figure the gain or loss using the rules discussed under *Determining Gain or Loss* in chapter 10. If you replace the livestock, you may be able to postpone reporting the gain. See *Postponing Gain*, later.

Example. Under usual business practice you sell five of your dairy animals during the year. This year you sold 20 dairy animals because of drought. The sale of 15 animals is treated as an involuntary conversion.

TIP If the sale or exchange of livestock does not qualify as an involuntary conversion, you may be able to report the gain in the following year's income. This rule also applies to poultry. See *Sales Caused by Weather-Related Conditions* in chapter 4.

Reporting weather-related sales of livestock. When you sell or exchange livestock held for draft, breeding, or dairy purposes because of weather-related conditions and you choose to postpone the gain, as discussed next under *Postponing Gain*, show the following information on a statement attached to your return for the tax year in which you first realize any of the gain.

- 1) Evidence of the weather-related conditions that forced the sale or exchange of the livestock.
- 2) The gain realized on the sale or exchange.
- 3) The number and kind of livestock sold or exchanged.
- 4) The number of livestock of each kind you would have sold or exchanged under your usual business practice.

Show the following information on the return for the year in which you replace the livestock.

- 1) The date you bought replacement livestock.
- 2) The cost of the replacement livestock.
- 3) The number and kind of the replacement livestock.

Postponing Gain

You can choose to postpone reporting the gain if you acquire replacement property that is similar or related in service or use to your involuntarily converted property within a specific replacement period.

To postpone all the gain, the cost of your replacement property must be at least as much as the reimbursement you receive. If the cost of the replacement property is less than the reimbursement, include the gain in your income up to the amount of the unspent reimbursement.

Replacement Property

You must buy replacement property for the specific purpose of replacing your property. Your replacement property must be similar or related in service or use to the property it replaces. You do not have to use the actual reimbursement, award, or sales proceeds from your old property to acquire the replacement property. If you spend the money you receive for other purposes and borrow

money to buy replacement property, you can still choose to postpone the gain if you meet the other requirements. Property or stock you acquire by gift or inheritance does not qualify as replacement property.

Owner-user. If you are an owner-user, the term “similar or related in service or use” means that replacement property must function in the same way as the property it replaces. Examples of property that functions in the same way as the property it replaces are a home that replaces another home and farm land that replaces other farm land. A passenger automobile that replaces a tractor does not qualify.

Soil or environmental contamination. If, because of soil or environmental contamination, it is not practical for you to reinvest your insurance money from destroyed livestock in property similar or related in service or use to the livestock, you can treat other property, including real property used for farming purposes, as property similar or related in service or use to the destroyed livestock.

Standing crop destroyed by casualty. If a storm or other casualty destroyed your standing crop and you use the insurance money to acquire either another standing crop or a harvested crop, this purchase qualifies as replacement property. The cost of planting a new crop does not qualify as a replacement for the destroyed crop, unless you use the crop method of accounting (discussed in chapter 4). In this case, the costs of bringing the new crop to the same level of maturity as the destroyed crop qualify as replacement costs.

Timber downed by casualty. Treat the money you receive from the sale of timber downed by a casualty, such as high winds, earthquakes, or volcanic eruptions, as a reimbursement. If you use that money to buy qualified replacement property (other standing timber) within the replacement period, you can postpone reporting the gain.

Business or income-producing property located in a federal disaster area. If your destroyed business or income-producing property was located in a federally declared disaster area, **any** tangible replacement property you acquire for use in a business is treated as similar or related in service or use to the destroyed property. This rule applies to property located in areas that were declared federal disaster areas after December 31, 1994, in tax years ending after that date. For more information, see *Disaster Area Losses* in Publication 547.

Replacement Period

To postpone reporting your gain from an involuntary conversion, you must buy replacement property within a specified period of time. This is the replacement period.

The replacement period begins on the date your property was damaged, destroyed, stolen, sold, or exchanged. The replacement period **ends 2 years** after the close of the first tax year in which you realize any part of your gain from the involuntary conversion.

Condemnation. The replacement period for a condemnation begins on the earlier of:

- 1) The date on which you disposed of the condemned property, or
- 2) The date on which the threat of condemnation began.

The replacement period **ends 2 years** after the close of the first tax year in which any part of the gain on the condemnation is realized.

If real property held for use in a trade or business or for investment (not including property held primarily for sale) is condemned, the replacement period **ends 3 years** after the close of the first tax year in which any part of the gain on the condemnation is realized.

Extension. You may be able to get an extension of the replacement period if you apply to the District Director of the Internal Revenue Service for your area. Make your application before the end of the replacement period. Include all the details about your need for an extension. You can file an application within a reasonable time after the replacement period ends if you can show a good reason for the delay. You will get an extension of the replacement period if you can show reasonable cause for not making the replacement within the regular period.

How to postpone the gain. You postpone your gain by reporting your choice on your tax return for the year you have the gain. You have the gain in the year you receive insurance proceeds or other reimbursements that result in a gain.

You should attach a statement to your return for the year you have the gain. This statement should include the following information:

- The date and details of the involuntary conversion,
- The amount (insurance or other reimbursement) you received, and
- How you figured the gain.

Replacement property acquired before return filed. If you acquire replacement property before you file your return for the year you have the gain, your statement should also include detailed information about:

- The replacement property,
- The postponed gain,
- The basis adjustment that reflects the postponed gain, and
- Any gain you are reporting as income.

Replacement property acquired after return filed. If you intend to buy replacement property after you file your return for the year you realize gain, your statement should also say that you are choosing to replace the property within the required replacement period.

You then attach another statement to your return for the year in which you buy the replacement property. Show in this statement detailed information on the replacement

property. If you acquire part of your replacement property in one year and part in another year, make a statement for each year. Include in the statement detailed information on the replacement property bought in that year.

Substituting replacement property. Once you designate property as replacement property, you cannot substitute other qualified replacement property. The designation is made by the statement with your return reporting that you have acquired replacement property. However, if after you replace the property you discover it does not qualify as replacement property, you can, within the replacement period, substitute the other qualified replacement property.

Taxpayer's death. If a taxpayer dies in the year the gain is realized, but before replacement property is acquired, there can be no election to postpone the gain. Instead, report the gain on the decedent's final income tax return.

Amended return. You may have to file an amended return (Form 1040X) for the tax year in which the gain was realized if you made the election to postpone tax on the gain. You must file the amended return if either of the following conditions applies.

- 1) You did not acquire replacement property within the replacement period.
- 2) The replacement property costs less than anticipated at the time you made the election.

You must pay any tax due plus interest.

Reporting Gains and Losses

You will have to file one or more of the following forms to report your gains or losses from involuntary conversions.

Form 4684. Use this form to figure your gains and losses from casualties and thefts.

Form 4797. Use this form to report gain or loss from a sale, exchange, or involuntary conversion of business property.

Schedule D (Form 1040). Use this form to report the following gains.

- 1) Gain from an involuntary conversion of personal use property.
- 2) Gain from a sale, exchange, or involuntary conversion of business property held for more than 1 year.

Schedule A (Form 1040). Use this form to report your losses from casualties and thefts of personal use property.

Schedule F (Form 1040). Deduct your losses from casualty or theft of livestock or produce bought for sale under *Other expenses* in Part II, line 34, if you use the cash method of accounting and have not otherwise accounted for these losses.

Alternative Minimum Tax

Important Change

Deferred payment (installment) sales and alternative minimum tax. Cash basis farmers can now report income using the installment method for sales of property used or produced in the business of farming for both regular income tax and alternative minimum tax purposes. Previously, they could not use the installment method for alternative minimum tax purposes.

Generally, this change applies to sales after 1987. You should file Form 1040X to amend any prior year income tax return affected by this retroactive change. However, you must generally file Form 1040X by the **later** of the following:

- 1) Three years after the date you filed your original return, or
- 2) Two years after the date you paid the tax.

Introduction

The tax laws give special treatment to some types of income and allow special deductions and credits for some types of expenses. These laws enable some taxpayers with substantial economic income to significantly reduce their regular tax. The purpose of the alternative minimum tax (AMT) is to ensure that these taxpayers pay a minimum amount of tax on their economic income. AMT is figured on **Form 6251, Alternative Minimum Tax—Individuals**. This chapter explains whether you will need to fill in and file Form 6251.

The AMT for corporations is discussed in Publication 542.

Topics

This chapter discusses:

- ☞ Whether you need to fill in Form 6251
- ☞ Completing Form 6251
- ☞ Whether to attach Form 6251 to your tax return
- ☞ Credit for prior year minimum tax

Useful Items

You may want to see:

Form (and Instructions)

- 1040** U.S. Individual Income Tax Return
- Sch A (Form 1040)** Itemized Deductions
- Sch K-1 (Form 1041)** Beneficiary's Share of Income, Deductions, Credits, etc.

Table 14-1. **Worksheet To See If You Should Fill In Form 6251**



1. Enter the amount from Form 1040, line 36	1. _____
2. If you itemized deductions on Schedule A, go to line 3. Otherwise, enter your standard deduction from Form 1040, line 35, 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 33	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 \$45,000 (\$22,500 if married filing separately; \$33,750 if single or head of household)	6. _____
7. Subtract line 6 from line 5. If zero or less, stop ; you do not need to fill in Form 6251	7. _____
8. Enter \$150,000 (\$75,000 if married filing separately; \$112,500 if single or head of household)	8. _____
9. Subtract line 8 from line 5. If zero or less, enter -0- here and on line 10 and go to line 11	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. If the total is over \$175,000 (over \$87,500 if married filing separately), stop and fill in Form 6251 to see if you owe the alternative minimum tax	11. _____
12. Multiply line 11 by 26% (.26)	12. _____

Next: If line 12 is more than the amount on Form 1040, line 39 (excluding any amount from Form 4972), fill in Form 6251 to see if you owe the alternative minimum tax. If line 12 is equal to or less than that amount, **do not** fill in Form 6251.

- Sch K-1 (Form 1065)** Partner's Share of Income, Credits, Deductions, etc.
- Sch K-1 (Form 1120S)** Shareholder's Share of Income, Credits, Deductions, etc.
- 6251** Alternative Minimum Tax—Individuals
- 8615** Tax for Children Under Age 14 Who Have Investment Income of More Than \$1,300
- 8801** Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts
- 7) Amortization of pollution-control facilities or depletion.
- 8) Percentage-of-completion income from long-term contracts.
- 9) Interest paid on a home mortgage not used to buy, build, or substantially improve your home.
- 10) Investment interest expense reported on **Form 4952**.
- 11) Foreign tax credit.

See chapter 21 for information about getting these publications and forms.

Child under age 14. Form 6251 should be filled in for a child under age 14 if the child's adjusted gross income from Form 1040, line 33, exceeds the child's earned income by more than \$1,300.

Do You Need To Fill In Form 6251?

You need to fill in and file Form 6251 if you owe alternative minimum tax (AMT) or if you need to show the IRS that you do not owe AMT (as explained under *Do You Need to Attach Form 6251 to Your Return?* later).

If you claimed or received any of the following items, fill in Form 6251.

- 1) Accelerated depreciation.
- 2) Income or loss from tax shelter farm activities or passive activities.
- 3) Net operating loss deduction.
- 4) Income from incentive stock options.
- 5) Tax-exempt interest from private activity bonds.
- 6) Intangible drilling, circulation, research, experimental, or mining exploration and development costs.

Worksheet. If your return is not affected by any of the items listed above, fill in the *Table 14-1* worksheet to see if you should complete Form 6251.

Completing Form 6251

If you must complete Form 6251 because your return was affected by any of the items listed earlier (or because the filled-in *Table 14-1* shows you must), keep the following rules in mind.

Partner, shareholder, or beneficiary. If you had any of the tax benefits listed earlier as a partner in a partnership, a beneficiary of an estate or trust, or a shareholder in an S corporation, include the benefit on Form 6251.

Partner. If you are a partner, you must include your share of the partnership's adjustments and tax preference items when you

fill in Form 6251. These will be furnished to you on Schedule K-1 (Form 1065). The partnership itself does not pay AMT.

S corporation shareholder. If you are a shareholder in an S corporation, you must include your share of the corporation's adjustments and tax preference items when you fill in Form 6251. These will be furnished to you on Schedule K-1 (Form 1120S).

Beneficiary. If you are a beneficiary of an estate or trust, you must include your share of the estate's or trust's distributable net alternative minimum taxable income (AMTI) and tax preference items when you fill in Form 6251. These will be furnished to you on Schedule K-1 (Form 1041). The estate or trust may have to pay AMT on any remaining AMT taxable income.

Do You Need To Attach Form 6251 to Your Return?

After you complete Form 6251, attach it to your return only if:

- 1) Line 24 is greater than line 27.
- 2) You have certain credits (such as the credit for child and dependent care expenses, etc.) that are limited by the amount shown on line 24 (or in some cases, line 26). The forms used to figure these credits have information on the limits.
- 3) The total of lines 7 through 14 is negative and line 24 would exceed line 27 without taking lines 7 through 14 into account.

Earned income credit. If you have an earned income credit, you must reduce it by any AMT.

Recordkeeping



Because of AMT adjustments, you may have a different AMT basis in certain property or activities. Because your AMT basis may affect the computation of AMT in future tax years, you may need to figure the adjustments that affect basis, even though you do not owe AMT this year. You should keep a separate record of your AMT adjusted basis, including an AMT depreciation schedule.

Carrybacks and carryovers of certain deductions and credits may have to be refigured for AMT purposes. You should keep a separate record of these AMT carrybacks and carryovers to assist you in preparing your return in other years.

Credit for Prior Year Minimum Tax

You may be able to take a credit against your regular tax if any of the following apply.

- 1) You paid alternative minimum tax (AMT) in 1996.

- 2) You had a minimum tax credit carryforward from 1996 to 1997.
- 3) You had an unallowed nonconventional-source fuel credit or qualified electric vehicle credit in 1996.

You figure the credit on **Form 8801**. You subtract any credit for prior year minimum tax from the regular tax on your return.

Reduction for canceled debt. You may have to reduce the credit if you exclude from income a canceled debt from:

- 1) A bankruptcy case,
- 2) Insolvency, or
- 3) Qualified farm debt.

You must reduce the amount available at the beginning of the year after the debt was canceled before preparing Form 8801 for that year. For more information, see *Cancellation of Debt* in chapter 4.

15. Self-Employment Tax

Important Change for 1997

Tax rates and maximum net earnings for self-employment tax. For 1997, the maximum net self-employment earnings subject to the social security part (12.4%) of the self-employment tax is \$65,400. There is no maximum limit on earnings subject to the Medicare part (2.9%).

For 1998, the maximum net self-employment earnings subject to the social security part will be published in Publications 533 and 553. There is no maximum limit on earnings subject to the Medicare part.

Introduction

The self-employment tax (SE tax) is a social security and Medicare tax for individuals who work for themselves. It is similar to the social security and Medicare taxes withheld from the pay of wage earners.

You usually have to pay SE tax if you are self-employed. You are usually self-employed if you operate your own farm on land you either own or rent. You have to figure SE tax on Schedule SE (Form 1040).

Farmers who have employees may have to pay employment taxes. See chapter 16 for information on employment taxes.

Topics

This chapter discusses:

- Who must pay self-employment tax
- Self-employment income

- Landlord participation in farming
- Figuring self-employment tax
- Reporting self-employment tax

Useful Items

You may want to see:

Publication

- 533** Self-Employment Tax
- 541** Partnerships

Form (and Instructions)

- SS-5** Application for a Social Security Card
- 1040** U.S. Individual Income Tax Return
- Sch F (Form 1040)** Profit or Loss From Farming
- Sch SE (Form 1040)** Self-Employment Tax
- 1065** U.S. Partnership Return of Income
- Sch K-1 (Form 1065)** Partner's Share of Income, Credits, Deductions, etc.

See chapter 21 for information about getting these publications and forms.

General Information

Social security benefits. Social security benefits are available to self-employed persons just as they are to wage earners. Your payments of self-employment tax (SE tax) contribute to your coverage under the social security system. Social security coverage provides you with retirement benefits, disability benefits, survivor benefits, and hospital insurance (Medicare) benefits.

You must be *insured* under the social security system before you begin receiving social security benefits. You are insured if you have the required number of quarters of coverage. A "quarter of coverage" means a period of 3 calendar months during which you were paid a certain amount of income subject to social security tax.

For 1997, you received a quarter of social security coverage, up to four quarters, for each \$670 of income subject to social security. Therefore, for 1997, if you had income of \$2,680 that was subject to social security taxes (self-employment and wages), you will receive four quarters of coverage. Note that no quarters of coverage will be credited if you have less than \$400 of annual net earnings.

For an explanation of the number of quarters of coverage you must have to be insured, and of the benefits available to you and your family under the social security program, consult your nearest Social Security Administration office.



Making false statements to get or increase social security benefits may subject you to penalties.

Social security number. You must have a social security number to pay SE tax. If you do not have a number, apply for one on Form SS-5, *Application for a Social Security Card*.

You can get this form at any Social Security office or by calling 1-800-772-1213.

If you have a social security number from the time you were an employee, do not apply again. If you have a number but lost your card, file Form SS-5, showing where and about when you first applied for it. You will get a card showing your original number, not a new one.

If your name has changed since you received your social security card, complete Form SS-5 to report a name change.

Estimated tax. You may have to pay estimated tax. This depends on how much income and SE taxes you expect for the year and how much of your income will be subject to withholding tax. The SE tax is treated, and collected, as part of the income tax.

You may have to pay a penalty if you do not pay the correct estimated tax by its due date.

You must include the estimated SE tax in your estimated tax payments. However, if at least two-thirds of your income is from farming and you file your Form 1040 and pay all of the tax that is due by the first day of the third month after the end of your tax year, you do not have to pay any estimated tax. See chapter 2 for more information about estimated tax.

Self-employment tax deduction. You can deduct half of your SE tax in figuring your adjusted gross income. This is an income tax adjustment only. It does not affect either your net earnings from self-employment or your SE tax.

To deduct the tax, enter on Form 1040, line 26, the amount shown on the "Deduction for one-half of self-employment tax" line of Schedule SE.

Who Must Pay Self-Employment Tax

You must pay SE tax if you were self-employed and your net earnings from self-employment were \$400 or more.

You are self-employed if you carry on your own trade or business (such as running a farm) as a sole proprietor, an independent contractor, a member of a partnership, or are otherwise in business for yourself. A trade or business is generally an activity carried on for a livelihood, or in good faith to make a profit.

The SE tax rules apply even if you are now:

- 1) Fully insured under social security,
- 2) Receiving benefits, or
- 3) Over age 70 and your earnings do not reduce social security benefits.

Share farmers. If, under an income-sharing arrangement, you produce a crop or raise livestock on land belonging to another and your share of the crop or livestock, or the proceeds from their sale, depends on the amount produced, you are a self-employed farmer. Your income from the income-sharing arrangement is your SE income.

If you produce a crop or livestock on land belonging to another and are to receive a specified rate of pay, a fixed sum of money, or a fixed quantity of the crop or livestock, and

not a share of the crop or livestock or their proceeds, you may be self-employed or an employee of the landowner. This will depend on whether you are under the direction and control of the landlord.

Example. A share farmer produces a crop on land owned by another person, on a 50-50 crop-share basis. By the terms of their agreement, the share farmer furnishes the labor and half the cost of seed and fertilizer. The landowner furnishes the machinery and equipment used to produce and harvest the crop, and half the cost of seed and fertilizer. A house to live in is provided for the share farmer. The landowner and the share farmer decide how much of the tract should be planted in cotton and how much in other crops. In addition, the landowner is in the hog business and the share farmer agrees to take care of the landowner's hogs in return for ten hogs. The landowner furnishes the feed and other necessities and supervises the care of the hogs.

The share farmer is a self-employed farmer for purposes of the agreement to produce the cotton and other crops, and the share farmer's part of the income from the crops is SE income. But, for the services performed in caring for the landowner's hogs, the share farmer is an employee, and the value of the ten hogs received is not SE income. The hog income is taxable for income tax purposes.

4-H Club or FFA project. If your child participates in a 4-H Club or FFA (Future Farmers of America) project, any profit the child receives from sales or prizes related to the project may be subject to income tax. Report the income on line 21 of Form 1040. However, the profit may not be subject to SE tax if the project is primarily for educational purposes and not for profit, and is completed by the child under the rules and economic restrictions of the sponsoring 4-H or FFA organization. Such a project is generally not considered a trade or business.

Husband and wife partners. You and your spouse may operate a farm as a partnership. (Partnerships are discussed earlier in chapter 2.) If you and your spouse operate a farm as partners, report the farm income and expenses on Form 1065, *U.S. Partnership Return of Income*, and attach separate Schedules K-1 to show each partner's share of the net income. Both of you must report the net income on Form 1040 and attach separate Schedules SE (Form 1040) to report each partner's SE tax.

However, if your spouse is your employee, not your partner, you must pay social security and Medicare taxes for him or her. For more information, see chapter 16.

Self-Employment Income

This part explains:

- The types of SE income,
- The types of income that are **not** SE income, and
- Landlord participation in farming.

Types of SE income. Some specific items included in SE income are:

- 1) Taxable patronage dividends (distributions) from cooperatives,
- 2) Government agricultural program payments, including commodity program payments, and conservation reserve program (CRP) payments,
- 3) Taxable commodity credit loans,
- 4) Storage fees paid by the Commodity Credit Corporation under a resale agreement to farmers for storing their own grain,
- 5) Refunds and rebates, if they represent a reduction in a deductible expense item, including the fuel tax credits,
- 6) Prizes or awards on farm produce or livestock,
- 7) Crop damage payments,
- 8) Value of merchandise received for farm products,
- 9) Standing crop sales, if not sold with land that was held more than 1 year,
- 10) Crop shares received as rent. (These are SE income in the year they are converted to money or the equivalent of money, if you meet one of the four material participation tests explained later under *Landlord Participation in Farming* at the time the crop shares are produced.),
- 11) Any amounts for depreciation, including any section 179 deduction, recaptured because the business use of the property was reduced to 50% or less (this does not include amounts recaptured on the disposition of property),
- 12) Lost income payments received from insurance or other sources for reducing or stopping farming activities. Even if you are not farming when you receive the payment, it is SE income if it relates to your farm business (even though it is temporarily inactive). A connection exists if it is clear that the payment would not have been made but for your conduct of your farm business, and
- 13) Your distributive share of income or loss from your partnership's trade or business.

Income that is not SE income. Certain kinds of income are not SE income, even though they are included in figuring your income tax.

- 1) Rent from real estate and from personal property leased with real estate is not SE income. It does not matter if the rent is received in crop shares, cash, or other property. This rule applies if the landlord does **not** materially participate in the production or management of production of farm products on the land. If the landlord materially participates, see *Landlord Participation in Farming*, later.
- 2) Interest is not SE income unless you receive it in your trade or business, such as interest on accounts receivable.
- 3) Dividends on securities are not SE income unless you are a dealer in securities.

- 4) A gain or loss from the disposition of property that is neither stock in trade nor held primarily for sale to customers is not SE income. It does not matter whether the disposition is a sale, exchange, or an involuntary conversion. For example, gains or losses from the disposition of the following types of property are not included.
 - a) Investment property.
 - b) Depreciable property or other fixed assets used in your trade or business.
 - c) Livestock held for draft, dairy, breeding, or sporting purposes, and not held primarily for sale, regardless of how long the livestock was held, or whether raised or purchased.
 - d) Standing crops sold with land held more than one year.
 - e) Timber, coal, or iron ore held for more than one year, if an economic interest was retained, such as a right to receive coal royalties.

