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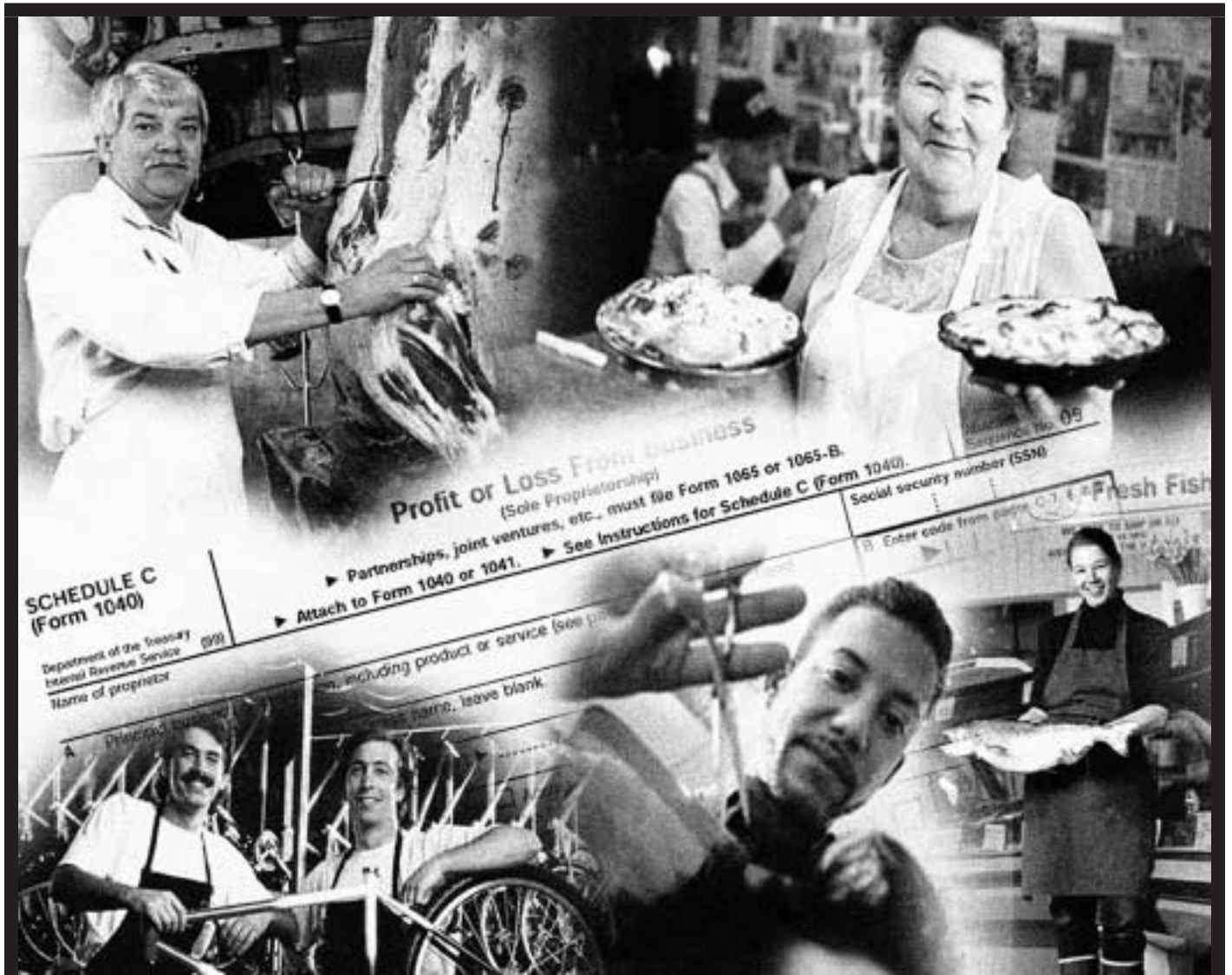
Internal
Revenue
Service

Tax Guide for Small Business

(For Individuals Who Use
Schedule C or C-EZ)

Publication 334
Catalog Number 11063P

For use in
preparing
2005
Returns



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Contents

Introduction	3
What's New for 2005	4
What's New for 2006	5
Reminders	5
Photographs of Missing Children	5
1. Filing and Paying Business Taxes	6
2. Accounting Periods and Methods	12
3. Dispositions of Business Property	17
4. General Business Credits	19
5. Business Income	21
6. How To Figure Cost of Goods Sold	28
7. Figuring Gross Profit	30
8. Business Expenses	32
9. Figuring Net Profit or Loss	41
10. Self-Employment (SE) Tax	42
11. Your Rights as a Taxpayer	46
12. How To Get More Information	48
Index	51

Introduction

The purpose of this publication is to provide general information about the federal tax laws that apply to small business owners who are sole proprietors and to statutory employees.

Are you self-employed? You are self-employed if you carry on a trade or business as a sole proprietor or an independent contractor.

Sole proprietor. A sole proprietor is someone who owns an unincorporated business by himself or herself. However, if you are the sole member of a domestic limited liability company (LLC), you are not a sole proprietor if you elect to treat the LLC as a corporation.