A gain or loss from the cutting of timber is not included if the cutting is treated as a sale or exchange.
- 5) Wages received for services performed as an employee and covered by social security or railroad retirement are not SE income.
- 6) A limited partner figures net SE income by excluding the distributive share of partnership income or loss. But guaranteed payments received for services performed are included as SE income.
- 7) A retired partner does not include retirement payments received from the partnership under a written plan that provides for lifelong periodic payments as long as the retired partner's capital interest has been fully paid and the partner performs no services for the partnership.

Landlord Participation in Farming

As a general rule, income and deductions from rentals and from personal property leased with the real estate are not taken into account to determine net self-employment income. However, income and deductions from farm rentals and from personal property leased with the real estate, including government commodity program payments received by a landowner who rents land, are taken into account if the rental arrangement provides that the landlord will, and he or she does, participate materially in the production or management of production of the farm products on the land.

In addition, rent paid in the form of crop shares is included in self-employment income for the year you sell, exchange, give away, or use the crop shares if you meet one of the four material participation tests at the time the crop shares are produced. Feeding such crop shares to livestock is considered using them. Your gross income for figuring your net earnings from self-employment under the *Farm Optional Method* includes the fair market value of the crop shares when they are used as feed.

Materially participating. You are materially participating if you have an arrangement with your tenant for your participation and you meet one of the following four tests.

- 1) You do any three of the following.
 - a) Pay or stand good for at least half the direct costs of producing the crop.
 - b) Furnish at least half the tools, equipment, and livestock used in producing the crop.
 - c) Consult with your tenant.
 - d) Inspect the production activities periodically.
- 2) You regularly and frequently make, or take an important part in making, management decisions substantially contributing to or affecting the success of the enterprise.
- 3) You work 100 hours or more spread over a period of 5 weeks or more in activities connected with crop production.
- 4) You do things which, considered in their total effect, show that you are materially and significantly involved in the production of the farm commodities.

These tests may be used as general guides for determining whether you are materially participating.

Figuring Self-Employment Tax

There are three steps to figure the SE tax you owe.

- 1) Figure your net self-employment income.
- 2) Figure your net earnings from self-employment.
- 3) Multiply your net earnings by the tax rate.

Step 1—Figure Your Net Self-Employment Income

Net SE income usually includes all farm and nonfarm business income less all business deductions allowed for income tax purposes. You must claim all allowable deductions when figuring net SE income. Your net SE income is used to figure your net earnings from self-employment. See *Step 2—Figure Your Net Earnings From Self-Employment*, later. You must figure your net income from self-employment by using the same accounting method you use for income tax purposes.

Your net SE income is shown on the lines of the following schedules.

Schedule F (Form 1040)	Line 36
Schedule K-1 (Form 1065)	Line 15a
Schedule C (Form 1040)	Line 31
Schedule C-EZ (Form 1040)	Line 3

More than one business. If you have more than one trade or business, you must combine the net profit or loss from each business to determine your net SE income. A loss from one business will reduce your profit from another business. File one Schedule SE showing the net SE income, but file a separate profit or loss schedule for each business.

Deductions and exemptions. Your SE income **should not be reduced** by certain deductions you used to figure income tax. Specifically, do not use:

- 1) Deductions for personal exemptions for yourself, your spouse, or dependents,
- 2) The standard deduction or itemized deductions,
- 3) The net operating loss deduction,
- 4) Nonbusiness deductions including contributions on your behalf to a pension, profit-sharing plan, annuity plan, Keogh or SEP plan, and
- 5) The self-employed health insurance deduction.

Step 2—Figure Your Net Earnings From Self-Employment

The net SE income subject to SE tax is called net earnings from self-employment.

Minimum earnings subject to SE tax. You must have \$400 or more of net earnings from self-employment to be subject to the tax. For this purpose, net earnings are figured on line 4 of Schedule SE, Section A or line 4c of Schedule SE, Section B. If your net earnings are less than \$400, you do not have to file Schedule SE (Form 1040) or pay the tax, unless you performed services for a church as an employee and received income of \$108.28 or more.

How to figure net earnings. There are three ways to figure net earnings from self-employment.

- 1) The regular method.
- 2) The farm optional method.
- 3) The nonfarm optional method.

You must use the regular method unless you are eligible to use one or both of the optional methods. See *Figure 15-1*.

Why use the optional methods? You can generally use the optional methods (discussed later) when you have a loss or a small amount of net income from self-employment and:

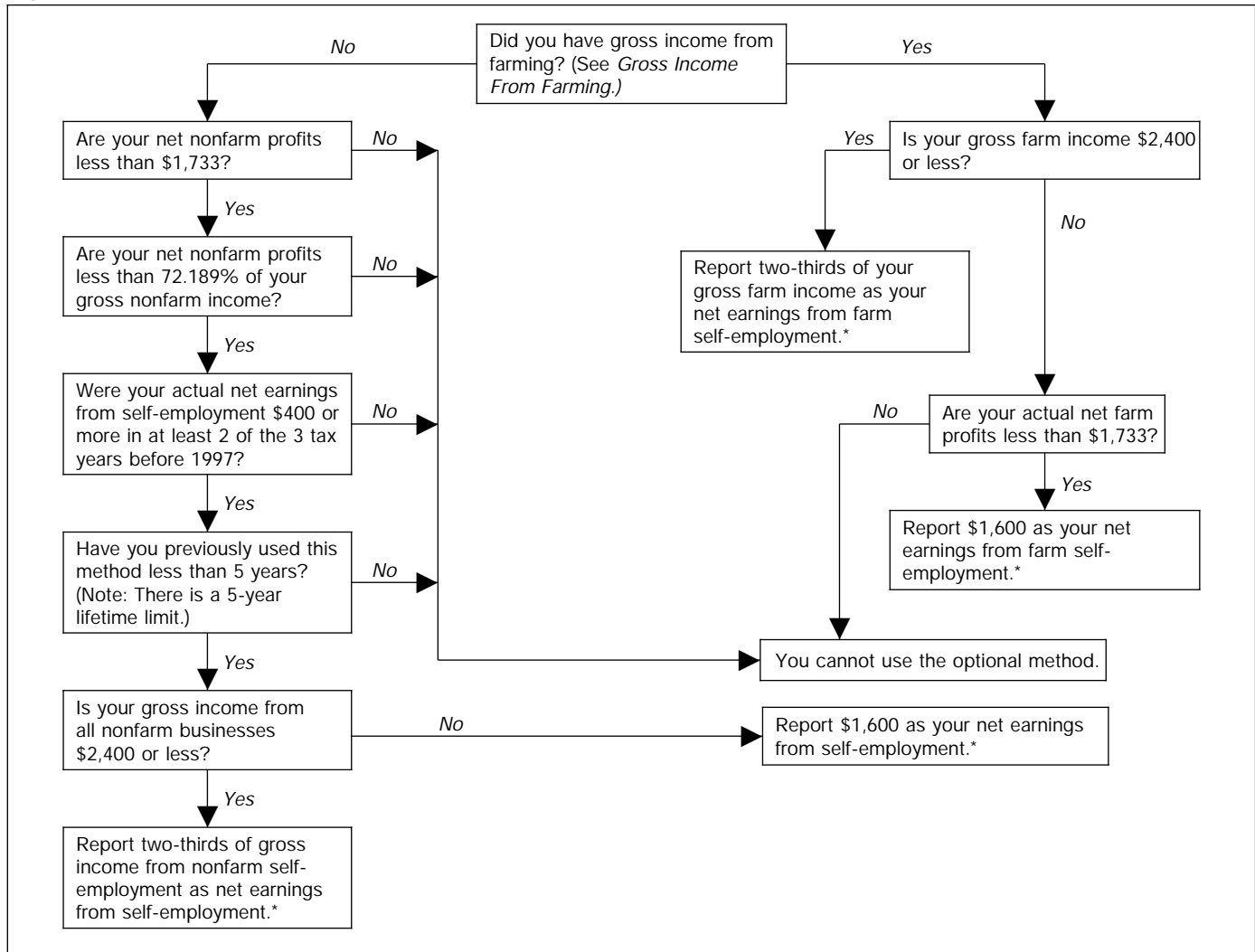
- 1) You want to receive credit for social security benefit coverage,
- 2) You incurred child or dependent care expenses for which you could claim a credit (this method will increase your earned income, which could increase your credit), or
- 3) You are entitled to the earned income credit (this method will increase your earned income, which could increase your credit).

Regular Method

Multiply your net SE income by 92.35% (.9235) to get your net earnings under the regular method. See *Short Schedule SE*, line 4, or *Long Schedule SE*, line 4a.

You must use the regular method unless you are eligible to use one or both of the optional methods.

Figure 15-1. Can I Use the Optional Methods?



*If you use both optional methods, see *Using Both Optional Methods* for limits on the amount to report.

Farm Optional Method

If you are in the farming business, either as an individual or as a partner, you may be able to use the farm optional method to figure your net earnings from farm self-employment. This method allows you to continue paying SE tax for your social security coverage when your net profit for the year is small or you have a loss.

Optional earnings less than actual earnings. If your net earnings under the farm optional method are less than your actual net earnings, you can still use the farm optional method. For example, your actual net earnings from self-employment are \$425 and your net earnings figured under the farm optional method are \$390. You owe no SE tax if you use the optional method, because your net earnings are below \$400.

Gross income of \$2,400 or less. If your gross income from farming is \$2,400 or less, you may report two-thirds of this gross income as your net earnings from farm self-employment.

Gross income of more than \$2,400. If your gross income from farming is more than \$2,400, and your net farm profits, as shown on line 36 of Schedule F (Form 1040), and line 15a of Schedule K-1 (Form 1065), are

less than \$1,733, you may report \$1,600 as your net earnings from farm self-employment. But if your gross income from farming is more than \$2,400 and your net farm profits are \$1,733 or more, you cannot use the optional method.

Since two-thirds of \$2,400 is \$1,600, this counts for two quarters of coverage (\$1,600 divided by \$670) under social security. You cannot use the full amount of your gross income to determine quarters of coverage when you are figuring the SE tax on only two-thirds of that amount.

Gross income from farming. Farming income includes what you receive from cultivating the soil or raising or harvesting any agricultural commodities. It also includes income from the operation of a livestock, dairy, poultry, bee, fish, fruit, or truck farm, or plantation, ranch, nursery, orchard, or oyster bed. This includes income you receive in the form of crop shares if you materially participate in production or management of production.

Your gross income will not include any item listed as being excluded under the regular method. If you receive government commodity program payments on land you rent out, do not include these payments unless you meet one of the four material participation tests, explained earlier. Also, do not include any income from a nonfarm business.

Cash method of accounting. If you file your return on the cash method and are not a member of a farming partnership, your gross income from farming will ordinarily be the amount shown on line 11 of Schedule F.

Accrual method of accounting. If you file your return using an accrual method and are not a member of a farming partnership, your gross income from farming will ordinarily be the amount shown on line 51 of Schedule F.

Gross income from a farm partnership. Your gross income under the farm optional method includes your distributive share of a partnership's gross income from farming.

To determine your distributive share of gross income from a farm partnership:

- 1) Figure the partnership's gross income from farming.
- 2) Subtract any guaranteed payments to partners for services or the use of capital if the payments are determined without regard to partnership income.
- 3) Determine your share of what is left. The gross income that remains after steps (1) and (2) is divided among the partners in the same way they share the ordinary income or loss of the partnership, unless the partnership agreement provides otherwise.

The result determined in (3) above is your distributive share of the partnership's gross income from farming. If you have no other gross income from farming, including guaranteed payments discussed next, use this distributive share of gross income to determine whether you can use the farm optional method to figure your net earnings from self-employment.

Guaranteed payments. Any guaranteed payments you receive from a farm partnership that are determined without regard to partnership income are gross income from your farming (not the partnership's). Use the total of these payments, your distributive share of gross income from a farm partnership, and any other gross income you receive from farming, to determine whether you can use the farm optional method to figure your net earnings from self-employment.

Example. Bill and John are partners and share in ordinary income or loss on a 50–50 basis, with no guaranteed payments. If the partnership has \$3,000 gross income from farming, each would have \$1,500 gross income for purposes of the optional method.

If Bill had been guaranteed \$1,000 without regard to partnership income, his gross income from farming would be \$2,000 (\$1,000 plus 50% of \$2,000). John's gross income would be \$1,000.

Two or more farms. If you run your own farm and are also a partner in a farm partnership, or in any way have gross income from farming from more than one farm, you must add your farm income from all farming sources to get your total net earnings from farm self-employment. If you use the farm optional method, you must add all gross income from farming to make the \$2,400 test.

Example. Your gross income from your own farm is \$600, and your distributive share of the gross income from a farm partnership is \$900. Since your gross income from farming is less than \$2,400, (\$1,500), your net earnings from self-employment under the farm optional method are \$1,000 ($\frac{2}{3}$ of \$1,500).

Nonfarm Optional Method

There is an optional method available for determining net earnings from nonfarm self-employment much like the farm optional method.

If you are also engaged in a nonfarm business, you may be able to use this method to compute your net earnings from self-employment from your nonfarm business. You may use this method even if you do not use the farm optional method for determining your net earnings from your farm self-employment and even if you have a net loss from your nonfarm business. For more information about the nonfarm optional method, get Publication 533.

Using Both Optional Methods

You may not combine farming income with nonfarm income from self-employment to figure your net earnings under either of the optional methods. If you use both optional methods, you must add together the net earnings figured under each method to arrive at your total net earnings from self-

employment. You may report less than actual total net earnings but not less than actual net earnings from nonfarm self-employment alone when using both methods. If you use both optional methods, you may report no more than \$1,600 as your combined net earnings from self-employment.

Step 3—Multiply Your Net Earnings by the Tax Rate

Multiply the net earnings you figured in Step 2 by the tax rate to get your SE tax. The SE tax rate is 15.3% (12.4% social security tax plus 2.9% Medicare tax). It is the same for net earnings figured under each method.

Special rules (explained next) apply to this computation if:

- Your combined wages, tips, and net earnings are more than \$65,400, or
- You use a fiscal tax year.

Maximum earnings subject to SE tax. No more than \$65,400 of your combined wages, tips, and net earnings in 1997 is subject to any combination of the 12.4% social security part of SE tax, social security tax, or railroad retirement (tier 1) tax.

However, all your combined wages, tips, and net earnings in 1997 are subject to any combination of the 2.9% Medicare part of SE tax, social security tax, or railroad retirement (tier 1) tax.

If your wages and tips are subject to either social security or railroad retirement (tier 1) tax, or both, and total at least \$65,400, you do not have to pay the 12.4% social security part of the SE tax on any of your net earnings. However, you must pay the 2.9% Medicare part of the SE tax on all your net earnings.

Fiscal tax year. If you use a tax year other than the calendar year, you must use the tax rate and maximum earnings limit in effect at the beginning of your tax year. Even if the tax rate or maximum earnings limit changes during your tax year, you should continue to use the same rate and limit throughout your tax year.

Regular Method

The following paragraphs explain how to figure the SE tax using net earnings under the regular method.

Net earnings and wages not more than \$65,400. If your net earnings from self-employment plus any wages and tips are not more than \$65,400, and you do not have to use *Long Schedule SE*, use *Short Schedule SE*. On line 5, multiply your net earnings by the 15.3% (.153). The result is your SE tax.

Example 1. During 1997, you have \$30,000 in net SE income, and receive no wages subject to social security and Medicare taxes. Multiply the \$30,000 by 0.9235 on *Short Schedule SE* to get your net earnings from self-employment of \$27,705. Your SE tax is 15.3% (0.153) of \$27,705, or \$4,238.87.

Example 2. During 1997, you have \$20,000 in net SE income and receive \$15,000 in wages subject to social security and Medicare taxes. Multiply the \$20,000 by 0.9235 on *Short Schedule SE* to get your net earnings from self-employment of \$18,470. Your SE tax is 15.3% (0.153) of \$18,470, or \$2,825.91.

Net earnings more than \$65,400 and no wages. If you had no wages, had net earnings from self-employment of more than \$65,400, and do not have to use *Long Schedule SE*, use *Short Schedule SE*. On line 5, multiply the line 4 net earnings by the 2.9% (.029) Medicare tax and add the result to \$8,109.60 (12.4% of \$65,400). The total is your SE tax.

Example. During 1997, you have \$75,000 in net SE income and receive no wages subject to social security and Medicare taxes. Multiply the \$75,000 by 0.9235 on *Short Schedule SE* to get your net earnings of \$69,263. Since only \$65,400 of your earnings are subject to the social security part of the SE tax, your tax for this part is \$8,109.60 (12.4% of \$65,400).

Since all your net earnings are subject to the Medicare part of the SE tax, multiply \$69,263 by 2.9% (.029) on *Short Schedule SE* for the Medicare part. The result is \$2,008.63. Add this to \$8,109.60 for a total SE tax of \$10,118.23.

Net earnings and wages more than \$65,400. If your net earnings from self-employment plus any wages and tips are more than \$65,400, you must use *Long Schedule SE*. Subtract your total wages and tips from \$65,400 to find the maximum earnings subject to the 12.4% social security part of the tax. If more than zero, multiply the amount by 12.4% (.124). The result is the social security tax amount. Then multiply your net earnings from self-employment by 2.9% (.029). The result is the Medicare tax amount. The total of the social security tax amount and the Medicare tax amount is your SE tax.

Example. During 1997, you have \$70,000 in net SE income, and receive \$10,000 in wages subject to social security and Medicare taxes. Figure your net earnings on *Long Schedule SE*, line 4a, to be \$64,645. Next, subtract your wages of \$10,000 from \$65,400, the maximum income subject to the social security part of the SE tax. The result is \$55,400. Since only \$55,400 of your earnings are subject to the social security part of the SE tax, your tax for this part is 12.4% (.124) \times \$55,400, or \$6,869.60.

Since all your net earnings are subject to the Medicare part of the SE tax, multiply all the net earnings from self-employment, \$64,645, by 2.9% (.029) on *Long Schedule SE* for the Medicare part. The result is \$1,874.71. Add this to the \$6,869.60 figured above for total SE tax of \$8,744.31.

Farm Optional Method

If your net earnings under the farm optional method are \$400 or more, use *Long Schedule SE* to figure your SE tax.

Nonfarm Optional Method

If your net earnings under the nonfarm optional method are \$400 or more, use *Long Schedule SE* to figure your SE tax.

Effect on Taxes

If you use either or both optional methods, you must figure and pay the SE tax due under these methods, even if you would have had a smaller tax or no tax using the regular method.

The optional methods may be used only to figure your SE tax. To figure your income

tax, include your actual SE income in gross income, regardless of which method you use to figure SE tax.

Reporting Self-Employment Tax

Use Schedule SE (Form 1040) to report and figure SE tax. Then enter the tax on line 47 of Form 1040, and attach Schedule SE to Form 1040.

You must file Schedule SE if:

- 1) You were self-employed, and your net earnings from self-employment (excluding church employee income) were \$400 or more, or
- 2) You performed services for a church as an employee and received income of \$108.28 or more.



TIP Even if you do not have to file Schedule SE, it may be to your benefit to file it and use either optional method in Part II of Section B.

Most taxpayers can use *Short Schedule SE* (Section A) to figure their self-employment tax. However, the following taxpayers must use *Long Schedule SE* (Section B).

- 1) Individuals whose total wages and tips subject to social security (or railroad retirement (tier 1)) tax plus net earnings from self-employment are more than \$65,400.
- 2) Ministers, members of religious orders, and Christian Science practitioners not taxed on earnings from these sources (with IRS consent) who owe SE tax on other earnings.
- 3) Employees who earned wages reported on Form W-2 of \$108.28 or more working for churches or church organizations that elected exemption from social security and Medicare taxes.
- 4) Individuals with tip income subject to social security and Medicare taxes that was not reported to their employers.
- 5) Individuals who use one of the optional methods to figure SE tax.



CAUTION If you have to pay SE tax, you must file a Form 1040 (with Schedule SE attached) even if you do not otherwise have to file a federal income tax return.

Joint returns. If you file a joint return and you both have SE income, each of you must complete a separate Schedule SE (Form 1040); attach both schedules to the joint return. If you and your spouse operate a business as a partnership, see *Husband and wife partners*, earlier, under *Who Must Pay Self-Employment Tax*.



CAUTION You cannot file a joint Schedule SE (Form 1040) even if you file a joint income tax return. Your spouse is not considered self-employed just because you are. If your spouse has SE income, it is independently subject to the SE tax and must be reported on a separate Schedule SE.

Community income. If any of the income from a farm or business other than a partnership is community income under state law, it is subject to SE tax as the income of the spouse carrying on the trade or business. The identity of the person carrying on the trade or business is determined by the facts in each case.

16.

Employment Taxes

Important Changes for 1998

Social security and Medicare taxes. For 1998, the employer and the employee will continue to pay:

- 1) 6.2% each for social security tax (old-age, survivors, and disability insurance), and
- 2) 1.45% each for Medicare tax (hospital insurance).

Wage limits. The maximum amount of 1998 wages subject to the social security tax will be published in Publication 51 (Circular A). There is no wage base limit for the amount subject to Medicare tax. All covered wages are subject to the tax.

Electronic deposit of taxes. If your total deposits of social security, Medicare, and withheld income taxes were more than \$50,000 during 1996, you must make electronic deposits for *all* depository tax liabilities that occur after 1997. However, no penalty will be imposed for any failure to make a required electronic deposit before July 1, 1998, if you are first required to use that method on or after July 1, 1997. See Circular A.

You can choose to make electronic deposits if you are not required to do so. For information about the Electronic Federal Tax Payment System (EFTPS), see Revenue Procedure 97-33, 1997-I.R.B. 30.

Introduction

You are generally required to withhold federal income tax from the wages of your employees. You may also be subject to social security and Medicare taxes under the Federal Insurance Contributions Act (FICA) and federal unemployment tax under the Federal Unemployment Tax Act (FUTA). This chapter includes information about these taxes.

Farmers must also pay self-employment tax on their earnings from farming. See chapter 15 for information on the self-

employment tax.

Topics

This chapter discusses:

- Farm employment
- Social security and Medicare taxes
- Income tax withholding
- Federal unemployment tax (FUTA)
- Reporting and paying employment taxes
- Family members
- Crew leaders
- Earned income credit (EIC)

Useful Items

You may want to see:

Publication

- 15** Circular E, Employer's Tax Guide
- 15-A** Supplemental Employer's Tax Guide
- 51** Circular A, Agricultural Employer's Tax Guide

Form (and Instructions)

- W-2** Wage and Tax Statement
- W-4** Employee's Withholding Allowance Certificate
- W-5** Earned Income Credit Advance Payment Certificate
- W-9** Request for Taxpayer Identification Number and Certification
- 940 (or 940-EZ)** Employer's Annual Federal Unemployment (FUTA) Tax Return
- 943** Employer's Annual Tax Return for Agricultural Employees
- 8109** Federal Tax Deposit Coupon

See chapter 21 for information about getting these publications and forms.

Farm Employment

In general, you are an employer of farm workers if your employees do any of the following:

- 1) Raise or harvest agricultural or horticultural products on a farm.
- 2) Care for your farm and equipment, when most of the care is done on a farm.
- 3) Handle, process, or package any agricultural or horticultural commodity if you produced more than half of the commodity.
- 4) Do work related to cotton ginning, turpentine, or gum resin products.
- 5) Do housework in your private home if it is on a farm that is operated for profit.

Workers are your employees if they perform services subject to your control. You are not required to withhold taxes on independent contractors who are not your employees. For more information, see Publication 15-A.

Special rules apply to crew leaders. See *Crew Leaders*, later.

Employer identification number. If you have employees, you must have an employer identification number (EIN). You can apply for an EIN either by mail or by telephone. You can get an EIN immediately by calling the Tele-TIN number for the service center for your state (except for the Ogden Service Center), or you can send a completed SS-4, *Application for Employer Identification Number*, directly to the service center to receive your EIN by mail. See the instructions for Form SS-4 for more information.



You can call the Social Security Administration (SSA) to get Form SS-5 and the Immigration and Naturalization Service (INS) to get Form I-9. See the following discussions for the telephone numbers.

Employee's social security number (SSN). An employee who does not have an SSN should submit Form SS-5, *Application for a Social Security Card*, to the nearest social security office. Form SS-5 can be obtained from any social security office or by calling 1-800-772-1213.

The employee must furnish evidence of age, identity, and U.S. citizenship with the Form SS-5. An employee who is 18 or older must appear in person with this evidence at a social security office.

INS Form I-9. You must verify that each new employee is legally eligible to work in the United States. This includes completing the Immigration and Naturalization Service (INS) Form I-9, *Employment Eligibility Verification*. You can get the form from INS offices. Contact the INS at 1-800-755-0777 for more information.

Social Security and Medicare Taxes

As a farmer-employer, you may have to pay social security and Medicare taxes if you have one or more agricultural employees, including your parents, your children 18 years of age or older, or your spouse, and you meet either of the following tests:

- 1) You paid the employee \$150 or more in **cash** wages during the year, or
- 2) You paid wages of \$2,500 or more during the year to all your employees.

Exceptions. The following wages are not subject to social security and Medicare taxes, even if you pay \$2,500 or more to all your farm workers. These wages, however, do count toward the \$2,500-or-more test for determining social security and Medicare coverage of other farm workers.

- 1) Annual cash wages of less than \$150 paid to a seasonal farm worker. A seasonal farm worker is one who:
 - a) Works as a hand-harvest laborer,
 - b) Is paid piece rates in an operation usually paid on this basis in the area,
 - c) Commutes daily from his home to the farm, and
 - d) Worked in agriculture less than 13 weeks in the preceding calendar year.

- 2) Annual cash wages of less than \$1,000 paid to your household employee.

See Circular A for more information on these exceptions. See *Family Members*, later, for special rules on social security and Medicare withholding that apply to your spouse and children.

Cash wages. Cash wages paid to farm workers are subject to social security tax, Medicare tax, and income tax withholding. Cash wages include checks, money orders, and any kind of money or cash.

Only cash wages subject to social security and Medicare taxes are credited to your employees for social security benefit purposes. Payments not subject to these taxes, such as commodity wages, do not contribute to your employees' social security coverage. For information about social security benefits, contact the Social Security Administration.

Noncash wages. Noncash wages include food, lodging, clothing, transportation passes, and other goods. Noncash wages, including **commodity wages**, are not subject to social security and Medicare taxes and income tax withholding. However, they **are** subject to these items if the substance of the transaction is a cash payment.

The value of noncash wages is reported on Form W-2 in box 1, *Wages, tips, other compensation*, together with cash wages. Do not show noncash wages in box 3, *Social security wages*, or in box 5, *Medicare wages and tips*.

Withholding. If farm wages are subject to social security and Medicare taxes, you are required to withhold them from the cash wages paid to the employee. If you employ a family of workers, you must deduct social security and Medicare taxes and prepare a Form W-2 for each family worker who has wages subject to tax, not just for the head of the family.

Paying withheld taxes. Withheld taxes, together with your employer taxes, must be paid to the IRS. You must file Form 943 with the IRS at the address shown in the form instructions by January 31 of the year following the year covered by the return. If you are liable for \$500 or more of social security and Medicare taxes and withheld income taxes during the year, you must deposit them before you file Form 943. See *Deposits*, later, under *Reporting and Paying Employment Taxes*.

Tax rates and social security wage limits. For 1998, the employer and the employee will continue to pay:

- 1) 6.2% each for social security tax (old-age, survivors, and disability insurance), and
- 2) 1.45% each for Medicare tax (hospital insurance).

Wage limits. For 1998, the maximum amount of wages subject to the social security tax will be published in Circular A. There is no wage base limit for the Medicare tax. All covered wages are subject to the tax.

Circular A. Circular A contains additional information about social security and Medicare tax withholding. You can get Circular A from an IRS Forms Distribution Center. See

chapter 21 for information about getting forms and publications from the IRS.

Paying employee's share. If you would rather pay the employee's share of social security and Medicare taxes without deducting it from his or her wages, you may do so. If you do not deduct the taxes, you must still pay them. The employee's share of social security or Medicare tax that you pay is additional income to the employee. You must include it on the employee's Form W-2 in box 1, but do not count it as cash wages for social security and Medicare (boxes 3 and 5 on Form W-2) or for federal unemployment tax purposes.

Religious exemption. An exemption from social security and Medicare taxes is available to members of a recognized religious sect opposed to insurance. This exemption is available only if both the employee and the employer are members of such a sect.

More information. For more information, see Publication 517, *Social Security and Other Information for Members of the Clergy and Religious Workers*.

Income Tax Withholding

Farmers and crew leaders must withhold income tax from farm workers who are subject to social security and Medicare taxes. The amount to withhold is figured on gross wages without taking out social security and Medicare taxes, union dues, insurance, etc. You can use one of several methods to determine the amount to withhold. The methods are described in Circular A.

Generally, you must withhold income tax from wages you pay an employee if the wages, cash and noncash, are more than the dollar value of the withholding allowances claimed for that pay period. Do not withhold income tax from the wages of an employee who, by filing Form W-4, certifies that he or she had no income tax liability last year and anticipates no liability for the current year.

In general, an employee can claim withholding allowances on Form W-4 equal to the number of exemptions the employee will be entitled to claim on his or her tax return. An employee may also be able to claim a special withholding allowance and allowances for estimated deductions and credits.



Circular A contains tables showing the correct amount of income tax you should withhold. It also contains additional information about income tax withholding. You can get Circular A and Form W-4 from IRS offices or by calling 1-800-TAX-FORM (1-800-829-3676).

Report the income tax withheld on Form 943 at the same time the social security and Medicare taxes are reported. However, you may have to deposit withheld taxes before you file Form 943.

Form W-4 for 1998. Farmers who have employees should make 1998 Forms W-4 available to their employees and encourage them to check their income tax withholding for 1998. Those employees who owed a large amount of tax or received a large refund for 1997 may want to file a new Form W-4.

Nonemployee compensation. Generally, you are not required to withhold tax on payments for services to individuals who are not your employees. However, you may be required to report these payments on Form 1099-MISC, *Miscellaneous Income*, and to withhold under the backup withholding rules, discussed next. See chapter 2 for information on Form 1099-MISC.

Backup withholding. In certain cases, the law requires you to withhold income tax at a rate of 31% (backup withholding) on payments of commissions, nonemployee compensation, and other payments you make for services in your farm business or other business activities. The backup withholding rules do not apply to wages, pensions, or annuities.

See the *Instructions for Forms 1099, 1098, 5498, and W-2G* for more information.

Federal Unemployment Tax (FUTA)

If you as a farmer-employer pay cash wages, you must pay federal unemployment (FUTA) tax if you meet **either** of the following tests.

- 1) You paid cash wages of \$20,000 or more to farm workers in any calendar quarter during the current or preceding calendar year.
- 2) You employed 10 or more farm workers for some part of at least 1 day during any 20 different calendar weeks during the current or preceding calendar year.

These rules do not apply to your spouse, parents, or children under age 21. See *Family Members*, later.

Alien farm workers. Wages paid to an alien who is admitted to the United States, performs contract farm labor for you, and then returns to his or her own country when the contract is completed, are exempt from the federal unemployment (FUTA) tax.

Commodity wages. Payments in kind for farm labor are not considered wages. Do not count them to figure whether you are subject to federal unemployment tax or to figure how much tax you owe.

Tax rate and credit. The gross FUTA tax rate is 6.2%. However, you are given a credit of up to 5.4% for the state unemployment tax you pay. The net tax rate, therefore, can be as low as 0.8% (6.2% – 5.4%) if your state is not subject to a credit reduction. If your state tax rate (experience rate) is less than 5.4%, you are still allowed the full 5.4% credit.

You cannot take the credit for any state tax you do not pay. If you are exempt from state unemployment tax for any reason, the full 6.2% rate applies.

Credit reduction. The 5.4% credit may be reduced for employers in some states. A credit reduction is required if a state's unemployment fund borrows from the federal government and keeps an outstanding balance for two or more years.

If your state is subject to a credit reduction for 1997, the state's name and the amount of the credit reduction will be shown on Form 940.

More information. For more information on FUTA tax, see Circular A. For information on depositing FUTA tax, see *FUTA Tax* later.

Reporting and Paying Employment Taxes

There are special rules for reporting and paying employment taxes.

Check or money order. When you pay social security and Medicare taxes, withheld income tax, and FUTA tax — whether through deposits or with your return — you should write the following information on your check or money order:

- 1) Your employer identification number.
- 2) The type of tax you are paying.
- 3) The period covered by the payment.

Penalties. If you pay your taxes late, you may have to pay a penalty as well as interest on any overdue amounts. However, if the first time you are required to deposit employment taxes is after July 30, 1996, and you are late, the IRS may waive the penalty. To qualify, you must have filed your employment tax return on time.

There are also civil and criminal penalties for intentionally not paying taxes, filing a false tax return, or filing no return at all.

Trust fund recovery penalty. If you are responsible for withholding, accounting for, depositing, or paying withholding taxes and willfully fail to do so, you can be held liable for a penalty equal to the tax not paid, plus interest. A responsible person can be an officer of a corporation, a partner, a sole proprietor, or an employee of any form of business. A trustee or agent with authority over the funds of the business can also be held responsible for the penalty.

“Willfully” in this case means voluntarily, consciously, and intentionally. Paying other expenses of the business instead of the taxes due is considered to be acting willfully.

Social Security, Medicare, and Withheld Income Taxes

You must withhold income, social security, and Medicare taxes required to be withheld from the salaries and wages of your employees. You are liable for the payment of these taxes to the federal government whether or not you collect them from your employees. If, for example, you withhold less than the correct tax from an employee's wages, you are still liable for the full amount. You must also pay your share of social security and Medicare taxes.

Form 943. Report withheld income tax and social security and Medicare taxes on Form 943. The 1997 form is due by February 2, 1998.

Deposits. You will generally have to make tax deposits if you are liable for \$500 or more of social security and Medicare taxes and withheld income tax during the year. You must deposit both your part and your employees' part of social security and Medicare taxes and withheld income tax before you file Form 943.

More information. For more information on deposits, including deposit rules and penalties for late deposits, see Circular A.

Form W-2. By January 31, you must furnish each employee a Form W-2 showing total wages for the previous year and total income tax and social security and Medicare taxes withheld. However, if an employee stops working for you and requests the form earlier, you must give it to the employee within 30 days of the **later** of the following dates.

- 1) The date the employee requests the form, or
- 2) The date you make your final payment of wages to the employee.

See *Form W-2* in chapter 2.

FUTA Tax

The federal unemployment tax is imposed on you as the employer. It must not be collected or deducted from the wages of your employees.

Form 940. FUTA tax is reported on Form 940, *Employer's Annual Federal Unemployment (FUTA) Tax Return*. This form covers one calendar year and is generally due January 31 after the year ends. However, you may have to make deposits of FUTA tax before filing the return. If you deposit the tax on time and in full, you have an extra 10 days to file — until February 10.

Form 940-EZ. You can use Form 940-EZ, a simplified version of Form 940, if:

- 1) You paid unemployment tax to only one state.
- 2) You paid the state tax by the due date of Form 940 or 940-EZ.
- 3) All your wages taxable for FUTA tax were also taxable for state unemployment tax.
- 4) You did not pay wages subject to the unemployment compensation laws of a credit reduction state.

Deposits. If at the end of any calendar quarter you owe, but have not yet deposited, more than \$100 in FUTA tax for the year, you must make a deposit by the end of the next month.

If the undeposited tax is \$100 or less at the end of a quarter, you do not have to deposit it. You must add it to the tax for the next quarter. If the total undeposited tax is more than \$100 in the next quarter, a deposit will be required. If the undeposited tax for the 4th quarter (plus any undeposited tax for an earlier quarter) is less than \$100, you can either make a deposit or pay it with your return by the January 31 due date.

More information. See Circular A for more information on depositing FUTA tax.

Family Members

Child of employer. The services of a child under the age of 18 who works for his or her parent in a trade or business are not subject to social security and Medicare taxes. If these services are for work other than in a trade or business, such as domestic work in the par-

ent's private home, they are not subject to social security and Medicare taxes until the child reaches 21.

The services of a child under the age of 21 who works for his or her parent (whether or not in a trade or business) are not subject to FUTA tax.

These rules apply even if the child is paid wages for nonfarm work. Wages for these services are not subject to social security and Medicare or federal unemployment taxes. However, the wages for nonfarm work may still be subject to income tax withholding.

One spouse employed by another. The services of an individual who works for his or her spouse in a trade or business are subject to social security and Medicare taxes, but not FUTA tax. However, the services of one spouse employed by another in other than a trade or business, such as domestic service in a private home, are not subject to social security and Medicare taxes or FUTA tax.

Covered services of child or spouse. Wages for the services of a child or spouse are subject to income tax withholding and social security, Medicare, and FUTA taxes, if he or she works for:

- 1) A corporation, even if it is controlled by the child's parent or the individual's spouse.
- 2) A partnership, even if the child's parent is a partner, unless each partner is a parent of the child.
- 3) A partnership, even if the individual's spouse is a partner.
- 4) An estate, even if it is the estate of a deceased parent.

In these situations, the child or spouse is considered to work for the corporation, partnership, or estate, not the parent or other spouse.

Crew Leaders

Farmers can employ or use the services of crew leaders to provide them with farm labor.

Social security and Medicare taxes. For social security and Medicare tax purposes, the crew leader is considered the employer of the workers if the crew leader:

- 1) Furnishes workers to do farm labor.
- 2) Pays (either on his or her own behalf or on behalf of the farmer) the workers for their farm labor.
- 3) Has not entered into a written agreement with the farmer under which he or she is designated as an employee of the farmer.

Federal income tax. If the crew leader is considered the employer for social security and Medicare tax purposes, the crew leader is considered the employer for federal income tax purposes.

Federal unemployment tax. For federal unemployment tax purposes, the crew leader is considered the employer of the workers if, in addition to the earlier requirements:

- 1) The crew leader is registered under the Migrant and Seasonal Agricultural Worker Protection Act, or
- 2) Substantially all crew members operate or maintain mechanized equipment provided by the crew leader as part of the service to the farmer.

The farmer is considered the employer of the workers in all other situations. In addition, the farmer is considered the employer of workers furnished by a registered crew leader if the workers are the employees of the farmer under the common-law test. For example, some farmers employ individuals to recruit farm workers exclusively for them. Although these individuals may be required to register under the Migrant and Seasonal Agricultural Worker Protection Act, the workers are employed directly by the farmer. The farmer is considered to be the employer in these cases. For information concerning who is a common-law employee, see *Who Are Employees?* in Publication 15 (Circular E).

Earned Income Credit (EIC)

The EIC is a special credit for certain employees that reduces the tax they owe. Even if they do not owe any tax, the credit may give them a refund. Eligible employees can choose to receive advance payment of the EIC from you. To ensure that certain employees are aware of the EIC, you must notify them about the credit.

Advance payments (Form W-5). You must pay part of the EIC to eligible employees who have filed a Form W-5 with you. This allows those employees to receive part of the benefit of their credit each payday, rather than having a single amount credited to them later on their tax return. Employers of farm workers do not have to make advance payments to farm workers paid on a daily basis.

The payment is added to the employee's pay each payday. It is figured from tables in Circular A. You reduce your liability for income tax withholding, social security tax, and Medicare tax by the total advance earned income credit payments made. For more information, see Circular A.

Notification. You must notify each employee who worked for you at any time during the year and from whom you did not withhold any income tax about the EIC. However, you do not have to notify employees who claim exemption from withholding on Form W-4.

You meet the notification requirement by giving each employee any one of the following.

- 1) Form W-2, which contains the notification on the back of Copy C.
- 2) A substitute Form W-2 with the exact EIC wording shown on the back of copy C of Form W-2.
- 3) Notice 797, *Possible Federal Tax Refund Due to the Earned Income Credit (EIC)*.
- 4) Your own written statement with the exact wording of Notice 797.

For more information about notification requirements and claiming the EIC, see No-

tion 1015, *Have You Told Your Employees About the Earned Income Credit (EIC)?*

17.

Retirement Plans

Important Changes for 1997

SIMPLE retirement plan. Beginning in 1997, you may be able to set up a savings incentive match plan for employees (SIMPLE). You can set up a SIMPLE plan if you have 100 or fewer employees and meet other requirements. See *Simple Retirement Plans* after the *Simplified Employee Pension (SEP)* discussion.

Repeal of salary reduction arrangement under a SEP (SARSEP). Beginning in January 1997, an employer is no longer allowed to establish a SARSEP. However, participants (including new participants hired after 1996) in a SARSEP that was established before 1997 can continue to elect to have their employer contribute part of their pay to the plan. See *Salary Reduction Arrangement under Simplified Employee Pension (SEP)*.

Required minimum distribution rule modified. Beginning in 1997, the definition of the required beginning date that is used to figure the required minimum distribution from qualified retirement plans takes into account whether a plan participant has retired. This does not apply to a **5% owner**, who must still begin to receive distributions on April 1 of the year following the calendar year in which he or she reaches age 70½. Also, the new law does not apply to IRAs. For more information, see *Required Distributions* in the *Keogh Plans* discussion in Publication 560.

Introduction

Retirement plans are savings plans that offer you tax advantages to set aside money for your own and your employees' retirement.

In general, a sole proprietor or a partner also is considered an employee for purposes of participating in a retirement plan.

Funding the plan. A retirement plan you establish as an employer can be funded entirely by your contributions, or by a mix of your contributions and employee contributions. Employee contributions do not have to satisfy the minimum funding requirements for your plan. For example, a retirement plan can require after-tax employee contributions that by themselves do not meet the minimum funding requirements. Employee contributions can be voluntary or mandatory.

Elective deferrals. Your plan can allow your employees to make elective deferrals, although they are considered employer con-

tributions. This allows employees to elect to have you contribute part of their current compensation (pay) to a retirement plan. Only the remaining portion of their pay is currently taxable. The income tax on the contributed pay (and earnings on it) is deferred.

Employer contributions. Your contributions to an employer-sponsored retirement plan generally are deductible as discussed later under *Deduction Limits*.

Employer contributions that must be capitalized. You cannot currently deduct your employer contributions to a retirement plan (or any other expenses) if the uniform capitalization rules apply to you. If you are subject to these rules, you must capitalize (include in the basis of certain property or in inventory costs) your contributions as discussed in chapter 7 of this publication.

Kinds of plans. Retirement plans are either:

☑ Qualified plans. This includes retirement plans for small businesses, including the self-employed (such as HR-10 (Keogh) plans, SIMPLE plans, and simplified employee pensions (SEPs)), or

☑ Nonqualified plans.

Also, in general, individuals who are employed can set up and contribute to individual retirement arrangements (IRAs).

See *Table 17-1* for information about the rules for contributions to IRAs, simplified employee pension (SEP-IRA) plans, SIMPLE plans, and Keogh plans.

Topics

This chapter discusses:

- ☑ Qualified plans
- ☑ Kinds of qualified plans
- ☑ Plans for the self-employed
- ☑ Keogh plans
- ☑ Simplified employee pensions (SEPs)
- ☑ Salary reduction arrangements
- ☑ SIMPLE retirement plans
- ☑ Nonqualified plans
- ☑ Individual retirement arrangements (IRAs)

Useful Items

You may want to see:

Publication

- ☐ **533** Self-Employment Tax
- ☐ **560** Retirement Plans for Small Business (SEP, Keogh, and SIMPLE Plans)
- ☐ **590** Individual Retirement Arrangements (IRAs) (Including SEP-IRAs and SIMPLE IRAs)
- ☐ **15** Employer's Tax Guide (Circular E)

Form (and Instructions)

- ☐ **W-2** Wage and Tax Statement
- ☐ **5305-SEP** Simplified Employee

Pension—Individual Retirement Accounts Contribution Agreement

☐ **5305A-SEP** Salary Reduction and Other Elective Simplified Employee Pension—Individual Retirement Accounts Contribution Agreement

☐ **5305-SIMPLE** Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) (for Use With a Designated Financial Institution)

☐ **5500-EZ** Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan

See chapter 21 for information about getting these forms and publications.

Qualified Plans

A qualified retirement plan is a written plan that you can establish for the exclusive benefit of your employees and their beneficiaries.

Contributions to the plan may be made by you, or by both you and your employees. If your plan meets the qualification requirements, you generally can deduct your contributions to the plan when you make them, except for any amount capitalized. For more information, get Publication 560.

Your employees generally are not taxed on your contributions or increases in the plan's assets until they are distributed to them. However, certain loans made from qualified employer plans are treated as taxable distributions. For more information, get Publication 575.

Qualification requirements. To be a qualified plan, the plan must meet many requirements. Among these are rules concerning:

- ☑ Who must be covered by the plan,
- ☑ How contributions to the plan are to be invested,
- ☑ How contributions to the plan and benefits under the plan are to be determined, and
- ☑ How much of an employee's interest in the plan must be guaranteed (vested).

For more information, get Publication 560.

More than one job. If you are self-employed and also work for someone else, you can participate in retirement plans for both jobs. Generally, your participation in a retirement plan for one job does not affect your participation in a plan for the other job. However, if you have an IRA, you might not be permitted to deduct some or all of your IRA contributions.

Your deduction for IRA contributions might be limited if you also participate in a SEP-IRA. See Publication 560. In addition, your IRA deduction might be limited because you (or your spouse) are covered by an employer's retirement plan and your income is above a certain amount. See Publication 590.

Kinds of Qualified Plans

There are two basic kinds of qualified retirement plans: defined contribution plans and defined benefit plans.

Defined Contribution Plans

These are plans that provide for a separate account for each person covered by the plan. Benefits are based only on amounts contributed to or allocated to each account.

There are **three types** of defined contribution plans: profit-sharing plans, stock bonus plans, and money purchase pension plans.

Profit-sharing plan. This is a plan that lets your employees or their beneficiaries share in the profits of your business. The plan must have a definite formula for allocating the contributions made to the plan among the participating employees and for distributing the funds in the plan.

Stock bonus plan. This type of plan is similar to a profit-sharing plan, but it can only be set up by a corporation. Benefits are payable in stock of the employer.

Money purchase pension plan. Under this plan, your contributions are a stated amount, or are based on a stated formula that is not subject to your discretion. For example, your formula could be 10% of each participating employee's compensation. Your contributions to the plan are not based on your profits.

Defined Benefit Plans

These are any plans that are not defined contribution plans. In general, a qualified defined benefit plan must provide for set benefits. Your contributions to the plan are based on actuarial assumptions. Generally, you will need continuing professional help to have a defined benefit plan.

Plan Approval

The Internal Revenue Service (IRS) will issue a determination or opinion letter regarding a plan's qualification. The determination or opinion of the IRS will be based on how the plan is written, not on how it operates.

You are not required to request a determination or opinion letter to get all the tax benefits of a plan. But, if your plan does not have a determination letter, you may want to request one to ensure that your plan meets the requirements for tax benefits.

Because requesting a determination, opinion, or ruling letter can be complex, you may need professional help. Also, the IRS charges a fee for issuing these letters. Attach Form 8717, *User Fee for Employee Plan Determination Letter Request*, to your determination letter application.

Master and prototype plans. It may be easier for you to adopt an IRS-approved existing master or prototype retirement plan than to set up your own original plan. Master and prototype plans can be provided by the following sponsoring organizations:

- ☑ Trade or professional organizations,
- ☑ Banks (including some savings and loan associations and federally insured credit unions),
- ☑ Insurance companies, or
- ☑ Mutual funds.

Table 17-1. Key Retirement Plan Rules

Type of Plan	Last Date for Contribution	Maximum Contribution	When To Begin Distributions ¹		
IRA	Due date of contributor's income tax return (NOT including extensions)	Smaller of \$2,000 or taxable compensation	April 1 of year after year IRA owner reaches age 70½		
SEP-IRA	Due date of employer's return (including extensions)	Smaller of \$30,000 or 15% ² of participant's taxable compensation ³	April 1 of year after year participant reaches age 70½		
SIMPLE IRA	Elective employer contributions: 30 days following the end of the month with respect to which the contributions are to be made. Matching contributions or nonelective contributions: Due date of employer's return (including extensions)	Employee: Salary reduction contribution, up to \$6,000. Employer contribution: either dollar-for-dollar matching contributions, up to 3% of employee's compensation, or fixed nonelective contributions of 2% of compensation ³	April 1 of year after year participant reaches age 70½		
Keogh	Due date of employer's return (including extensions)	<p style="text-align: center;"><u>Defined Contribution Plans</u></p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> <p><u>Employee</u></p> <p>Money Purchase—Smaller of \$30,000 or 25% of employee's taxable compensation³</p> <p>Profit-Sharing—Smaller of \$30,000 or 25% of employee's taxable compensation³</p> </td> <td style="width: 50%; vertical-align: top;"> <p><u>Self-Employed Individual</u></p> <p>Money Purchase—Smaller of \$30,000 or 25% of self-employed participant's taxable compensation⁴</p> <p>Profit-Sharing—Smaller of \$30,000 or 25% of self-employed participant's taxable compensation⁴</p> </td> </tr> </table> <p style="text-align: center;"><u>Defined Benefit Plans</u></p> <p>Amount needed to provide an annual retirement benefit no larger than the smaller of \$125,000 or 100% of the participant's average taxable compensation for his or her highest 3 consecutive years</p>	<p><u>Employee</u></p> <p>Money Purchase—Smaller of \$30,000 or 25% of employee's taxable compensation³</p> <p>Profit-Sharing—Smaller of \$30,000 or 25% of employee's taxable compensation³</p>	<p><u>Self-Employed Individual</u></p> <p>Money Purchase—Smaller of \$30,000 or 25% of self-employed participant's taxable compensation⁴</p> <p>Profit-Sharing—Smaller of \$30,000 or 25% of self-employed participant's taxable compensation⁴</p>	Generally, April 1 of year that follows the later of the year participant reaches age 70½ or the year in which he or she retires
<p><u>Employee</u></p> <p>Money Purchase—Smaller of \$30,000 or 25% of employee's taxable compensation³</p> <p>Profit-Sharing—Smaller of \$30,000 or 25% of employee's taxable compensation³</p>	<p><u>Self-Employed Individual</u></p> <p>Money Purchase—Smaller of \$30,000 or 25% of self-employed participant's taxable compensation⁴</p> <p>Profit-Sharing—Smaller of \$30,000 or 25% of self-employed participant's taxable compensation⁴</p>				

¹ Distributions of at least the required minimum amount must be made each year if the entire balance is not distributed.

² Net earnings from self-employment must take the contribution into account.

³ Generally limited to \$160,000.

⁴ Compensation is before adjustment for this contribution.

Adoption of a master or prototype plan does not mean that your plan is automatically qualified. It must still meet all of the qualification requirements stated in the tax law.

Retirement Plans for Small Businesses

If you are the owner of a small business (including a self-employed person), you can set up certain qualified retirement plans. See *Qualified Plans*, earlier. These plans generally are called Keogh or HR-10 plans. You also can set up a less complicated tax-advantaged retirement plan. See *Simplified Employee Pension (SEP)*, later.

Beginning in 1997, a small employer can also set up a SIMPLE retirement plan. See *SIMPLE Retirement Plans*, after the *Simplified Employee Pension (SEP)* discussion.

Keogh Plans

Only a sole proprietor or a partnership (not a partner) can set up a Keogh plan. For plan purposes, a self-employed person is both an employer and an employee. It is not necessary to have employees besides yourself to set up a Keogh plan. The plan must be for the exclusive benefit of employees or their beneficiaries. You generally can deduct contributions to the plan. Contributions are not taxed to your employees until plan benefits are distributed to them.



See the glossary near the end of Publication 560 for the definition of employer, employee, and common-law employee.

Deduction Limits

The limit on your deduction for your contributions to a Keogh plan depends on the kind of plan you have.

Defined contribution plans. The deduction limit for a defined contribution plan depends on whether it is a profit-sharing plan or a money purchase pension plan.

Profit-sharing plan. Your deduction for contributions to a profit-sharing plan cannot be more than **15%** of the compensation from the business paid (or accrued) during the year to the common-law employees participating in the plan. You must reduce this 15% limit in figuring the deduction for contributions you make for your own account. See *Deduction of contributions for yourself*, later.

Money purchase pension plan. Your deduction for contributions to a money purchase pension plan is generally limited to **25%** of the compensation from the business paid during the year to a participating common-law employee. You must reduce this 25% limit in figuring the deduction for contributions you make for yourself, as discussed later.

Defined benefit plans. The deduction for contributions to a defined benefit plan is based on actuarial assumptions and compu-

tations. Consequently, an actuary must figure your deduction limit.



In figuring the deduction for contributions, you cannot take into account any contributions or benefits that exceed the limits discussed under Limits on Contributions and Benefits in Publication 560.

The deduction limit for contributions to a defined benefit plan may be greater than the defined contribution plan limits just described, but actuarial calculations are needed to determine the amount. For more information about these plans, see *Kinds of Plans* in Publication 560.

Deduction of contributions for yourself. To take a deduction for contributions you make for yourself to a plan, you must have *net earnings* from the trade or business for which the plan was established.

Limit on deduction. If the Keogh plan is a *profit-sharing plan*, your deduction for yourself is limited to the smaller of \$30,000 or 13.0435% (15% reduced as discussed below) of your net earnings from the trade or business that has the plan. If the plan is a *money purchase plan*, the deduction is limited to the smaller of \$30,000 or 20% (25% reduced as discussed below) of your net earnings.

Net earnings. Your net earnings must be from self-employment in a trade or business in which your personal services are a material income-producing factor. If you are a partner who only contributed capital, and who did not perform personal services, you cannot participate in the partnership's plan. Your net earnings do not take into account tax-exempt income (or deductions related to that income) other than foreign earned income and foreign housing cost amounts.

Your net earnings are your business gross income minus allowable deductions from that business. Allowable deductions include contributions to the plan for your common-law employees along with your other business expenses.

If you are a partner other than a limited partner, your net earnings include your distributive share of the partnership income or loss (other than separately computed items such as capital gains and losses) and any guaranteed payments you receive from the partnership. If you are a limited partner, your net earnings include only guaranteed payments you receive for services rendered to or for the partnership. For more information, see *Partners under Who Must Pay Self-Employment Tax* in Publication 533.

Net earnings do not include income passed through to shareholders of S corporations.

Adjustments. You must reduce your net earnings by the income tax deduction for one-half of your self-employment tax. Also, net earnings must be reduced by the deduction for contributions you make for yourself. This reduction is made indirectly, as explained next.

Net earnings reduced by adjusting contribution rate. You must reduce net earnings by your deduction for contributions for yourself. The deduction and the net earnings depend on each other. You can make the adjustment to your net earnings indirectly by reducing the contribution rate called for in the plan and using the reduced

rate to figure your maximum deduction for contributions for yourself.

Annual compensation limit. You generally cannot take into account more than \$160,000 of your compensation in figuring your contribution to a defined contribution plan.



For employees in a collective bargaining unit covered by a plan for which the \$160,000 limit does not apply for the plan year beginning in 1997, the compensation limit is \$250,000.

Figuring your deduction. Use the following worksheet to find the reduced contribution rate for yourself. Make no reduction to the contribution rate for any common-law employees.

Rate Worksheet for Self-Employed

- 1) Plan contribution rate as a decimal (for example, 10½% would be 0.105)
- 2) Rate in line 1 plus 1 (for example, 0.105 plus 1 would be 1.105)
- 3) Self-employed rate as a decimal (divide line 1 by line 2)

Now that you have your self-employed rate, you can figure your maximum deduction for contributions for yourself by completing the following steps:

Deduction Worksheet for Self-Employed

- Step 1:**
Enter the contribution rate shown in line 3 above
- Step 2:**
Enter your net earnings (net profit) from: line 31, Schedule C (Form 1040); line 3, Schedule C-EZ (Form 1040); line 36, Schedule F (Form 1040); or line 15a, Schedule K-1 (Form 1065) .. \$
- Step 3:**
Enter your deduction for self-employment tax from line 26, Form 1040
- Step 4:**
Subtract step 3 from step 2 and enter the result
- Step 5:**
Multiply step 4 by step 1 and enter the result
- Step 6:**
Multiply \$160,000 by your plan contribution rate. Enter the result but not more than \$30,000
- Step 7:**
Enter the smaller of step 5 or step 6. This is your **maximum deductible contribution**. Enter your deduction on line 28, Form 1040

Example. You are a self-employed farmer and have employees. The terms of your plan provide that you contribute 10½% (.105) of your compensation (defined earlier) and 10½% of your common-law employees' compensation. Your net earnings from line 36, Schedule F (Form 1040) are \$200,000. In figuring this amount, you deducted your common-law employees' pay of \$100,000 and contributions for them of \$10,500 (10½% x \$100,000). You figure your self-employed rate and maximum deduction for employer contributions on behalf of yourself as follows:

Rate Worksheet for Self-Employed

- 1) Plan contribution rate as a decimal (for example, 10½% would be 0.105) 0.105
- 2) Rate in line 1 plus 1 (for example, 0.105 plus 1 would be 1.105) 1.105
- 3) Self-employed rate as a decimal (divide line 1 by line 2) 0.0950

Deduction Worksheet for Self-Employed

- Step 1:**
Enter the contribution rate shown in line 3 above 0.0950
- Step 2:**
Enter your net earnings (net profit) from: line 31, Schedule C (Form 1040); line 3, Schedule C-EZ (Form 1040); line 36, Schedule F (Form 1040); or line 15a, Schedule K-1 (Form 1065) .. \$200,000
- Step 3:**
Enter your deduction for self-employment tax from line 26, Form 1040
- Step 4:**
Subtract step 3 from step 2 and enter the result
- Step 5:**
Multiply step 4 by step 1 and enter the result
- Step 6:**
Multiply \$160,000 by your plan contribution rate. Enter the result but not more than \$30,000
- Step 7:**
Enter the smaller of step 5 or step 6. This is your **maximum deductible contribution**. Enter your deduction on line 28, Form 1040

When to make contributions. To take a deduction for contributions for a particular year, you must make the contributions not later than the due date, plus extensions, of your tax return for that year.

More information. See Publication 560 for more information on retirement plans for small business owners, including the self-employed. It also discusses the reporting forms that must be filed for these plans.

Simplified Employee Pension (SEP)

A simplified employee pension (SEP) is a written plan that allows you to make deductible contributions toward your own and your employees' retirement without getting involved in more complex retirement plans. A corporation also can have a SEP and make deductible contributions toward its employees' retirement. But some advantages available to Keogh and other qualified plans, such as the special tax treatment that may apply to lump-sum distributions, do not apply to SEPs.

Under a SEP, you make the contributions to an individual retirement arrangement (called a SEP-IRA in this chapter), which is owned by you or your common-law employee.

SEP-IRAs are set up for, at a minimum, each *qualifying employee*. A SEP-IRA may have to be set up for a *leased employee*, but need not be set up for an *excludable employee*. For more information, get Publication 560.

Form 5305-SEP. You may be able to use *Form 5305-SEP* in setting up your SEP. Publication 560 has a reproduction of the form.

Contribution limits. Contributions you make for a year to a common-law employee's SEP-IRA cannot exceed the smaller of 15% of the employee's compensation or \$30,000. Compensation, for this purpose, generally does not include employer contributions to the SEP.

Annual compensation limit. You generally cannot consider the part of compensation of an employee that is over \$160,000

when you figure your contributions limit for that employee.

TIP For employees in a collective bargaining unit for which the \$160,000 limit does not apply, the compensation limit is \$250,000.

More than one plan. If you also contribute to a defined contribution retirement plan, annual additions to an account are limited to the lesser of (1) \$30,000 or (2) 25% of the participant's compensation. When you figure these limits, your contributions to all of the plans must be added. Since a SEP is considered a defined contribution plan for purposes of these limits, your contributions to a SEP must be added to your contributions to defined contribution plans.

Reporting on Form W-2. Do not include SEP contributions on Form W-2 unless there are contributions over the limit that applies or there are contributions under a salary reduction arrangement.

Contributions for yourself. The annual limits on your contributions to a common-law employee's SEP-IRA also apply to contributions you make to your own SEP-IRA. However, special rules apply when you figure your maximum deductible contribution. See *Deduction of contributions for yourself*, later.

Deduction limits. The most you can deduct for employer contributions for common-law employees is 15% of the compensation paid to them during the year from the business that has the plan.

Deduction of contributions for yourself. When figuring the deduction for employer contributions made to your own SEP-IRA, compensation is your net earnings from self-employment, which does not include:

- 1) The deduction allowed to you for one-half of the self-employment tax, and
- 2) The deduction for contributions on behalf of yourself to the plan.

The deduction amount for (2), above, and your compensation (net earnings) are each dependent on the other. For this reason, the deduction amount for (2) is figured indirectly by reducing the contribution rate called for in your plan. This is done by using the *Rate Worksheet for Self-Employed*, shown earlier in the chapter.

SEP and profit-sharing plans. If you also contributed to a qualified profit-sharing plan, you must reduce the 15% deduction limit for that plan by the allowable deduction for contributions to the SEP-IRAs of those participating in both the SEP plan and the profit-sharing plan.

SEP and other qualified plans. If you also contributed to any other type of qualified plan, treat the SEP as a separate profit-sharing plan for purposes of applying the overall 25% deduction limit described in section 404(h)(3) of the Internal Revenue Code.

Employee contributions. Participants can also make contributions of up to \$2,000 to their SEP-IRAs independent of employer's SEP contributions. The portion of the IRA contributions that is deductible may be reduced or eliminated because the participant is covered by an employer retirement plan (the SEP plan). See Publication 590 for details.

Salary Reduction Arrangement

A SEP can include a salary reduction (elective deferral) arrangement. Under the arrangement, employees can elect to have you contribute part of their pay to their SEP-IRAs. The income tax on the part contributed is deferred. This choice is called an elective deferral, which remains tax free until distributed (withdrawn).



Beginning in January 1997, an employer is no longer allowed to establish a SARSEP. However, participants in a SARSEP that was established before 1997 (including employees hired after 1996) can continue to elect to have their employer contribute part of their pay to the plan.

This election is available only if:

- At least 50% of your employees eligible to participate choose the salary reduction arrangement,
- You had 25 or fewer employees who were eligible to participate in the SEP (or would have been eligible to participate if you had maintained a SEP) at any time during the preceding year, and
- The deferral each year by each eligible highly compensated employee (as defined in Publication 560) as a percentage of pay (deferral percentage) is no more than 125% of the average deferral percentage (ADP) of all nonhighly compensated employees eligible to participate (the **ADP test**). You generally cannot consider compensation of an employee in excess of \$160,000 in figuring an employee's deferral percentage.

Limits on elective deferrals. In general, the total income an employee can defer under a salary reduction arrangement included in a SEP and certain other elective deferral arrangements for 1997 is limited to the lesser of 15% of the participant's compensation (as defined in Publication 560) or \$9,500. This limit applies only to the amounts that represent a reduction from the employee's pay, not to any contributions from employer funds.

Employment taxes. Elective deferrals, not exceeding the ADP test, are not subject to income tax in the year of deferral, but are included in wages for social security, Medicare, and unemployment (FUTA) tax purposes.

Reporting SEP Contributions on Form W-2

Your SEP contributions are excluded from your employees' income. Unless there are contributions above the limit that applies, or unless there are contributions under a salary reduction arrangement, do not include these contributions in your employees' wages on Form W-2, for income, social security, or Medicare tax purposes. Your SEP contributions **under a salary reduction arrangement** are included in your employees' Form W-2 wages for social security and Medicare tax purposes only.

Example. Jim's salary reduction arrangement calls for a deferral contribution rate of 10% of his salary to be contributed by his employer as an elective deferral to Jim's SEP-IRA. Jim's salary for the year is \$30,000 (before reduction for the deferral). The employer did not elect to treat deferrals as compensation under the arrangement. To figure

the deferral amount, the employer multiplies Jim's salary of \$30,000 by 9.0909%, the reduced rate equivalent of 10% to get the deferral amount of \$2,727.27. (This method is the same one that you, as a self-employed person, use to figure the contributions you make on your own behalf.) See *Rate Worksheet for Self Employed*, earlier in the chapter.

On Jim's Form W-2, the employer shows total wages of \$27,272.73 (\$30,000 minus \$2,727.27), social security wages of \$30,000, and Medicare wages of \$30,000. Jim reports \$27,272.73 as wages on his individual income tax return.

If the employer elects to treat deferrals as compensation under the salary reduction arrangement, Jim's deferral amount would be \$3,000 (\$30,000 x 10%) because, in this case, the employer uses the rate called for under the arrangement (not the reduced rate) to figure the deferral and the ADP test. On Jim's Form W-2, the employer shows total wages of \$27,000 (\$30,000 minus \$3,000), social security wages of \$30,000, and Medicare wages of \$30,000. Jim reports \$27,000 as wages on his return.

In either case, the maximum deductible contribution would be \$3,913.05 (\$30,000 x 13.0435%).

For more information on employer withholding requirements, see Publication 15.

For more information on SEPs, see Publication 560.

SIMPLE Retirement Plans

A SIMPLE plan is a written salary reduction arrangement that allows a small business (an employer with 100 or fewer employees) to make elective contributions to a simple retirement account on behalf of each eligible employee. An **eligible employer** is not allowed to maintain another retirement plan.

Setting Up a SIMPLE Plan

If an employer has 100 or fewer employees (who received at least \$5,000 of compensation from the employer for the preceding year), the employer may be able to set up a SIMPLE retirement plan on behalf of eligible employees. The plan can be either:

- An IRA for each eligible employee, or
- Part of a qualified cash or deferred arrangement (a 401(k) plan).

The SIMPLE plan must be the only retirement plan of the employer to which contributions are made, or benefits are accrued, for service in any year beginning with the year the SIMPLE plan becomes effective.

Under the *qualified salary reduction arrangement* the employer's contributions on behalf of the employee (elective deferrals) are stated as a percentage of the employee's compensation and are limited to \$6,000. The dollar limit is indexed for inflation in \$500 increments.

Under the *qualified salary reduction arrangement* the employer is also required to make either a matching contribution to the simple retirement account on behalf of each employee who elects to make elective deferrals, or a nonelective contribution to the simple retirement account on behalf of each eli-

gible employee. These two methods for determining the employer contribution formula are explained under *Dollar-for-dollar employer matching contributions* and *2% nonelective contributions*.

Contributions to a SIMPLE Plan are deductible by the employer and are excluded from the gross income of the employee.

Definitions

SIMPLE retirement account. The simple retirement account of an *eligible employee* is an individual retirement plan that can be either an individual retirement account or an individual retirement annuity, as described in Publication 590. Employees' rights to the contributions cannot be forfeited.

A SIMPLE plan can also be set up as a 401(k). See Publication 560 for information on how to adopt a SIMPLE plan as part of a 401(k) plan.


Qualified salary reduction arrangement.

An employee eligible to participate in the SIMPLE plan may elect (during the 60-day period before the beginning of any year) to have the employer make contributions (called elective deferrals) to the simple retirement account on his or her behalf. An employee who so elects may also stop making elective deferrals at any time during the year. The employer is required to match the employee's contributions or to make nonelective contributions. No other types of contributions are allowed under the qualified salary reduction arrangement.

Eligible employer. Any employer who has 100 or fewer *eligible employees* in any year can establish a SIMPLE plan provided the employer does not maintain another employer-sponsored retirement plan.

Eligible employee. Any employee who receives at least \$5,000 in compensation during any 2 years preceding the plan year can elect to have his or her employer make contributions to a simple retirement account under a qualified salary reduction arrangement. The employee must be expected to earn at least \$5,000 during the calendar year.

Compensation. Compensation for employees is the total amount of wages required to be reported on Form W-2, plus elective deferrals. For the self-employed individual, compensation is the net earnings from self-employment (without regard to any contribution made to the SIMPLE plan for the self-employed individual).

 **TIP** Any SIMPLE elective deferrals relating to an employee's wages under a salary reduction arrangement are included in the Form W-2 wages for social security and Medicare tax purposes only.

Contribution Limits

Contributions are made up of employee elective deferrals and employer contributions. The employer is required to satisfy one of two contribution formulas: the matching contribution formula or a two-percent nonelective contribution. No other contributions can be made to the SIMPLE plan. These contributions, which are deductible by the employer, must be made timely.

Employee elective deferral limit. The amount that the employee elects to have the employer contribute to a simple retirement account on his or her behalf (elective deferrals) must not exceed \$6,000 for any year and must be expressed as a percentage of the employee's compensation.

Dollar-for-dollar employer matching contributions. The employer is required to match all eligible employees' elective contributions, on a dollar-for-dollar basis, up to 3% of the employee's compensation.



If the employer elects a matching contribution that is less than 3%, the percentage must not be less than 1%. The employer must notify the employees of the lower match within a reasonable time before the employee's 60-day election period for the calendar year. A percentage less than 3% cannot be elected for more than two years during a five-year period.

2% nonelective contributions. In lieu of the dollar-for-dollar matching contributions, the employer may elect to make nonelective contributions of 2-percent of compensation on behalf of each eligible employee. Only \$160,000 of the employee's compensation can be taken into account to figure the contribution limit.



If the employer elects this 2% contribution formula, he or she must notify the employees timely (within the employee's 60-day election period described earlier).

Time limits for contributing funds. The employer is required to contribute the employee's deferral to the SIMPLE account within 30 days after the end of the month for which the payments to the employee were deferred. The employer's matching contributions to the SIMPLE plan, however, are required to be made by the tax return filing deadline, including extensions, for the taxable year that begins with or within the calendar year for which the contributions are made.

Distributions (Withdrawals)

Distributions from a SIMPLE retirement account are subject to IRA rules and are includable in income when withdrawn. Tax-free rollovers can be made from one SIMPLE account into another SIMPLE account or into an IRA. Early withdrawals generally are subject to a 10% (or 25%) penalty.

See Publication 590 for information about IRA rules, including those on the tax treatment of distributions, rollovers, required distributions, and income tax withholding.

Exceptions. A rollover to an IRA can be made tax free only after a 2-year participation in the SIMPLE plan. A 25% penalty for early withdrawal applies if funds are withdrawn within 2 years of beginning participation.

Employee notification. The employer who sets up a SIMPLE plan must notify each eligible employee of his or her opportunity to make contributions under the plan. The employer must also notify all eligible employees of the contribution alternative that was chosen. This information must be provided before the beginning of the employee's 60-day election period.

Where to find out more. This chapter does not contain all the rules and exceptions that apply to a SIMPLE-IRA or a SIMPLE 401(k) plan. If you need more information, see Publication 560 for additional information, including excludable employees and reporting and disclosure requirements. You may also get the following forms and their instructions:

• **5304-SIMPLE, Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)** (Not Subject to the Designated Financial Institution Rules), and

• **5305-SIMPLE, Savings Incentive Match Plan for Employees of Small Employers (SIMPLE)** (for Use With a Designated Financial Institution).

Nonqualified Plans

You can deduct contributions made to a nonexempt trust or premiums paid under a nonqualified annuity plan. Your employees generally must include the contributions or premiums in their gross income.

Deduct your contributions to the plan in the tax year in which any of your employees must include an amount of the contributions in their gross income. You can deduct contributions only if you maintain separate accounts for each participating employee.

Transferable interest. When an employee's interest in your contributions or premiums for that employee is transferable, the employee must include those amounts in gross income for the tax year in which you make them. This rule also applies if the employee's interest is not subject to a substantial risk of forfeiture (that is, there is not much of a risk that the employee will lose his or her interest) when you make contributions or pay premiums for that employee.

Nontransferable interest. If, when you make the contributions, the employee's interest in the trust or in the value of the annuity contract is not transferable and is subject to a substantial risk of forfeiture, the employee does not include that interest in gross income until the tax year in which the interest becomes transferable or is no longer subject to a substantial risk of forfeiture.

Individual Retirement Arrangements (IRAs)

You can set up and make contributions to an individual retirement arrangement (IRA) if you received taxable *compensation* during the year and were not age 70½ by the end of the year.

New IRA rules. The Taxpayer Relief Act of 1997 amended the IRA rules and created new types of IRAs that will take effect in 1998. The following discussion does not reflect these tax law changes that include the creation of a new tax-free, nondeductible "Roth IRA." For more information, see Publication 590.

Compensation. Compensation (for IRA purposes) includes taxable wages, salaries, commissions, bonuses, tips, professional fees, and other amounts received for providing personal services. Compensation also in-

cludes taxable alimony and separate maintenance payments.

The IRS treats as compensation any amount properly shown in box 1 (Wages, tips, other compensation) of Form W-2, provided that amount is reduced by any amount shown in box 11 (Nonqualified plans).

Self-employed. If you are self-employed (a sole proprietor or partner), compensation is your net earnings from your trade or business (provided your personal services are a material income-producing factor), reduced by the deduction for contributions on your behalf to retirement plans and the deduction allowed for one-half of your self-employment tax.

Compensation does **not** include any of the following:

- ☒ Income received from property (i.e., rental, interest, and dividend income).
- ☒ Pension or annuity income, and deferred compensation.
- ☒ Foreign earned income and housing cost amounts that you exclude from income.
- ☒ Any other amounts that you exclude from income.

Contributions. The most you can contribute for any year to your IRA is the **smaller** of:

- ☒ \$2,000, or
- ☒ Your compensation that you must include in income for the year.

Deductible contributions. Generally, you can take a deduction for the contributions that you are allowed to make to your IRA. However, if either you or your spouse is covered by an employer retirement plan at any time during the year, your allowable IRA deduction may be less than your contribution. It may be reduced or eliminated, depending on your filing status and the amount of your income.

Nondeductible contributions. Although your deduction for IRA contributions may be reduced or eliminated, you can still make contributions of up to \$2,000 or 100% of your compensation, whichever is less. Often the difference between your total permitted contributions and your total deductible contributions, if any, is your nondeductible contribution.

For details on these rules and other IRA rules (including the new tax law changes), get Publication 590.

18.

Excise Taxes

Important Change for 1998

Excise tax on kerosene. Effective July 1, 1998, the excise tax rules that apply to diesel fuel will generally apply to kerosene. This in-

cludes the rule that only registered ultimate vendors can claim a credit or refund for excise taxes paid on diesel fuel or kerosene used on a farm for farming purposes.

Important Reminders

Dyed diesel fuel. Dyed diesel fuel that is used for a nontaxable purpose (such as farm use) is not taxed. However, the excise tax and a penalty will be imposed on users of dyed diesel fuel who know or have reason to know that they used the fuel for a taxable purpose. You cannot use dyed diesel fuel in a registered highway vehicle. For information about registered highway vehicles, see *How To Buy Diesel Fuel Tax Free*, later.

Undyed diesel fuel. A registered vendor that sells undyed diesel fuel for use on a farm for farming purposes is allowed to claim a refund or credit of the excise tax on that fuel. Farmers **cannot** claim a refund or credit for the excise tax paid on that fuel. See *How To Buy Diesel Fuel Tax Free*, later.

Introduction

You may be eligible to claim a credit on your income tax return for federal excise tax paid on certain fuels. You may also be eligible to claim a quarterly refund of the fuel taxes during the year, instead of waiting to claim a credit on your income tax return.

For information about credits and refunds for fuels used for nontaxable purposes not discussed in this chapter, see Publication 378.

Topics

This chapter discusses:

- ☒ Fuels used for farming purposes
- ☒ How to buy diesel fuel tax free
- ☒ Fuels used in off-highway business use
- ☒ How to claim an excise tax credit or refund
- ☒ Including the credit or refund in income

Useful Items

You may want to see:

Publication

- ☐ **378** Fuel Tax Credits and Refunds
- ☐ **510** Excise Taxes For 1998

Form (and Instructions)

- ☐ **4136** Credit for Federal Tax Paid on Fuels
- ☐ **8849** Claim for Refund of Excise Taxes

Publication 349, *Federal Highway Use Tax on Heavy Vehicles*, is no longer published. Information previously contained in that publication is in the instructions for Form 2290, *Heavy Vehicle Use Tax Return*.

See chapter 21 for information about getting these publications and forms.

Fuels Used on a Farm for Farming Purposes

You may be eligible to claim a credit or refund of excise taxes included in the price of fuel used on a farm for farming purposes. This applies if you are the owner, tenant, or operator of a farm. You may claim only a credit for the tax on gasoline, special motor fuels, and compressed natural gas used on a farm for farming purposes. You may claim either a credit or refund for the tax on aviation fuel used on a farm for farming purposes. You cannot claim a credit or refund for the tax on undyed diesel fuel used on a farm for farming purposes or for any use of dyed diesel fuel.

The term special motor fuels includes such products as benzol, benzene, naphtha, liquid petroleum gas, casing head and natural gasoline. It also includes any other liquid other than gasoline, diesel fuel, kerosene, gas oil, and fuel oil. Treat as special motor fuels products called kerosene, gas oil, or fuel oil that do not fall within certain specifications. For more information, see Publication 510.

Farm. A farm includes livestock, dairy, fish, poultry, fruit, fur-bearing animals, and truck farms, orchards, plantations, ranches, nurseries, ranges, and feed yards for fattening cattle. It also includes structures such as greenhouses used primarily for raising agricultural or horticultural commodities. A fish farm is an area where fish are grown or raised — not merely caught or harvested. You must operate the farm for profit. It must be located in any of the 50 states or the District of Columbia.

Farming purposes. You use fuel on a farm for farming purposes if you use it:

- 1) To cultivate the soil or to raise or harvest any agricultural or horticultural commodity.
- 2) To raise, shear, feed, care for, train, or manage livestock, bees, poultry, fur-bearing animals, or wildlife.
- 3) To operate, manage, conserve, improve, or maintain your farm, tools, or equipment.
- 4) To handle, dry, pack, grade, or store any raw agricultural or horticultural commodity.

For this use to qualify, you must have produced more than half the commodity that was so treated during the tax year. Commodity means a single raw product. For example, apples and peaches are two separate commodities. The more-than-one-half test applies separately to each commodity.

- 5) To plant, cultivate, care for, or cut trees, or to prepare (other than sawing into lumber, chipping, or other milling) trees for market, but only if the planting, etc., is incidental to your farming operations. Your tree operations are incidental only if they are minor in nature when compared to the total farming operations.

If another person, such as a neighbor or custom operator, performs a service for any of the purposes included in (1) or (2) for you on your farm, you can claim the credit or refund for the fuel (other than diesel fuel) so

used. If the other person performs any other services for you on your farm for purposes not included in (1) or (2), no one can claim the credit or refund for fuel used on your farm for those other services.

Example Farm owner Nancy Blue hired custom operator Harry Steele to prepare the soil on her farm for planting. Under the contract, she paid for 200 gallons of gasoline to be used by Harry in cultivating the soil on her farm. In addition, she hired Contractor Brown to pack and store her apple crop. Brown bought 25 gallons of gasoline to use in packing the apples and was not reimbursed by Nancy. She can claim the credit for the 200 gallons of gasoline used by Harry on her farm because it qualifies as fuel used on the farm for farming purposes. No one can claim a credit for the 25 gallons because they were not used for a farming purpose listed in (1) or (2) earlier.

Buyer of fuel. If doubt exists whether the owner, tenant, or the operator of the farm bought the fuel, determine who actually bore the cost of the fuel. Also, if you sell fuel to a neighbor who uses it on a farm for farming purposes, your neighbor may be able to claim the credit on the fuel. Your neighbor (not you) bore the cost of the fuel.

Example An owner of a farm and his tenant share the cost of gasoline used on the farm 50–50. Each can claim a credit for the tax on half the fuel used for farming purposes.

Diesel fuel. If undyed diesel fuel is used for any of the previously listed farming purposes, the fuel cannot be considered as being used for any other nontaxable purpose. The credit or refund is allowed only to the registered ultimate vendor. Farmers **cannot** claim a refund or credit for this fuel if it is used for farming purposes. See *How To Buy Diesel Fuel Tax Free*, later.

A **registered ultimate vendor** is a seller registered by the IRS who sells undyed diesel fuel to the user of the fuel (the ultimate purchaser).

Custom application of fertilizer and pesticide. Fuel used on a farm for farming purposes includes fuel used in the aerial or other application of fertilizers, pesticides, or other substances. You as the owner, tenant, or operator may claim the credit or refund (other than on diesel fuel). You may waive your right to the claim and allow the applicator to make the claim for the fuel (other than diesel fuel). If you waive your right, the applicator is then treated as having used the fuel on a farm for farming purposes. See *How To Claim a Credit or Refund*, later.

The waiver. To waive your right to the credit or refund, you must:

- 1) Sign an irrevocable statement that you knowingly give up your right to the credit or refund.
- 2) Identify clearly the period that the waiver covers. The effective period of your waiver cannot extend beyond the last day of your tax year in which the fuel was used.
- 3) Sign the waiver before the applicator files his or her claim. Once you sign the waiver, you cannot revoke it. You may authorize an agent, such as a cooperative, to sign the waiver for you.

Table 18-1. **Sample Waiver**

WAIVER OF RIGHT TO CREDIT OR REFUND	
I hereby waive my right as owner, tenant, or operator of a farm located at:	

<i>Address</i>	
to receive credit or refund for fuel used by:	

<i>Name of Applicator</i>	
on the farm in connection with cultivating the soil, or the raising or harvesting of any agricultural or horticultural commodity. This waiver applies to fuel used during the period:	

<i>Both Dates Inclusive</i>	
I understand that by signing this waiver, I give up my right to claim any credit or refund for fuel used by the aerial applicator or other applicator of fertilizer or other substances during the period indicated, and I acknowledge that I have not previously claimed any credit for that fuel.	

<i>Signature</i>	

<i>Date</i>	

- 4) Keep a copy of the waiver for your records and give a copy of the signed waiver to the applicator. Do **not** send this waiver to the Internal Revenue Service unless requested to do so.

The waiver may be a separate document or it may appear on an invoice or another document from the applicator. If the waiver appears on an invoice or other document, it must be printed in a section clearly set off from all other material, and it must be printed in type large enough to put you on notice that you are waiving your right to the credit or refund. If the waiver appears as part of an invoice or other document, it must be signed separately from any other item that requires your signature.

Sign a separate waiver for each tax year or part of a tax year in which the fuel was used. When the period covered by the waiver extends beyond the applicator's tax year, the applicator must wait until the next tax year to claim the portion for that period.

Sample form of waiver. While no specific form is required, an acceptable statement waiving your right to claim a credit or refund is shown in *Table 18–1*.

Fuel not used for farming. You do not use fuel for farming purposes when you use it:

- ☛ Off the farm, such as on the highway or in noncommercial aviation, even if the fuel is used in transporting livestock, feed, crops, or equipment.
- ☛ For personal use, such as mowing the lawn.
- ☛ In processing, packaging, freezing, or canning operations.
- ☛ In processing crude gum into gum spirits of turpentine or gum resin or in processing maple sap into maple syrup or maple sugar.

Fuel used in all-terrain vehicles (ATVs) on a farm for farming purposes, discussed earlier, is eligible for a credit or refund of excise taxes included in the price of the fuel. Fuel used in ATVs for nonfarming purposes is not eligible for a credit or refund of the taxes.

How To Buy Diesel Fuel Tax Free

You buy **dyed** diesel fuel excise tax free. You must use it only for a nontaxable purpose, including use on a farm for farming purposes. If you use the dyed diesel fuel for a taxable purpose, such as in a registered highway vehicle, you could be subject to the excise tax and a penalty. See *Registered highway vehicle*, later.

You may buy **undyed** diesel fuel tax free for use on a farm for farming purposes from a registered ultimate vendor. This applies to fuel bought by:

- ☛ The owner, tenant, or operator of a farm for use on a farm for any of the purposes listed earlier under *Farming purposes*, or
- ☛ Any other person for use on a farm for any of the purposes in items (1) and (2) listed earlier under *Farming purposes*.

You must give the vendor a signed certificate, which should be substantially the same as the sample certificate shown in *Table 18–2*. You may include the certificate as part of any business records you normally use to document a sale and purchase.

You cannot claim a credit or refund for the excise tax on diesel fuel used on a farm for farming purposes.

Registered highway vehicle. A highway vehicle is any self-propelled vehicle designed to carry a load over public highways, whether or not also designed to perform other func-

Table 18-2. **Sample Exemption Certificate**

EXEMPTION CERTIFICATE

(To support vendor's claim for credit or payment under section 6427 of the Internal Revenue Code)

Name, Address, and Employer Identification Number of Seller

The undersigned buyer ("Buyer") hereby certifies the following under penalties of perjury:

A. Buyer will use the diesel fuel to which this certificate relates either — (check one):

1. On a farm for farming purposes (as defined in §48.6420-4 of the Manufacturers and Retailers Excise Tax Regulations)(and Buyer is the owner, tenant, or operator of the farm on which the fuel will be used).
2. On a farm (as defined in §48.6420-4(c)) for any of the purposes described in ¶(d) of that section (relating to cultivating, raising, or harvesting)(and Buyer is not the owner, tenant, or operator of the farm on which the fuel will be used).

B. This certificate applies to the following (complete as applicable):

1. If this is a single purchase certificate, check here and enter:
 - a. Invoice or delivery ticket number _____
 - b. Number of gallons _____
2. If this is a certificate covering all purchases under a specified account or order number, check here and enter:
 - a. Effective date _____
 - b. Expiration date _____
(period not to exceed 1 year after effective date)
 - c. Buyer account or order number _____

■ Buyer will provide a new certificate to the seller if any information in this certificate changes.

■ If Buyer uses the diesel fuel to which this certificate relates for a purpose other than stated in the certificate Buyer will be liable for any tax.

■ Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Signature and Date Signed

Printed or Typed Name and Title of Person Signing

Name, Address, and Employer Identification Number of Buyer

tions. Examples of vehicles designed to carry a load over public highways are passenger automobiles, motorcycles, buses, and highway-type trucks and truck tractors. A vehicle is a highway vehicle even though the vehicle's design allows it to perform a highway transportation function for only:

- ☞ A particular type of load, such as passengers, furnishings, and personal effects (as in a house, office, or utility trailer),
- ☞ A special kind of cargo, goods, supplies, or materials, or
- ☞ Some off-highway task unrelated to highway transportation, except as discussed next.

Vehicles not considered highway vehicles. Generally, the following kinds of vehicles are not considered highway vehicles:

- 1) Specially designed mobile machinery for nontransportation functions. A self-propelled vehicle is not a highway vehicle if it consists of a chassis that—

- a) Has permanently mounted to it machinery or equipment used to perform certain operations (construction, manufacturing, drilling, mining, timbering, processing, farming, or similar operations) if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,
 - b) Has been specially designed to serve only as a mobile carriage and mount for the machinery or equipment, whether or not the machinery or equipment is in operation, and
 - c) Because of its special design, could not, without substantial structural modification, be used as part of a vehicle designed to carry any other load.
- 2) Vehicles designed for off-highway transportation. A self-propelled vehicle is not a highway vehicle if—
- a) The vehicle is designed primarily to carry a specific kind of load other

than over the public highway for certain operations (construction, manufacturing, mining, processing, farming, drilling, timbering, or similar operations), and

- b) The vehicle's use in carrying this load over public highways is substantially limited or impaired because of its design. To determine if the use is substantially limited or impaired, you can take into account whether the vehicle may travel at regular highway speeds, requires a special permit for highway use, or is overweight, overheight, or overwidth for regular highway use.

Registered. A vehicle is considered registered if it is registered or required to be registered for highway use under the law of any state, the District of Columbia, or any foreign country in which it is operated or situated. Any highway vehicle operated under a dealer's tag, license, or permit is considered registered. A highway vehicle is not considered registered solely because a specific permit allows the vehicle to be operated at particular times and under specified conditions.

Fuels Used in Off-Highway Business Use

You may be eligible to claim a credit or refund for fuels used in an off-highway business use.

Off-highway business use. Off-highway business use is any use of fuel in a trade or business or in any income-producing activity. The use must not be in a highway vehicle registered for use on public highways. Off-highway business use generally does not include any use in a motorboat.

Note. If undyed diesel fuel is used on a farm for farming purposes (discussed earlier), the fuel cannot be considered as being used in an off-highway business use. Farmers cannot claim a credit or refund for the tax on diesel fuel used on a farm for farming purposes. See *How To Buy Diesel Fuel Tax Free*, earlier.

Examples. Off-highway business use in a trade or business or income-producing activity includes fuels used:

- 1) In stationary machines such as generators, compressors, power saws, and similar equipment,
- 2) For cleaning purposes,
- 3) In forklift trucks and bulldozers, and
- 4) In vehicles operating off the highway in construction, mining, or timbering activities if the vehicles are neither registered nor required to be registered.

Generally, it does not include nonbusiness, off-highway use of fuel, such as use by minibikes, snowmobiles, power lawn mowers, chain saws, and other yard equipment.

For more information about the credit or refund for fuels used in an off-highway business use, get Publication 378.

How To Claim a Credit or Refund

You may be able to claim a credit or refund of the excise taxes included in the price of fuels you use for nontaxable purposes. You can claim only a credit for gasoline, special motor fuel, and compressed natural gas used for farming purposes. You can claim either a credit or a refund for aviation fuel used for farming purposes.

No credit or refund is allowed to anyone for any fuel, such as dyed diesel fuel, bought tax free.

Undyed diesel fuel. You cannot claim a credit or refund for undyed diesel fuel used on a farm for farming purposes. Only the registered vendor that sells the fuel to you can make this claim. However, you can claim a credit or refund for undyed diesel fuel used for other nontaxable purposes, such as off-highway business use. If undyed diesel fuel is used on a farm for farming purposes, you cannot consider it as being used for any other nontaxable purpose.

Taxpayer identification number. To file a claim for credit or refund, you **MUST** have a taxpayer identification number. See *Identification Number* in chapter 2.



Keep at your principal place of business all records needed to enable the IRS to verify the amount you claimed. You do not have to use any special form, but the records should establish:

- 1) The total number of gallons bought and used during the period covered by your claim.
- 2) The dates of the purchases.
- 3) The names and addresses of suppliers and amounts bought from each during the period covered by your claim.
- 4) The purpose for which you bought and used the fuel.
- 5) The number of gallons used for each purpose.

It is important that your records show separately the number of gallons used for each purpose that qualifies as a claim. For more information about recordkeeping, see Publication 552, *Recordkeeping for Individuals*.

Claiming a Credit

You file a claim for credit (including the fuel tax credit) on Form 4136 and attach it to your income tax return. Do not claim a credit on Form 4136 for any excise tax for which you have already filed a refund claim on Form 8849.

How to claim a credit. How you claim a credit depends on whether you are an individual, partnership, corporation, S corporation, trust, or farmers' cooperative association.

Individuals. You claim the credit on line 59 and check box b of the 1997 Form 1040. If you may not otherwise have to file an income tax return, you must do so to get a fuel tax credit. See the instructions for Form 1040.

Partnerships. A partnership cannot claim the credit on Form 1065, *U.S. Partnership Return of Income*. The partnership must attach a statement to Form 1065, showing the number of gallons of each fuel allocated to each partner and the rate that applies. Each partner claims the credit on his or her income tax return for the partner's share of the fuel used by the partnership.

Corporations. To claim the credit, corporations either use line 32g of Form 1120, *U.S. Corporation Income Tax Return*, or line 28g of Form 1120-A, *U.S. Corporation Short-Form Income Tax Return*.

S corporations. To claim the credit, S corporations use line 23c of Form 1120S, *U.S. Income Tax Return for an S Corporation*.

Farmers' cooperative associations. If the cooperative must file Form 990-C, *Farmers' Cooperative Association Income Tax Return*, it uses line 32g to claim the credit.

Trusts. Trusts required to file Form 1041, *U.S. Income Tax Return for Estates and Trusts*, use line 25g to claim the credit.

When to claim a credit. You can claim a fuel tax credit on your income tax return for the year you used the fuels or you may amend your income tax return for that year. Ordinarily, you must file an amended return by the later of 3 years after the date you filed your original return or within 2 years after you paid the tax. A return filed early is considered to have been filed on the due date.

Claiming a Refund

You may be eligible to claim a refund quarterly during your tax year rather than waiting to file your income tax return to claim a credit for the entire tax year. However, you cannot claim a refund for excise tax on gasoline, special motor fuel, and compressed natural gas used on a farm for farming purposes. File a claim for refund on Form 8849.

Quarterly refund claim. You can file a quarterly refund claim for any of the first three quarters of your tax year for which you qualify. To qualify for a quarterly refund, you must claim the following amounts for fuel used during the quarter:

- 1) At least \$1,000 for gasoline used for nontaxable purposes (other than use on a farm for farming purposes).
- 2) At least \$1,000 for special motor fuel and compressed natural gas used for nontaxable purposes (other than use on a farm for farming purposes).
- 3) At least \$750 for undyed diesel fuel (other than for use on a farm for farming purposes).

A special rule for diesel fuel and aviation fuel allows you to aggregate the fuel used in each quarter. You may file a claim for the quarter for which the combined total is at least \$750.

Fourth quarter claims. You cannot file a quarterly claim for refund for the fourth quarter of your tax year. You file claims for the fourth quarter as a credit on your income tax return.

When to file quarterly claim. You must file a quarterly claim by the last day of the third month after the end of the quarter for which the claim is being filed. If you file your claim

late, you are not allowed a refund. Instead, you add the disallowed refund to any claim for credit and claim it on your income tax return, as explained earlier. Do not claim a credit against your income tax for any excise tax for which you filed a timely claim for refund.

See the instructions for Form 8849 for information about where to file the form. A partnership files a claim for refund in the name of the partnership, and one of the partners must sign it. A corporation files the claim in the name of the corporation, and one of its officers must sign it.

Including the Credit or Refund in Income

Include any credit or refund of excise taxes on fuels you receive in your gross income if you claimed the taxes as an expense deduction that reduced your income tax liability.

Which year you include a credit or refund in gross income depends on whether you use the cash or an accrual method of accounting.

Cash method. If you use the cash method and file a claim for refund, include the refund in your gross income for the tax year in which you receive the refund. If you claim a credit on your income tax return, include the credit in gross income for the tax year in which you file Form 4136. If you file an amended return and claim a credit, include the credit in gross income for the tax year in which you receive it.

Example. Ed Brown, a cash basis farmer, filed his 1997 Form 1040 on March 1, 1998. On his Schedule F, he deducted the total cost of gasoline (including \$110 of excise taxes) used on the farm for farming purposes. Then, on Form 4136, he claimed the \$110 of excise tax paid on the gasoline as a credit. Ed reports the \$110 as additional income on his 1998 Schedule F.

Accrual method. If you use an accrual method, include the entire claim in gross income for the tax year in which the qualifying use occurred. It does not matter if an accrual-basis taxpayer filed for a quarterly refund or claimed the entire amount as a credit.

Example. Todd Green, an accrual farmer, filed his 1997 Form 1040 on April 12, 1998. On Schedule F, he deducted the total cost of gasoline (including \$155 of excise taxes) that he used on the farm during 1997. On Form 4136, Todd claimed the \$155 excise tax paid on the gasoline as a credit. He must report the \$155 as additional income on his 1997 Schedule F.

19.

Your Rights as a Taxpayer

The first part of this chapter explains some of your most important rights as a taxpayer.

The second part explains the examination, appeal, collection, and refund processes.

Declaration of Taxpayer Rights

Protection of your rights. IRS employees will explain and protect your rights as a taxpayer throughout your contact with us.

Privacy and confidentiality. The IRS will not disclose to anyone the information you give us, except as authorized by law. You have the right to know why we are asking you for information, how we will use it, and what happens if you do not provide requested information.

Professional and courteous service. If you believe that an IRS employee has not treated you in a professional manner, you should tell that employee's supervisor. If the supervisor's response is not satisfactory, you should write to your IRS District Director or Service Center Director.

Representation. You may either represent yourself, or with proper written authorization, have someone else represent you in your place. You can have someone accompany you at an interview. You may make sound recordings of any meetings with our examination or collection personnel, provided you tell us in writing 10 days before the meeting.

Payment of only the correct amount of tax. You are responsible for paying only the correct amount of tax due under the law—no more, no less.

Help from the Problem Resolution Office. Problem resolution officers can help you with unresolved tax problems and can offer you special help if you have a significant hardship as a result of a tax problem. For more information, write to the Problem Resolution Office at the district office or service center where you have the problem, or call 1-800-829-1040 (1-800-829-4059 for TTY/TDD users).

Appeals and judicial review. If you disagree with us about the amount of your tax liability or certain collection actions, you have the right to ask the IRS Appeals Office to review your case. You may also ask a court to review your case.

Relief from certain penalties. The IRS will waive penalties when allowed by law if you can show you acted reasonably and in good faith or relied on the incorrect advice of an IRS employee.

Examination, Appeals, Collection, and Refunds

Examination (audit). We accept most taxpayer's returns as filed. If we inquire about your return or select it for examination, it does not suggest that you are dishonest. The inquiry or examination may or may not result in

more tax. We may close your case without change; or, you may receive a refund.

By mail. We handle many examinations and inquiries by mail. We will send you a letter with either a request for more information or a reason why we believe a change to your return may be needed. If you give us the requested information or provide an explanation, we may or may not agree with you, and we will explain the reasons for any changes. Please do not hesitate to write us about anything you do not understand. If you cannot resolve a question through the mail, you can request a personal interview with an examiner.

By interview. If we notify you that we will conduct your examination through a personal interview, or you request such an interview, you have the right to ask that the examination take place at a reasonable time and place that is convenient for both you and the IRS. At the end of your examination, the examiner will give you a report if there are any proposed changes to your tax return. If you do not agree with the report, you may meet with the examiner's supervisor.

Repeat examinations. If we examined your tax return for the same items in either of the 2 previous years and proposed no change to your tax liability, please contact us as soon as possible so we can determine if we should discontinue the repeat examination. Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund*, will give you more information about the rules and procedures of an IRS examination.

Appeals. If you do not agree with the examiner's findings, you can appeal them to our Appeals Office. Most differences can be settled without expensive and time-consuming court trials. Your appeal rights are explained in detail in Publication 5, *Appeal Rights and Preparation of Protests for Unagreed Cases*. If you do not wish to use our Appeals Office or disagree with its findings, you can take your case to the U.S. Tax Court, U.S. Court of Federal Claims, or the U.S. District Court where you live. If the court agrees with you on most issues in your case, and finds that our position was largely unjustified, you may be able to recover some of your administrative and litigation costs. You will not be eligible to recover these costs unless you tried to resolve your case administratively, including going through our Appeals system, and you gave us all the information necessary to resolve the case.

Collection. Publication 594, *Understanding the Collection Process*, explains your rights and responsibilities regarding payment of federal taxes. It is divided into several sections that explain the procedures in plain language. The sections include:

- 1) *When you have not paid enough tax.* This section describes tax bills and explains what to do if you think your bill is wrong.
- 2) *Making arrangements to pay your bill.* This covers making installment payments, delaying collection action, and submitting an offer in compromise.
- 3) *What happens when you take no action to pay.* This covers liens, releasing a lien, levies, releasing a levy, seizures and sales, and release of property. Publication 1660, *Collection Appeal Rights (for Liens, Levies and Seizures)*,

explains your rights to appeal liens, levies and seizures and how to request these appeals.

Refunds. You may file a claim for refund if you think you paid too much tax. You must generally file the claim within 3 years from the date you filed your return or 2 years from the date you paid the tax, whichever is later. The law generally provides for interest on your refund if it is not paid within 45 days of the date you filed your return or claim for refund. Publication 556, *Examination of Returns, Appeal Rights, and Claims for Refund*, has more information on refunds.

20.

Sample Return

This sample return uses actual forms to show you how to prepare your income tax return. However, the information shown on the filled-in forms is not from any actual farming operation.

Walter Brown is a dairy farmer and his wife, Jane, is a substitute teacher for the county school system. They have three children. Their return has been prepared using the cash method of accounting. See chapter 3 for an explanation of the cash method and other methods of accounting.

Rounding off cents. You may round off cents to the nearest whole dollar on your return and schedules. This will make it easier to complete your return. To do so, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, \$129.49 becomes \$129 and \$235.50 becomes \$236.

If you do round off, do so for all amounts. However, if you have to add two or more amounts to figure the total to enter on a line, include cents when adding the amounts and round off only the total.

Losses from operating a farm. The sample return shows a gain from the operation of the farm. However, if your deductible farm expenses are more than your farm income for the year, you have a loss from the operation of your farm. If your loss is more than your other income for the year, you may have a net operating loss (NOL). You may also have an NOL if you had a casualty or theft loss that was more than your income.

If you have an NOL this year, you may be able to reduce your income (and tax) in other years by carrying the NOL to those years and deducting it from income.

To determine if you have an NOL, complete your tax return for the year. You may have an NOL if a negative figure appears on line 36 of Form 1040. If this is the case, see *Losses From Operating a Farm* in chapter 5.

Note. This year we omitted information on, and examples of, the following forms:

- Schedule D (Form 1040), *Capital Gains and Losses*,
- Form 4797, *Sales of Business Property*, and
- Form 4684, *Casualties and Thefts*.

However, we will include these forms and the related information next year.

Preparing the Return

Schedule F (Form 1040)

The first step in preparing Mr. Brown's income tax return is to determine his net farm profit or loss on Schedule F. The income and expenses shown on this Schedule F are taken from his farm receipt and expense records. Data for the depreciation and section 179 deductions are taken from Form 4562 and the illustrated *Depreciation Worksheet* that follows Form 4562. (Farm income is discussed in chapter 4 and farm expenses are discussed in chapter 5.) Mr. Brown has filed all required Form 1099 information returns.

On line B he writes the number "240" from the list of *Principal Agricultural Activity Codes* on page 2 of Schedule F (not shown). This indicates that his principal source of farm income is dairy farming.

Schedule F—Part I (Income)

Mr. Brown keeps records of the various types of farm income he has during the year. He uses this information to complete Part I of Schedule F.

Line items. Mr. Brown then fills in all applicable items of farm income.

Line 1. In 1997, Mr. Brown sold steers he had bought for resale. He enters sales of \$12,960.

Line 2. He enters the cost of the steers, \$3,180. He has kept a record of the cost of the livestock he bought and is careful to deduct the cost of an animal in the year of its sale.

Line 3. Mr. Brown subtracts his cost on line 2 from the sales on line 1 and reports the difference, \$9,780, as his profit on line 3. Had he sold any other items he bought for resale he would combine the sales and costs of these items with the sales and costs of the steers and report only the totals on lines 1, 2, and 3. He does not report here sales of animals held for draft, dairy, breeding, or sport. If he had these types of sales he would report them on Form 4797.

Line 4. Mr. Brown reports the total of all income he received during 1997 from sales of items he raised or produced on his farm for sale. His principal source of farm income is dairy farming, and the amount reported on this line, \$129,599, includes \$103,121 from gross sales of milk.

The total also includes income from sales of other items raised or produced on his farm for sale. He received \$2,503 from the sale of steers and calves he raised. He grew some vegetables and sold them for \$783. In addition, he includes in the total on this line his sales of corn, hay, and wheat that he raised. He received \$7,050 for the corn, \$8,250 for the hay, and \$7,892 for the wheat.

Lines 5a and 5b. He reports the \$33 of patronage dividends received from cooperatives on line 5a. Since it was a qualified written notice of allocation he enters \$33 as the taxable amount on line 5b.

Lines 6a and 6b. Mr. Brown received FSA (Farm Service Agency) cost sharing of \$438 on a soil conservation project (diversion

channels) completed in 1997. The income was received as materials and services paid for by the government and is reported on both line 6a and line 6b. This amount is reported to the Internal Revenue Service (IRS), generally on Form 1099-G, by the Department of Agriculture (USDA). The entire \$438 has been included on line 14 of Schedule F as a conservation expense. He did not receive any cost-sharing payments this year that he could exclude from his farm income.

Line 7a. Mr. Brown reported the \$665 loan he received from the CCC because he elected in a previous year to treat these loans as income in the year received. (If he had elected not to report his CCC loan as income in the year received and forfeited the loan in a later year, he would report the loan as income in the year of forfeiture.)

Line 9. Mr. Brown reports his \$1,258 income from custom harvesting.

Line 10. He claimed a gasoline tax credit of \$142 on his 1996 federal income tax return. He includes the entire \$142 in his 1997 income on line 10, because that amount was included in the cost of gasoline he deducted as a farm business expense in 1996. He also includes \$250 he received as a director of the local milk marketing cooperative and \$175 received for firewood that he cut and sold in 1997.

Schedule F—Part II (Expenses)

Mr. Brown records his farm expenses during the year and summarizes the expenses at the end of the year. This gives him his deductible expenses, which he enters in Part II of Schedule F.

Line items. Mr. Brown then fills in all applicable items of farm expense deductions.

Line 12. Mr. Brown uses his truck 100% for his farming business and the actual cost (not including depreciation) of operating the truck in 1997 was \$2,659. He uses his family car 60% for business. It cost \$2,307 to operate the car in 1997 and he can deduct \$1,384 for the car ($\$2,307 \times .60$). He enters a total of \$4,043 on line 12. (Depreciation is reported on line 16.)

Line 13. The \$2,701 on this line is the amount he paid for pesticides and herbicides purchased during the year.

Line 14. Mr. Brown deducts the \$1,040 spent on diversion channels in 1997. The amount listed here includes the full cost of the government cost-sharing project (line 6). He continues the policy elected in previous years of deducting annual soil and water conservation expenses. The expenses are consistent with a plan approved by the Natural Resources Conservation Service of the USDA. Because the amount was not more than 25% of Mr. Brown's gross income from farming, the entire amount is deductible. See chapter 6 for more information on soil and water conservation expenses.

Line 15. The \$1,575 on this line is the amount he paid a company for spraying his crops. The payment was made to a corporation, so he does not file a Form 1099-MISC to report the payment.

Line 16. Mr. Brown enters the \$27,708 depreciation from Form 4562, discussed later.

Line 18. He enters the cost of feed bought for livestock, \$18,019. He did not include the cost of feed bought for livestock he and his family intend to consume.

Line 19. Mr. Brown enters \$6,544. This is the amount paid for fertilizer and lime.

Line 20. He deducts the \$3,072 he paid for trucking and milk marketing expenses. He chose to itemize the \$807 government milk assessment and lists it separately on line 34a.

Line 21. Mr. Brown deducts the \$3,521 cost of gasoline, fuel, and oil bought for farm use, other than amounts he included on line 12 for car and truck expenses. He did not deduct the cost of fuel used for heating, lighting, or cooking in his home.

Line 22. He deducts the \$1,070 cost of insurance on his farm buildings (not his home), equipment, livestock, and crops. He did not deduct the entire premiums on 3-year and 5-year insurance policies in the year of payment, but deducts each year only the part that applies to that year. For more information, see *Insurance* in chapter 5.

Lines 23a and 23b. Mr. Brown deducts on line 23a the \$3,175 interest paid on the farm mortgage for the land and buildings used in farming. He deducts on line 23b \$1,043 interest paid on obligations incurred to buy livestock and other personal property used in farming or held for sale. Interest on his home is deducted on Schedule A (Form 1040), which is not shown.

Line 24. He enters the \$16,416 in wages he paid during the year for labor hired to operate his farm business, including wages paid to his wife and children. He has no employment credits. Not all the wages paid were subject to social security tax, but for those that were, he included the full amount of the wages before reduction for the employee's part of that tax, or other amounts withheld. His part of the social security tax is included in the total taxes deducted on line 31. See chapter 16 for information on employment taxes.

Line 26b. Mr. Brown enters only cash rent paid, \$2,400, for the use of land he rented from a neighbor, Mr. Green. He did not deduct rent paid in crop shares. He completed a Form 1099-MISC for the rent paid to Mr. Green and sent Copy A to the IRS with Form 1096. He gave Mr. Green Copy B of the Form 1099-MISC.

Line 27. The \$5,424 he enters includes \$4,902 for repairs to farm machinery and \$522 for repairs to farm buildings. He did not include the value of his own labor. He prepared Form 1099-MISC for the farm machinery repairs because the repair shop is not incorporated. He sent Copy A to the IRS with Form 1096 and gave Copy B to the repair shop.

Line 28. Mr. Brown enters the cost of seeds and plants used in farming, \$2,132. He did not include the cost of plants and seeds purchased for the family garden.

Line 30. He enters the \$2,807 paid for livestock supplies and other supplies, including bedding.

Line 31. Mr. Brown enters \$3,201 for taxes paid during 1997, including state and local taxes on the real estate and personal property used in farming. He did not include the sales tax paid on farm supplies, or 60% of the gasoline tax for gasoline used in the family car for farm business, because these taxes were included in the deductions for supplies and gasoline. He included his share of social security and Medicare tax paid for agricultural employees. He filed Form 943 (not shown) in January 1997 reporting these taxes for calendar-year 1996.

He does not deduct his state income tax or the taxes on his home on Schedule F. He

deducts these taxes on Schedule A (Form 1040), which is not shown. He does not deduct any federal income tax paid during the year.

Line 32. He enters \$3,997 for the cost of water, electricity, and telephone used only in farming. He cannot deduct the cost of basic local telephone service (including any taxes) for the first telephone line to his home.

Line 33. He enters \$3,217, the total paid during 1997 for veterinary fees (\$1,821), livestock medicines (\$650), and breeding fees (\$746). Mr. Brown does not prepare Form 1099-MISC for the veterinarian and breeder fees because both are incorporated.

Line 34. Mr. Brown enters other farm business expenses. These include: \$807 government milk assessment; \$347 for commissions, dues, and fees; \$287 for financial records and office supplies; and \$534 for farm business travel. Farm business travel includes expenses for the State Beef Tour and for attending the farm management conference at State University. He included only 50% of the cost of meals in the deduction.

Line 36—Net farm profit. To arrive at his net farm profit, he subtracts line 35 (\$115,080) from line 11 (\$142,340). His net farm profit, entered on line 36, is \$27,260. He also enters that amount on line 18 of Form 1040, and on line 1 of Section A, Schedule SE (Form 1040). Because Mr. Brown shows a net profit on line 36, he skips line 37.

Form 4562 — Depreciation and Amortization

Mr. Brown follows the instructions and lists the information called for in Parts I through IV. He also completes Part V on page 2 to provide information on listed property used in his farming business. The two vehicles used in his business are listed property.

Depreciation record. Mr. Brown records his depreciable property in a book that he can use to figure his depreciation allowance for several years. He uses the *Depreciation Worksheet* from the Form 4562 instructions to figure his 1997 deduction.

Basis for depreciation. Mr. Brown bought his farm on January 8, 1978. Timber on the farm was immature and had no fair market value. He immediately divided the total purchase price of the farm among the land, house, barn, and fences (no other capital improvements were included in the price of the farm). The fences were fully depreciated in 1987. Mr. Brown made the division based on the respective fair market values of the items on the date the farm was bought. See the example under *Allocating the Basis* in chapter 7.

He entered in his depreciation record the part of the purchase price for the depreciable barn and fences, giving him the basis for figuring his depreciation allowance. Because he cannot depreciate the house and land, he keeps a separate record showing their bases.

Methods of depreciation. He depreciates all his property placed in service before 1981 using the straight-line method. He chose the alternate ACRS method for his machine shed placed in service in 1986. Using MACRS and the half-year convention, he chose the following systems for all of his assets placed in service in the year indicated.

☞ 1993—straight line ADS.

☞ 1994—150% declining balance ADS.

☞ 1995 & 1997—150% declining balance GDS.

Depreciable property. During 1997 the Browns owned two family cars. One of them was not used for farm business. Mr. Brown cannot deduct the depreciation on it. He determined that his other car was used 60% for his farm business and 40% for personal driving.

The *Depreciation Worksheet* contains an itemized list of Mr. Brown's assets for which he is deducting depreciation in 1997. He must list each item separately to keep track of its basis. The pickup truck and car purchased in 1994 are listed property in the 5-year property class.

New assets. Mr. Brown added three assets to the business in 1997.

- 1) In January, he completed and placed in service a new beef cattle feeding facility. Since the new structure is designed specifically to house, feed, and care for beef cattle, it is a single purpose livestock structure. The structure is 10-year property under MACRS. The total cost of the structure (\$37,500) includes the structure, site preparation, feeding system, and paved feeding area.
- 2) In February, he made improvements to his machine shed for a total cost of \$1,300. The improvements are depreciated as if they were a separate building in the 20-year recovery period.
- 3) In March, he acquired tractor #5 by trading tractor #2 and paying \$23,729.07 cash. The adjusted basis of tractor #2 was \$1,378.15 when it was traded (Mr. Brown claimed half a year of depreciation). The new tractor has a basis of \$25,107.22 (\$23,729.07 + \$1,378.15). Form 8824, *Like-Kind Exchanges*, (not shown) was filed to report the trade. He elected to expense part of the cost of the tractor in 1997 and take depreciation deductions for the rest of the basis (cost + basis of trade-in).

Line items. Form 4562 is completed by referring to the *Depreciation Worksheet*.

Line 2. Mr. Brown enters \$61,229 on line 2. This is the total cost of all section 179 property placed in service in 1997. In figuring his cost, he does not include the basis of the traded tractor. The machine shed improvement does not qualify as section 179 property. It is not a single purpose agricultural (livestock) structure.

Line 6. Mr. Brown enters the description of the property (tractor) he is electing to expense under section 179. He enters his cost basis of \$23,729 in column (b). His cost basis for the section 179 deduction is limited to the cash he paid for the tractor. He then enters the tentative deduction, \$18,000, in column (c). However, this amount is subject to the business income limit on line 11. (He did not exceed the investment limit, \$200,000, and is subject to the maximum dollar limit, \$18,000.)

Lines 11 and 12. Mr. Brown's taxable income from his farming business (without including the section 179 deduction and the self-employment tax deduction) exceeds the maximum dollar limit on line 5. He enters \$18,000 on lines 11 and 12. See chapter 8 for information on the section 179 deduction.

Line 15. All property placed in service in 1997 in each class is combined and entered in Part II, line 15. The abbreviation HY used in column (e) stands for the half-year convention. The 150 DB in column (f) stands for the 150% declining balance method under MACRS.

Line 17. Mr. Brown enters \$2,527, his MACRS depreciation deduction for assets acquired from 1993 through 1995, on line 17 of Part III. None of the assets included are listed property. Listed property is entered in Part V and that total is entered on line 20, explained later.

Line 19. On line 19, he enters \$1,374 for assets placed in service before 1981 and those depreciated under ACRS that are not listed property.

Line 20. Mr. Brown enters his depreciation deduction for listed property, \$2,184, on line 20. This is the total shown on line 26, Part V, page 2 of the form. He has two depreciable assets that are listed property for completing Part V—the car used 60% for business and the pickup truck purchased in 1994. His deduction for the car cannot be more than 60% of the limit for passenger automobiles for the year he purchased the car.

Line 21. Mr. Brown enters the total depreciation on line 21 and carries the total, \$27,708, to line 16 of Schedule F.

Other items. He completes sections A and B of Part V to provide the information required for listed property. He does not complete section C because he does not provide vehicles for his employees' use.

He has a practice of writing down the odometer readings on his vehicles at the end of each year and when he acquires and disposes of the vehicles. In addition, because he used his car only partly for business, he writes down the number of business miles it is driven any day that it is used for business. He uses these records to answer the questions on lines 23a and 23b of Section A and lines 28 through 34 of Section B.

He has no amortization, so he does not use Part VI of Form 4562.

Schedule SE (Form 1040) Self-Employment Tax

After figuring his net farm profit on page 1 of Schedule F, Mr. Brown figures his self-employment tax. To do this, he figures his net earnings from farm self-employment on Short Schedule SE (Section A). He is not required to use Long Schedule SE (Section B). First he prints his name (as shown on his Form 1040) and his social security number at the top of Schedule SE. Only Mr. Brown's name and social security number go on Schedule SE. His wife does not have self-employment income. If Mrs. Brown had self-employment income, she would file her own Schedule SE.

Line items. Mr. Brown figures his self-employment tax on the following lines.

Line 1. He enters his net farm profit, \$27,260. He did not list on Schedule F any income, losses, or deductions that are not included in determining net earnings from farm self-employment (see the items listed in chapter 15). Consequently, he did not have to adjust his net profit to determine his self-employment net earnings from farming.

Line 3. If Mr. Brown were engaged in any other business in addition to farming, he would combine his net earnings from self-employment from all his trades or businesses

on line 3 of this schedule. However, because farming was his only business, he enters his net earnings from self-employment from farming (the amount shown on line 1).

Line 4. He multiplies line 3 by .9235 and enters \$25,175 on line 4.

Lines 5 and 6. Mr. Brown multiplies line 4 by 15.3% and enters \$3,852 on line 5. This is his self-employment tax for 1997. He also enters \$3,852 on line 47 of Form 1040. He enters \$1,926 on line 6 and also on line 26 of Form 1040 (deduction for one-half of his self-employment tax).

Form 1040, Page 1

Mr. Brown is filing a joint return with his wife. He uses the form he received from the IRS.

Line items. Mr. Brown fills in all applicable items on page 1 of Form 1040.

Line 7. Mrs. Brown worked part time as a substitute teacher for the county school system during 1997. She also works for Mr. Brown on the farm. He enters her total wages, \$4,921 (\$3,721 from the school system and \$1,200 from the farm), as shown on the Forms W-2 that the school system and he gave her, on line 7 of Form 1040.

Lines 8a and 9. Mr. Brown did not actually receive cash payment for the interest he listed on line 8a. It was credited to his account so that he could have withdrawn it in 1997. Therefore, he constructively received it and correctly included it in his income for 1997. He enters the \$220 in dividends he received from the H. T. Corporation on line 9.

Patronage dividends from farmers' cooperatives were received on the basis of business done with these cooperatives. He does not list these dividends here, but properly included them on lines 5a and 5b, Part I of Schedule F.

Since Mr. Brown did not receive more than \$400 in interest or \$400 in dividends and none of the other conditions listed at the beginning of the Schedule B instructions applied, he is not required to complete Schedule B.

Line 18. Mr. Brown enters his net farm profit, \$27,260, from Schedule F (Form 1040).

Line 22. Mr. Brown adds the amounts on lines 7 through 21 and enters the total, \$32,776.

Line 26. Mr. Brown has already entered one-half of his self-employment tax, \$1,926. He enters this amount again on line 31, as it is the only amount entered on lines 23 through 30a.

Lines 32 and 33. Mr. Brown subtracts line 31 from line 22 and enters the result, "adjusted gross income," on line 32 and also on line 33 of page 2.

Form 1040, Page 2

Mr. Brown fills in the following lines on page 2 of Form 1040.

Line 35. Mr. Brown enters \$7,500 from his Schedule A (Form 1040), which is not shown, because the total of his itemized deductions is larger than the standard deduction for his filing status.

Lines 36, 37 and 38. Mr. Brown subtracts the \$7,500 on line 35 from the \$30,850 on line 33 and enters the result, \$23,350 on line 36. He enters \$13,250 ($5 \times \$2,650$) on line 37 and subtracts this amount from the amount on line 36 to get taxable income on line 38.

Line 39. To determine their tax, he uses the Tax Table in the Form 1040 instructions. Because line 38 is 10,100 he looks for the income bracket that includes this amount. He finds the bracket for incomes of at least \$10,100, but less than \$10,150, and finds that the tax for married taxpayers filing joint returns is \$1519. He enters this amount on line 39.

Lines 45 and 46. Because Mr. and Mrs. Brown have none of the credits listed on lines 40 through 44 Mr. Brown enters -0- on line 45, subtracts it from line 39, and enters \$1,519 on line 46.

Line 47. Mr. Brown has already entered the \$3,852 self-employment tax he figured on Schedule SE.

Line 53. He enters \$5,371, which is the total tax for 1997.

Line 54. Mr. Brown enters the income tax withheld from Mrs. Brown's wages, \$227, as shown on the Forms W-2 she received. He attaches Copy B of her Forms W-2 to the front of Form 1040.

Line 55. He did not make estimated tax payments since two-thirds of his gross income for 1996 was from farming. He was sure that at least two-thirds of his gross income for 1997 would be from farming and he would file his Form 1040 and pay any tax due no later than March 2, 1998. Farmers who meet these conditions do not have to make estimated tax payments. If he pays the tax due, he will not be penalized for failure to pay estimated taxes. He makes no entry on line 55.

Line 56a. The Browns are not entitled to claim the earned income credit on line 56a, because their modified adjusted gross income is more than \$29,290.

Line 59. Mr. Brown enters his federal excise tax credit for gasoline used in 1997. He checks box "b" and attaches Form 4136 (not shown) to his return, showing how he figured the credit. The credit must be reported as income on Schedule F on his 1998 return.

Lines 60 and 64. He adds lines 54 and 59 and enters the total on line 60. He subtracts that figure from line 53. The balance, \$4,794, is entered on line 64.

Completing the return. They sign their names and enter the date signed and their occupations. (If the Browns had not prepared their own tax return, the preparer would also sign the return and provide the information requested at the bottom of the page.) Mr. Brown transfers the address label from the instructions to the return after verifying the accuracy of the label. He writes a check payable to the Internal Revenue Service for the full amount on line 64 of Form 1040. On the check, he writes his social security num-

ber (shown first on the mailing label), their telephone number, and "1997 Form 1040." His name and address are printed on the check.

After making a copy of their complete return for his records, Mr. Brown assembles his original Form 1040, Schedules A, F, and SE, and Forms 4136, 4562, and 8824 in that order (see "Attachment Sequence Number" in the upper right corner of each schedule or form).

Mr. Brown completes Form 1040-V, *Payment Voucher*, which was included in his tax package. He carefully follows the instructions for mailing his return and paying the IRS.

21.

How To Get More Information



You can get help from the IRS in several ways.

Free publications and forms. To order free publications and forms, call 1-800-TAX-FORM (1-800-829-3676). You can also write to the IRS Forms Distribution Center nearest you. Check your income tax package for the address. Your local library or post office may also have the items you need.

For a list of free tax publications, order Publication 910, *Guide to Free Tax Services*. It also contains an index of tax topics and related publications and describes other free tax services available from the IRS, including tax education and assistance programs.

If you have access to a personal computer and modem, you can also get many forms and publications electronically. See *Quick and Easy Access to Tax Help and Forms* in your income tax package for details.

Tax questions. You can call the IRS with your tax questions. Check your income tax package or telephone book for the local number, or you can call 1-800-829-1040.

TTY/TDD equipment. If you have access to TTY/TDD equipment, you can call 1-800-829-4059 to ask tax questions or to order forms and publications. See your income tax package for details.

For the year Jan. 1–Dec. 31, 1997, or other tax year beginning , 1997, ending , 19 OMB No. 1545-0074

Label

(See instructions on page 10.) Use the IRS label. Otherwise, please print or type.

Label information table with fields for names, addresses, and social security numbers.

Your social security number 543 00 2111 Spouse's social security number 543 00 1222

For help in finding line instructions, see pages 2 and 3 in the booklet.

Presidential Election Campaign (See page 10.)

Do you want \$3 to go to this fund? If a joint return, does your spouse want \$3 to go to this fund?

Table with Yes/No columns for election campaign question.

Filing Status

Check only one box.

- 1 Single
2 Married filing joint return (even if only one had income)
3 Married filing separate return.
4 Head of household (with qualifying person).
5 Qualifying widow(er) with dependent child

Exemptions

If more than six dependents, see page 10.

Exemptions section including 6a Yourself, 6b Spouse, and 6c Dependents table.

No. of boxes checked on 6a and 6b: 2
No. of your children on 6c who: 3
Add numbers entered on lines above: 5

Income

Attach Copy B of your Forms W-2, W-2G, and 1099-R here.

If you did not get a W-2, see page 12.

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

Main income table with rows 7 through 22, including wages, interest, dividends, and total income.

Adjusted Gross Income

If line 32 is under \$29,290 (under \$9,770 if a child did not live with you), see EIC inst. on page 21.

Adjusted Gross Income section with rows 23 through 32, including deductions and final adjusted gross income.

Tax Computation

33	Amount from line 32 (adjusted gross income)	33	30,850	-
34a	Check if: <input type="checkbox"/> You were 65 or older, <input type="checkbox"/> Blind; <input type="checkbox"/> Spouse was 65 or older, <input type="checkbox"/> Blind. Add the number of boxes checked above and enter the total here	34a		
b	If you are married filing separately and your spouse itemizes deductions or you were a dual-status alien, see page 18 and check here	34b		<input type="checkbox"/>
35	Enter the larger of your: Itemized deductions from Schedule A, line 28, OR Standard deduction shown below for your filing status. But see page 18 if you checked any box on line 34a or 34b or someone can claim you as a dependent. • Single—\$4,150 • Married filing jointly or Qualifying widow(er)—\$6,900 • Head of household—\$6,050 • Married filing separately—\$3,450	35	7,500	-
36	Subtract line 35 from line 33	36	23,350	-
37	If line 33 is \$90,900 or less, multiply \$2,650 by the total number of exemptions claimed on line 6d. If line 33 is over \$90,900, see the worksheet on page 19 for the amount to enter	37	13,250	-
38	Taxable income. Subtract line 37 from line 36. If line 37 is more than line 36, enter -0-	38	10,100	-
39	Tax. See page 19. Check if any tax from a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972	39	1,519	-

If you want the IRS to figure your tax, see page 18.

Credits

40	Credit for child and dependent care expenses. Attach Form 2441	40		
41	Credit for the elderly or the disabled. Attach Schedule R	41		
42	Adoption credit. Attach Form 8839	42		
43	Foreign tax credit. Attach Form 1116	43		
44	Other. Check if from a <input type="checkbox"/> Form 3800 b <input type="checkbox"/> Form 8396 c <input type="checkbox"/> Form 8801 d <input type="checkbox"/> Form (specify)	44		
45	Add lines 40 through 44	45	- 0 -	-
46	Subtract line 45 from line 39. If line 45 is more than line 39, enter -0-	46	1,519	-

Other Taxes

47	Self-employment tax. Attach Schedule SE	47	3,852	-
48	Alternative minimum tax. Attach Form 6251	48		
49	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	49		
50	Tax on qualified retirement plans (including IRAs) and MSAs. Attach Form 5329 if required	50		
51	Advance earned income credit payments from Form(s) W-2	51		
52	Household employment taxes. Attach Schedule H	52		
53	Add lines 46 through 52. This is your total tax	53	5,371	-

Payments

54	Federal income tax withheld from Forms W-2 and 1099	54	227	-
55	1997 estimated tax payments and amount applied from 1996 return	55		
56a	Earned income credit. Attach Schedule EIC if you have a qualifying child b Nontaxable earned income: amount	56a		
57	Amount paid with Form 4868 (request for extension)	57		
58	Excess social security and RRTA tax withheld (see page 27)	58		
59	Other payments. Check if from a <input type="checkbox"/> Form 2439 b <input checked="" type="checkbox"/> Form 4136	59	350	-
60	Add lines 54, 55, 56a, 57, 58, and 59. These are your total payments	60	577	-

Attach Forms W-2, W-2G, and 1099-R on the front.

Refund

61	If line 60 is more than line 53, subtract line 53 from line 60. This is the amount you OVERPAID	61		
62a	Amount of line 61 you want REFUNDED TO YOU	62a		
b	Routing number	c	Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings	
d	Account number			
63	Amount of line 61 you want APPLIED TO YOUR 1998 ESTIMATED TAX	63		

Have it directly deposited! See page 27 and fill in 62b, 62c, and 62d.

Amount You Owe

64	If line 53 is more than line 60, subtract line 60 from line 53. This is the AMOUNT YOU OWE . For details on how to pay, see page 27	64	4,794	-
65	Estimated tax penalty. Also include on line 64	65		

Sign Here

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.

Keep a copy of this return for your records.

Your signature	Date	Your occupation
WALTER A. BROWN	2-23-98	FARMER
Spouse's signature. If a joint return, BOTH must sign.	Date	Spouse's occupation
JANE W. BROWN	2-23-98	TEACHER

Paid Preparer's Use Only

Preparer's signature	Date	Check if self-employed <input type="checkbox"/>	Preparer's social security no.
Firm's name (or yours if self-employed) and address			EIN
			ZIP code

**SCHEDULE F
(Form 1040)**

Department of the Treasury
Internal Revenue Service

Profit or Loss From Farming

▶ Attach to Form 1040, Form 1041, or Form 1065.
▶ See Instructions for Schedule F (Form 1040).

OMB No. 1545-0074

1997

Attachment
Sequence No. **14**

Name of proprietor
WALTER A. BROWN

Social security number (SSN)
543 00 2111

A Principal product. Describe in one or two words your principal crop or activity for the current tax year.
MILK

B Enter principal agricultural activity code (from page 2) ▶ 2 | 4 | 0

C Accounting method: (1) Cash (2) Accrual

D Employer ID number (EIN), if any
1 | 0 | 9 | 8 | 7 | 6 | 5 | 4 | 3

E Did you "materially participate" in the operation of this business during 1997? If "No," see page F-2 for limit on passive losses. Yes No

Part I Farm Income—Cash Method. Complete Parts I and II (Accrual method taxpayers complete Parts II and III, and line 11 of Part I.) Do not include sales of livestock held for draft, breeding, sport, or dairy purposes; report these sales on Form 4797.

1	Sales of livestock and other items you bought for resale	1	12,960	–		
2	Cost or other basis of livestock and other items reported on line 1	2	3,180	–		
3	Subtract line 2 from line 1	3		9,780	–	
4	Sales of livestock, produce, grains, and other products you raised	4		129,599	–	
5a	Total cooperative distributions (Form(s) 1099-PATR)	5a	33	–	5b	Taxable amount
6a	Agricultural program payments (see page F-2)	6a	438	–	6b	Taxable amount
7	Commodity Credit Corporation (CCC) loans (see page F-2):					
a	CCC loans reported under election	7a		665	–	
b	CCC loans forfeited	7b			7c	Taxable amount
8	Crop insurance proceeds and certain disaster payments (see page F-2):					
a	Amount received in 1997	8a			8b	Taxable amount
c	If election to defer to 1998 is attached, check here ▶ <input type="checkbox"/>	8d			8d	Amount deferred from 1996
9	Custom hire (machine work) income	9		1,258	–	
10	Other income, including Federal and state gasoline or fuel tax credit or refund (see page F-3)	10		567	–	
11	Gross income. Add amounts in the right column for lines 3 through 10. If accrual method taxpayer, enter the amount from page 2, line 51 ▶	11		142,340	–	

Part II Farm Expenses—Cash and Accrual Method. Do not include personal or living expenses such as taxes, insurance, repairs, etc., on your home.

12	Car and truck expenses (see page F-3—also attach Form 4562)	12	4,043	–	25	Pension and profit-sharing plans	25		
13	Chemicals	13	2,701	–	26	Rent or lease (see page F-4):			
14	Conservation expenses (see page F-4)	14	1,040	–	a	Vehicles, machinery, and equipment	26a		
15	Custom hire (machine work)	15	1,575	–	b	Other (land, animals, etc.)	26b	2,400	–
16	Depreciation and section 179 expense deduction not claimed elsewhere (see page F-4)	16	27,708	–	27	Repairs and maintenance	27	5,424	–
17	Employee benefit programs other than on line 25	17			28	Seeds and plants purchased	28	2,132	–
18	Feed purchased	18	18,019	–	29	Storage and warehousing	29		
19	Fertilizers and lime	19	6,544	–	30	Supplies purchased	30	2,807	–
20	Freight and trucking	20	3,072	–	31	Taxes	31	3,201	–
21	Gasoline, fuel, and oil	21	3,521	–	32	Utilities	32	3,997	–
22	Insurance (other than health)	22	1,070	–	33	Veterinary, breeding, and medicine	33	3,217	–
23	Interest:				34	Other expenses (specify):			
a	Mortgage (paid to banks, etc.)	23a	3,175	–	a	Milk assessment	34a	807	–
b	Other	23b	1,043	–	b	Commissions, dues, & fees	34b	347	–
24	Labor hired (less employment credits)	24	16,416	–	c	Records/Office supplies	34c	287	–
					d	Travel	34d	534	–
					e	. . . . .	34e		
					f	. . . . .	34f		

35 **Total expenses.** Add lines 12 through 34f ▶ 35 115,080 –

36 **Net farm profit or (loss).** Subtract line 35 from line 11. If a profit, enter on Form 1040, line 18, and ALSO on Schedule SE, line 1. If a loss, you MUST go on to line 37 (estates, trusts, and partnerships, see page F-5). 36 27,260 –

37 If you have a loss, you MUST check the box that describes your investment in this activity (see page F-5).
If you checked 37a, enter the loss on Form 1040, line 18, and ALSO on Schedule SE, line 1.
If you checked 37b, you MUST attach Form 6198. } 37a All investment is at risk.
37b Some investment is not at risk.

**SCHEDULE SE
(Form 1040)**

Department of the Treasury
Internal Revenue Service

Self-Employment Tax

▶ See Instructions for Schedule SE (Form 1040).

▶ Attach to Form 1040.

OMB No. 1545-0074

1997

Attachment
Sequence No. **17**

Name of person with **self-employment** income (as shown on Form 1040)
WALTER A. BROWN

Social security number of person
with **self-employment** income ▶

543 : 00 : 211

Who Must File Schedule SE

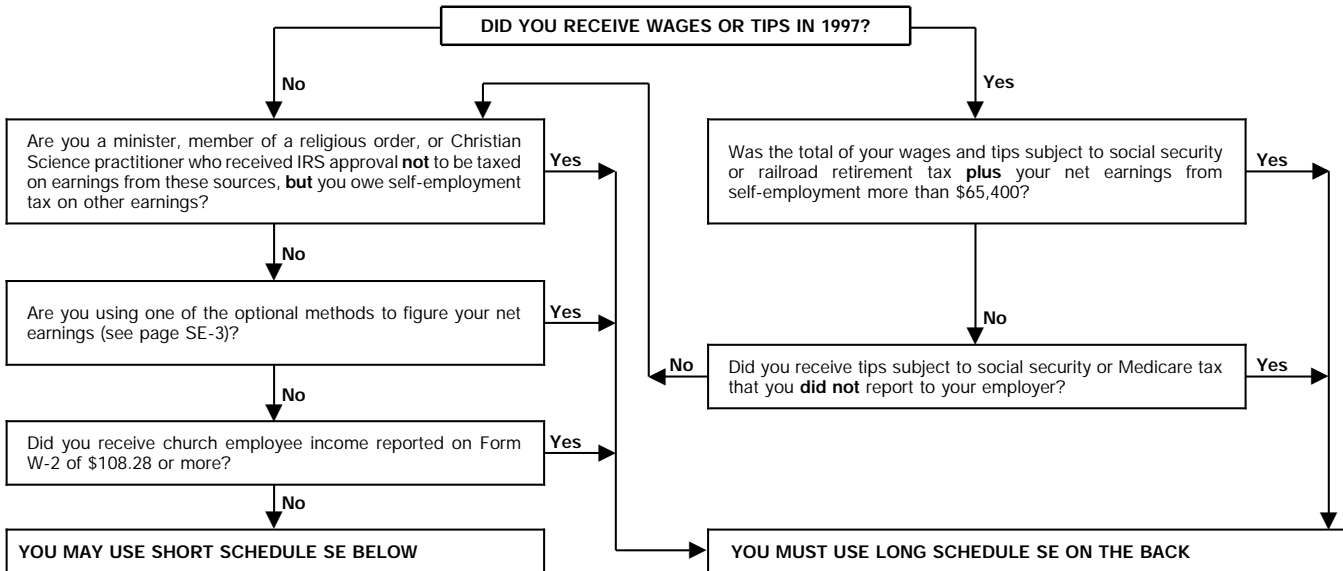
You must file Schedule SE if:

- You had net earnings from self-employment from **other than** church employee income (line 4 of Short Schedule SE or line 4c of Long Schedule SE) of \$400 or more, **OR**
- You had church employee income of \$108.28 or more. Income from services you performed as a minister or a member of a religious order **is not** church employee income. See page SE-1.

Note: Even if you had a loss or a small amount of income from self-employment, it may be to your benefit to file Schedule SE and use either "optional method" in Part II of Long Schedule SE. See page SE-3.

Exception. If your only self-employment income was from earnings as a minister, member of a religious order, or Christian Science practitioner **and** you filed Form 4361 and received IRS approval not to be taxed on those earnings, **do not** file Schedule SE. Instead, write "Exempt-Form 4361" on Form 1040, line 47.

May I Use Short Schedule SE or MUST I Use Long Schedule SE?



Section A—Short Schedule SE. Caution: Read above to see if you can use Short Schedule SE.

1	Net farm profit or (loss) from Schedule F, line 36, and farm partnerships, Schedule K-1 (Form 1065), line 15a	1	27,260	-
2	Net profit or (loss) from Schedule C, line 31; Schedule C-EZ, line 3; and Schedule K-1 (Form 1065), line 15a (other than farming). Ministers and members of religious orders, see page SE-1 for amounts to report on this line. See page SE-2 for other income to report	2		
3	Combine lines 1 and 2	3	27,260	-
4	Net earnings from self-employment. Multiply line 3 by 92.35% (.9235). If less than \$400, do not file this schedule; you do not owe self-employment tax ▶	4	25,175	-
5	Self-employment tax. If the amount on line 4 is: <ul style="list-style-type: none"> • \$65,400 or less, multiply line 4 by 15.3% (.153). Enter the result here and on Form 1040, line 47. • More than \$65,400, multiply line 4 by 2.9% (.029). Then, add \$8,109.60 to the result. Enter the total here and on Form 1040, line 47. 	5	3,852	-
6	Deduction for one-half of self-employment tax. Multiply line 5 by 50% (.5). Enter the result here and on Form 1040, line 26	6	1,926	-

For Paperwork Reduction Act Notice, see Form 1040 instructions.

Cat. No. 11358Z

Schedule SE (Form 1040) 1997

Depreciation and Amortization (Including Information on Listed Property)

Department of the Treasury
Internal Revenue Service

▶ See separate instructions. ▶ Attach this form to your return.

Name(s) shown on return

WALTER A. & JANE W. BROWN

Business or activity to which this form relates

FARMING

Identifying number

543-00-2111

Part I Election To Expense Certain Tangible Property (Section 179) (Note: If you have any "listed property," complete Part V before you complete Part I.)

1	Maximum dollar limitation. If an enterprise zone business, see page 2 of the instructions	1	\$18,000
2	Total cost of section 179 property placed in service. See page 2 of the instructions	2	61,229. -
3	Threshold cost of section 179 property before reduction in limitation	3	\$200,000
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	- 0 -
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see page 2 of the instructions	5	18,000. -
(a) Description of property (b) Cost (business use only) (c) Elected cost			
6	TRACTOR	23,729. -	18,000. -
		7	
7	Listed property. Enter amount from line 27.	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	18,000. -
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	18,000. -
10	Carryover of disallowed deduction from 1996. See page 3 of the instructions	10	- 0 -
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instructions)	11	18,000. -
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	18,000. -
13	Carryover of disallowed deduction to 1998. Add lines 9 and 10, less line 12 ▶	13	- 0 -

Note: Do not use Part II or Part III below for listed property (automobiles, certain other vehicles, cellular telephones, certain computers, or property used for entertainment, recreation, or amusement). Instead, use Part V for listed property.

Part II MACRS Depreciation For Assets Placed in Service ONLY During Your 1997 Tax Year (Do Not Include Listed Property.)

Section A—General Asset Account Election

14 If you are making the election under section 168(i)(4) to group any assets placed in service during the tax year into one or more general asset accounts, check this box. See page 3 of the instructions

Section B—General Depreciation System (GDS) (See page 3 of the instructions.)

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only—see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
15a 3-year property						
b 5-year property						
c 7-year property		7,107. -	7	HY	150DB	761. -
d 10-year property		37,500. -	10	HY	150DB	2,813. -
e 15-year property						
f 20-year property		1,300. -	20	HY	150DB	49. -
g 25-year property			25 yrs.		S/L	
h Residential rental property			27.5 yrs.	MM	S/L	
			27.5 yrs.	MM	S/L	
i Nonresidential real property			39 yrs.	MM	S/L	
				MM	S/L	

Section C—Alternative Depreciation System (ADS) (See page 6 of the instructions.)

16a Class life				S/L	
b 12-year			12 yrs.	S/L	
c 40-year			40 yrs.	MM	S/L

Part III Other Depreciation (Do Not Include Listed Property.) (See page 6 of the instructions.)

17	GDS and ADS deductions for assets placed in service in tax years beginning before 1997	17	2,527. -
18	Property subject to section 168(f)(1) election	18	
19	ACRS and other depreciation	19	1,374. -

Part IV Summary (See page 7 of the instructions.)

20	Listed property. Enter amount from line 26.	20	2,184. -
21	Total. Add deductions on line 12, lines 15 and 16 in column (g), and lines 17 through 20. Enter here and on the appropriate lines of your return. Partnerships and S corporations—see instructions	21	27,708. -
22	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	22	

Part V Listed Property—Automobiles, Certain Other Vehicles, Cellular Telephones, Certain Computers, and Property Used for Entertainment, Recreation, or Amusement

Note: For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete **only** 23a, 23b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.

Section A—Depreciation and Other Information (Caution: See page 8 of the instructions for limits for passenger automobiles.)

23a Do you have evidence to support the business/investment use claimed? **Yes** **No** **23b** If "Yes," is the evidence written? **Yes** **No**

(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/Convention	(h) Depreciation deduction	(i) Elected section 179 cost	
24 Property used more than 50% in a qualified business use (See page 7 of the instructions.):									
CAR	1-6-94	60 %	12,350. –	7,410. –	5	150DB/HY	1,005. – *	– 0 –	
PICKUP TRUCK	5-18-94	100 %	7,076. –	7,076. –	5	150DB/HY	1,179. –	– 0 –	
		%							
25 Property used 50% or less in a qualified business use (See page 7 of the instructions.):									
		%				S/L –			
		%				S/L –			
		%				S/L –			
26 Add amounts in column (h). Enter the total here and on line 20, page 1.							26	2,184. –	
27 Add amounts in column (i). Enter the total here and on line 7, page 1								27	– 0 –

Section B—Information on Use of Vehicles

Complete this section for vehicles used by a sole proprietor, partner, or other "more than 5% owner," or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle 1		(b) Vehicle 2		(c) Vehicle 3		(d) Vehicle 4		(e) Vehicle 5		(f) Vehicle 6	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
28 Total business/investment miles driven during the year (DO NOT include commuting miles)	6,270		11,350									
29 Total commuting miles driven during the year	– 0 –		– 0 –									
30 Total other personal (noncommuting) miles driven	4,180		– 0 –									
31 Total miles driven during the year. Add lines 28 through 30.	10,450		11,350									
32 Was the vehicle available for personal use during off-duty hours?	✓		✓									
33 Was the vehicle used primarily by a more than 5% owner or related person?	✓		✓									
34 Is another vehicle available for personal use?	✓		✓									

Section C—Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who are not more than 5% owners or related persons.

	Yes	No
35 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?		
36 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See page 9 of the instructions for vehicles used by corporate officers, directors, or 1% or more owners		
37 Do you treat all use of vehicles by employees as personal use?		
38 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
39 Do you meet the requirements concerning qualified automobile demonstration use? See page 9 of the instructions		

Note: If your answer to 35, 36, 37, 38, or 39 is "Yes," you need not complete Section B for the covered vehicles.

Part VI Amortization

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year
40 Amortization of costs that begins during your 1997 tax year:					
41 Amortization of costs that began before 1997				41	
42 Total. Enter here and on "Other Deductions" or "Other Expenses" line of your return				42	

* Limited deduction for passenger automobile

Depreciation Worksheet

Description of Property	Date Placed in Service	Cost or Other Basis	Business/ Investment Use %	Section 179 Deduction	Depreciation Prior Years	Basis for Depreciation	Method/ Convention	Recovery Period	Rate or Table %	Depreciation Deduction
STRAIGHT LINE										
BARN	1-8-78	6,400	100%		4,864	1,536	SL	25		256
SILO	1-2-80	16,000	"		13,600	2,400	SL	20		800
ALTERNATE ACRS										
MACHINE SHED	1-2-86	6,000	100%		3,480	2,520	Mod SL	19	5.3	318
MACRS										
TRACTOR #2 (traded 3/97)	1-8-93	7,297	100%	5,000	804	2,297	SL/HY	10	10.0	114.85*
DAIRY COW #54	9-9-93	1,200	"		600	1,200	SL/HY	7	14.29	171.48
CAR (listed property)	1-6-94	12,350	60%		4,334	7,410	150DB/HY	5	16.66	1,005.--**
PLOW	4-6-94	4,821	100%		1,599	4,821	150DB/HY	10	10.02	483.06
PICKUP TRUCK (listed prop)	5-18-94	7,076	"		4,129	7,076	150DB/HY	5	16.66	1,178.86
DAIRY COW #61	9-1-94	1,400	"		628	1,400	150DB/HY	7	12.25	171.50
TRACTOR #4	10-12-94	13,483	"	5,000	2,814	8,483	150DB/HY	10	10.02	849.99
MILK TANK	1-4-95	11,500	100%	10,000	448	1,500	150DB/HY	7	15.03	225.45
MANURE SPREADER	5-3-95	3,400	"		1,015	3,400	150DB/HY	7	15.03	511.02
CATTLE FEEDING FACILITY	1-9-97	37,500	100%		- 0 -	37,500	150DB/HY	10	7.50	2,812.50
MACHINE SHED IMPROVEMENT	2-20-97	1,300	"		- 0 -	1,300	150DB/HY	20	3.75	48.75
TRACTOR #5	3-7-97	25,107	"	18,000	- 0 -	7,107	150DB/HY	7	10.71	761.16
										9,707.62

* Depreciation limited to half-year

** Limited deduction for passenger automobile

Index

A	
Abandonments	59
Accounting methods:	
Accrual	11
Cash	11
Change in	13
Crop	13
Farm inventory	12
Accounting periods	10
Adjusted basis of assets	33
Advance payments	13, 23
Agricultural program payments	15
Agricultural structure	40
Alternative Depreciation System (ADS)	42, 45
Alternative minimum tax	71
Amortization:	
Going into business	49
Pollution control facilities	49
Reforestation expenses	49
Section 197 intangibles	48
Assessments:	
By conservation district	31
Depreciable property	31
Sale, disposal of land	31
Automobiles, depreciation	42

B	
Backup withholding	80
Bankruptcy	19
Barter income	21
Basis of assets:	
Adjusted basis	33
Allocating to several assets	33
Changed to business use	34
Constructing assets	33
Cost	32
Decreases	34
Exchanges:	
Involuntary	35
Like-kind	35
Nontaxable	35
Partially nontaxable	35
Taxable	34
Gift	36
Increases	33
Inherited	36
Real property	32
Received for services	34
Transfer from spouse	36
Uniform capitalization rules	36
Below-market loans	21
Books and records	4
Breeding fees	24
Business codes, Schedule F	3
Business use of home	26

C	
Canceled debt	19
Capital assets	55
Capital expenses	28
Car expenses	26
Casualties and thefts:	
Adjustments to basis	69
Casualty, defined	68
Disaster area losses	70
Leased property	69
Livestock	68
Reimbursement	69
Reporting gains and losses	71
Theft, defined	68
Change in accounting method	13
Chickens, purchased	26
Christmas trees	28, 57
Clean-fuel vehicle exception	47
Club dues	29
Commodity Credit Corporation:	
Loans	16
Market gain	16
Commodity futures	56
Commodity wages	79
Computer software	38, 48

Condemnation	67, 70
Conservation:	
District assessments	31
Expenses	30
Plans	30
Reserve Program (CRP)	17
Constructing assets	33
Constructive receipt of income	11
Converted wetland	57
Cooperatives, income from	18
Corporation	10
Cost-sharing exclusion	17
Credits:	
Earned income (EIC):	
Advance payment	81
Notification	81
Fuel tax	21, 90
General business	49
Investment	51
Prior year minimum tax	73
Crew leaders	81
Crop:	
Destroyed	71
Insurance proceeds	17
Method of accounting	13
Shares	15
Unharvested	29, 60
Cropland, highly erodible	57

D	
Damage:	
Casualties and thefts	68
Crop insurance	17
Tree seedlings	68
Debt:	
Bad	55
Canceled	19, 34, 54, 59
Minimum tax credit	73
Nonrecourse	54
Qualified farm	20
Recourse	54
Depletion	47
Depreciation:	
ADS method	42, 45
Basis	43
Conservation assets	31
Deduction	37
Dispositions	46
How to claim	39
Incorrect amount deducted	39
Limit for automobiles	42
Listed property	46
Raised livestock	38
Recapture	61, 62, 63
Software, computer	38
Disaster payments	17
Dispositions	31, 32, 42, 46, 49, 51, 60, 64

E	
Easement	21, 34
Electronic filing (e-file)	3
Embryo transplants	33
Estimated tax:	
Farm gross income	7
Farmer due dates	7
Fiscal year farmer	7
Gross income	7
Penalties	7
Exchanges:	
Basis:	
Involuntary	35
Like-kind	35
Nontaxable	35
Partially nontaxable	35
Taxable	34
Like-kind	52
Nontaxable	52
Excise taxes:	
Credit	90
Diesel fuel	88
Farming purposes	87
Off-highway uses	89
Refund	90

F	
Fair market value	66
Family farm corporation	12, 13
Family members:	
Deductible pay	23
Social security coverage	80
Farm:	
Business	45
Business expenses	22
Business, defined	30
Defined	30, 87
Rental	30
Sale of	58
Special property valuation	36
Federal unemployment tax (FUTA)	80
Fertilizer	17, 24
Filing requirements	5
Foreclosure	54
Form:	
940	8
943	8, 80
982	21
1040	8
1040PC	3
1040X	27
1040-ES	8
1045	27, 51
1065	8, 9
1099s	9
1099-A	54
1099-C	19, 54
1099-G	16, 17
1099-MISC	3, 5, 80
1099-PATR	18
1120	8, 10
1120S	8, 10
1139	51
2210-F	7, 8
2290	8
3115	13
3468	8, 51
3800	8, 50
4136	8
4255	8, 51
4562	8, 39
4684	8
4797	8, 18
4835	8, 15
4868	8
4952	55, 72
5213	29
5305-SEP	84
6251	8, 72
6252	64
8109	8
8801	73
8822	3, 9
8824	8, 53
I-9	79
SS-4	3, 6, 78
SS-5	6, 73
T	48
W4-V	3, 16, 17
W-2	8, 79, 80
W-4	3, 79
W-5	81
Fuel tax credit and refund	21

G	
Gains and losses:	
Basis of assets	32
Capital assets, defined	55
Casualty	68, 70
Installment sales	63
Livestock	56
Long- or short-term	55
Ordinary or capital	55
Sale of farm	58
Section 1231	60
Theft	68, 70
Timber	57
General asset accounts	46
General business credit	49

General Depreciation System (GDS)	42
Gifts	15, 29, 36, 51, 55, 61
Going into business	49
Goodwill	38

H	
Hedging	56
Help from IRS	3, 94
Highway use tax	25
Holding period	55
Horticultural structure	40

I	
Identification number, taxpayer	6
Illegal irrigation subsidy	21
Income tax:	
Backup withholding	80
Depositing withheld tax	80
Withholding of tax	79
Income:	
Accounting for	11
Accrued method of accounting	11
Canceled debt excluded	19, 34
Cash method	11
Community	78
From farming	7, 13, 31, 76
Gross	7
Items to include	11
Not-for-profit farming	28
Partner's distributive share	9
Pasture	15
Schedule F	13
Self-employment	74
Tax forms used by farmers	8
Incorrect amount of depreciation deducted	39
Individual retirement arrangements (IRAs)	86
Information returns	9
Insolvency	20
Installment sales:	
Electing out	64
Farm, sale of	66
Figuring income	64
Payments received	65
Recapture on	63
Reporting income	64
Unstated interest	66
Insurance	25
Intangible property	38, 48
Interest:	
Expense	24
Unstated	66
Inventory:	
Items included	12
Methods of valuation	12
Investment credit	51
Involuntary conversion	67
IRAs	86
Irrigation:	
Center pivot	30
Illegal subsidy	21
Project	70

K	
Keogh plans	83

L	
Labor hired	23
Landlord participation	75
Lease or purchase	25
Like-kind exchanges	35, 52
Lime	24
Listed property:	
Defined	47
Passenger automobile	47
Predominant use test	47
Recordkeeping	47
Rules	46
Livestock:	

Casualty and theft losses	68
Crop shares	15
Depreciation	38, 40
Diseased	70
Feed	23
Feed assistance	17
Immature	43
Losses	29, 56
Purchased	57
Raised	57
Sale of	14, 56
Unit-livestock-price, inventory valuation	12
Used in a farm business	57
Weather-related sales	14, 70
Loans	16, 24
Losses:	
At-risk limits	28
Casualty	67
Disaster areas	70
Farming	68
Growing crops	29
Hobby farming	28
Livestock	56, 70
Net operating (NOL)	27
Nondeductible	29
Theft	67

M	
MACRS	42
Market gain, reporting	16
Marketing quota penalties	26
Material participation	75
Meals	26
Methods of accounting	11
Minimum tax credit	73
Modified ACRS (MACRS):	
ADS method	45
Conventions	44
Declining balance method	45
Depreciable property	42
Depreciation methods	45
Excluded property	43
Figuring the deduction	43
Percentage tables	45
Property classes	44
Recovery periods	44
Money purchase pension plan	82

N	
Net operating loss	27
Noncapital asset	55
Nontaxable exchanges	52
Not-for-profit farming	28

O	
On-line filing	3
Overdue tax bill	3

P	
Partnership	9
Passenger automobile	47
Pasture income	15
Patronage dividends	18
Penalties:	
Estimated tax	7
Information returns	9
Trust fund recovery	80
Per-unit retain certificates	19
Personal expenses	29
Placed in service	39
Pollution control facilities	49
Postponing gain	70
Prizes	21
Problem Resolution Program	3, 91
Produce	14
Profit-sharing plans	82
Property:	
Changed to business use	34
Received for services	34
Section 1245	61
Section 1250	62
Section 1252	63
Section 1255	63
Publications and forms, free	94

Q	
Qualified farm debt	20
Quotas and allotments	33

R	
Recordkeeping	4, 26, 73
Reforestation expenses	49
Refund:	
Deduction taken	21
Fuel tax	21
Reimbursements:	
Casualties and thefts	34, 68, 69
Deduction taken	21
Expenses	22
Feed assistance	17
Real estate taxes	33
Reforestation expenses	49
To employees	26
Rent expense	25
Rental income	15
Repairs	24
Replacement:	
Period	71
Property	70
Repossessions	54
Retirement plans:	
Defined benefit	82
Defined contribution	82
HR-10	83
IRAs	86
Keogh	83

Money purchase	82
Nonqualified	86
Profit-sharing	82
Qualified	81, 82
Salary reduction	85
SEP	84
SIMPLE	81, 82, 83, 84, 85, 86
Small business owners	83
Stock bonus	82
Returns:	
Corporation	10
Dependent's	6
Forms used by farmers	8
Information	9
Partnership	9
Penalties	7, 9
Qualified farmer due dates	7
Sample	91
Self-employed	6
Right-of-way income	21

S	
S corporation	10
Sale of home	59
Section 179 deduction:	
Carryover	41
How to elect	41
How to figure	41
Limits	41
Listed property	46
Qualifying:	
Costs	40
Property	40
Recapture	42
Self-employed health insurance	25
Self-employment income	74
Self-employment tax:	
Community income	78
Gross income from farming	76
Landlord participation	75
Material participation	75
Net income, defined	74
Optional method	76
Partnership	76
Regular method	75
Rental income	75
Share farming	74
Who must pay	74
Settlement costs (fees)	33
Share farmers	74
SIMPLE plans:	
Contribution limits	86
Definitions	86
Setting up	85
Social security and Medicare tax:	
Depositing tax	80
Withholding of tax	79
Withholding statement	8

Social security number	73
Software, computer	38
Soil:	
Conservation	30
Contamination	71
Spouse, property transferred from	36
Standard meal allowance	26
Start-up costs for businesses	49
Stock bonus plan	82
Subscriptions	29

T	
Tax preparation fees	24
Tax problems, unresolved	3
Tax shelters:	
At-risk limits	28
Defined	12
Tax-free exchanges	52
Taxes:	
Excise	87
Federal use	25
General	25
Self-employment	73
State and federal	25
State or local general sales	25
Taxpayer rights	91
TeleFile	3
Telephone expense	24
TeleTax	3
Tenant house expenses	26
Theft losses	67
Timber	28, 57
Trade-in	35
Travel expenses	26
Truck expenses	26
Trust fund recovery penalty	80

U	
Uniform capitalization rules:	
Basis of assets	36
Inventory	12
Unstated interest	66

W	
Water conservation	30
Water well	31, 44
Weather-related sales, live-stock	14, 70
Wetlands	30
Withholding:	
Income tax	79
Social security and Medicare tax	79

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- 80 Federal Tax Guide For Employers in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (Circular SS)
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- 1544SP Informe de Pagos en Efectivo en Exceso de \$10,000 (Recibidos en una Ocupación o Negocio)

Commonly Used Tax Forms

- W-2 Wage and Tax Statement
- W-4 Employee's Withholding Allowance Certificate
- 940 Employer's Annual Federal Unemployment (FUTA) Tax Return
- 940EZ Employer's Annual Federal Unemployment (FUTA) Tax Return
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 - Sch A Itemized Deductions
 - Sch B Interest and Dividend Income
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 - Sch C-EZ Net Profit From Business
 - Sch D Capital Gains and Losses
 - Sch E Supplemental Income and Loss
 - Sch F Profit or Loss From Farming
 - Sch H Household Employment Taxes
 - Sch R Credit for the Elderly or the Disabled
 - Sch SE Self-Employment Tax
- 1040-ES Estimated Tax for Individuals
- 1040X Amended U.S. Individual Income Tax Return

- 1065 U.S. Partnership Return of Income
 - Sch D Capital Gains and Losses
 - Sch K-1 Partner's Share of Income, Credits, Deductions, etc.
- 1120 U.S. Corporation Income Tax Return
- 1120-A U.S. Corporation Short-Form Income Tax Return
- 1120S U.S. Income Tax Return for an S Corporation
 - Sch D Capital Gains and Losses and Built-In Gains
 - Sch K-1 Shareholder's Share of Income, Credits, Deductions, etc.
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- 2106-EZ Unreimbursed Employee Business Expenses
- 2210 Underpayment of Estimated Tax by Individuals, Estates, and Trusts
- 2441 Child and Dependent Care Expenses
- 2848 Power of Attorney and Declaration of Representative

- 3800 General Business Credit
- 3903 Moving Expenses
- 4562 Depreciation and Amortization
- 4797 Sales of Business Property
- 4868 Application for Automatic Extension of Time To File U.S. Individual Income Tax Return
- 5329 Additional Taxes Attributable to Qualified Retirement Plans (Including IRAs), Annuities, and Modified Endowment Contracts
- 6252 Installment Sale Income
- 8283 Noncash Charitable Contributions Report of Cash Payments Over \$10,000 Received in a Trade or Business
- 8582 Passive Activity Loss Limitations
- 8606 Nondeductible IRAs (Contributions, Distributions, and Basis)
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- 8829 Expenses for Business Use of Your Home

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- 502 Medical and Dental Expenses
- 503 Child and Dependent Care Expenses
- 504 Divorced or Separated Individuals
- 505 Tax Withholding and Estimated Tax
- 508 Educational Expenses
- 514 Foreign Tax Credit for Individuals
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- 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
- 537 Installment Sales
- 541 Partnerships
- 544 Sales and Other Dispositions of Assets
- 547 Casualties, Disasters, and Thefts (Business and Nonbusiness)
- 550 Investment Income and Expenses
- 551 Basis of Assets
- 552 Recordkeeping for Individuals
- 554 Older Americans' Tax Guide
- 555 Federal Tax Information on 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
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- 590 Individual Retirement Arrangements (IRAs) (Including SEP-IRAs and SIMPLE IRAs)
- 593 Tax Highlights for U.S. Citizens and Residents Going Abroad
- 594 Understanding the Collection Process
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Spanish Language Publications

- 1SP Derechos del Contribuyente
- 579SP Cómo Preparar la Declaración de Impuesto Federal
- 594SP Comprendiendo el Proceso de Cobro
- 596SP Crédito por Ingreso del Trabajo
- 850 English-Spanish Glossary of Words and Phrases Used in Publications Issued by the Internal Revenue Service
- 1544SP Informe de Pagos en Efectivo en Exceso de \$10,000 (Recibidos en una Ocupación o Negocio)

Commonly Used Tax Forms

- 1040 U.S. Individual Income Tax Return
 - Sch A Itemized Deductions
 - Sch B Interest and Dividend Income
 - Sch C Profit or Loss From Business
 - Sch C-EZ Net Profit From Business
 - Sch D Capital Gains and Losses
 - Sch E Supplemental Income and Loss
 - Sch EIC Earned Income Credit
 - Sch F Profit or Loss From Farming
 - Sch H Household Employment Taxes
 - Sch R Credit for the Elderly or the Disabled
 - Sch SE Self-Employment Tax
- 1040EZ Income Tax Return for Single and Joint Filers With No Dependents
- 1040A U.S. Individual Income Tax Return
 - Sch 1 Interest and Dividend Income for Form 1040A Filers

- Sch 2 Child and Dependent Care Expenses for Form 1040A Filers
- Sch 3 Credit for the Elderly or the Disabled for Form 1040A Filers
- 1040-ES Estimated Tax for Individuals
- 1040X Amended U.S. Individual Income Tax Return
- 2106 Employee Business Expenses
- 2106-EZ Unreimbursed Employee Business Expenses
- 2119 Sale of Your Home
- 2210 Underpayment of Estimated Tax by Individuals, Estates and Trusts
- 2441 Child and Dependent Care Expenses
- 2848 Power of Attorney and Declaration of Representative
- 3903 Moving Expenses
- 4562 Depreciation and Amortization

- 4868 Application for Automatic Extension of Time To File U.S. Individual Income Tax Return
- 4952 Investment Interest Expense Deduction
- 5329 Additional Taxes Attributable to Qualified Retirement Plans (Including IRAs), Annuities, and Modified Endowment Contracts
- 6251 Alternative Minimum Tax—Individuals
- 8283 Noncash Charitable Contributions
- 8582 Passive Activity Loss Limitations
- 8606 Nondeductible IRAs (Contributions, Distributions, and Basis)
- 8822 Change of Address
- 8829 Expenses for Business Use of Your Home