Trade or business. A trade or business is generally an activity carried on to make a profit. The facts and circumstances of each case determine whether or not an activity is a trade or business. You do not need to actually make a profit to be in a trade or business as long as you have a profit motive. You do need to make ongoing efforts to further the interests of your business.

You do not have to carry on regular full-time business activities to be self-employed. Having a part-time business in addition to your regular job or business may be self-employment.

Independent contractor. People such as doctors, dentists, veterinarians, lawyers, accountants, contractors, subcontractors, public stenographers, or auctioneers who are in an independent trade, business, or profession in which they offer their services to the general public are generally independent contractors. However, whether they are independent contractors or employees depends on the facts in each case. The general rule is that an individual is an independent contractor if the payer has the right to control or to direct only the result of the work and not how it will be done. The earnings of a person who is working as an independent contractor are subject to self-employment tax. For more information on determining whether you are an independent contractor or an employee, see Publication 15-A, Employer's Supplemental Tax Guide.

Statutory employee. A statutory employee has a checkmark in box 13 of his or her Form W-2, Wage and Tax Statement. Statutory employees use Schedule C or C-EZ to report their wages and expenses.

Limited liability company (LLC). A limited liability company (LLC) is an entity formed under state law by filing articles of organization. Generally, a single-member LLC is disregarded as an entity separate from its owner and reports its income and deductions on its owner's federal income tax return. An owner who is an individual may use Schedule C or C-EZ.

Husband and wife business. If you and your spouse jointly own and operate an unincorporated business and share in the profits and losses, you are partners in a partnership, whether or not you have a formal partnership agreement. Do not use Schedule C or C-EZ. Instead, file Form 1065. For more information, see Publication 541.

Exception. If you and your spouse wholly own an unincorporated business as community property under the community property laws of a state, foreign country, or U.S. possession, you can treat the business either as a sole proprietorship or a partnership. The only states with community property laws are Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. A change in your reporting position will be treated as a conversion of the entity.

This publication does not cover the topics listed in the following table.

IF you need information about:	THEN you should see:
Corporations	Publication 542
Farming	Publication 225
Fishermen (Capital Construction Fund)	Publication 595
Partnerships	Publication 541
Passive activities	Publication 925
Recordkeeping	Publication 583
S corporations	Instructions for Form 1120S

Table A. What You Need To Know About Federal Taxes

(**Note.** The following is a list of questions you may need to answer so you can fill out your federal income tax return. Chapters are given to help you find the related discussion in this publication.)

What must I know	Where to find the answer
What kinds of federal taxes do I have to pay? How do I pay them?	See chapter 1.
What forms must I file?	See chapter 1.
What must I do if I have employees?	See <i>Employment Taxes</i> in chapter 1.
Do I have to start my tax year in January? Or can I start it in any other month?	See <i>Accounting Periods</i> in chapter 2.
What method can I use to account for my income and expenses?	See <i>Accounting Methods</i> in chapter 2.
What kinds of business income do I have to report on my tax return?	See chapter 5.
What kinds of business expenses can I deduct on my tax return?	See chapter 8.
What kinds of expenses are not deductible as business expenses?	See <i>Expenses You Cannot Deduct</i> in chapter 8.
What happens if I have a business loss? Can I deduct it?	See chapter 9.
What must I do if I disposed of business property during the year?	See chapter 3.
What are my rights as a taxpayer?	See chapter 11.
Where do I go if I need help with federal tax matters?	See chapter 12.

What you need to know. *Table A* (shown above) provides a list of questions you need to answer to help you meet your federal tax obligations. After each question is the location in this publication where you will find the related discussion.

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

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can email us at *taxforms@irs.gov. (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

You can write us at the following address:

Internal Revenue Service
Business Forms and Publications Branch
SE:W:CAR:MP:T:B
1111 Constitution Ave. NW, IR-6406
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

Tax questions. If you have a tax question, visit www.irs.gov or call 1-800-829-1040. We cannot answer tax questions at either of the addresses listed above.

What's New for 2005

The following are some of the tax changes for 2005. For information on other changes, see Publication 553, *Highlights of 2005 Tax Changes*.



At the time this publication went to print, Congress was considering legislation that would provide additional tax relief for individuals affected by Hurricane Katrina, Rita, and Wilma. For more details, and to find out if this legislation was enacted, see Publication 4492.

Standard mileage rate. The standard mileage rate for the cost of operating your car, van, pickup, or panel truck in 2005 is 40.5 cents a mile for all business miles driven before September 1, 2005. The rate is 48.5 cents a mile for business miles driven after August 31, 2005, and before January 1, 2006. For more information, see *Car and Truck Expenses* in chapter 8.

Self-employment tax. The maximum net self-employment earnings subject to the social security part (12.4%) of the self-employment tax is \$90,000 for 2005. For more information, see *Self-Employment (SE) Tax* in chapter 1 and chapter 10.

Domestic production activities deduction. You may be able to deduct up to 3% of your qualified production activities income from certain business activities. For more information, see Form 8903, *Domestic Production Activities Deduction*.

Increased section 179 deduction dollar limit. The maximum section 179 deduction you can elect for property you purchased and placed in service beginning in 2005 has increased from \$102,000 to \$105,000. For more information, see Publication 946.

New and revised credits. The following credits were created or revised by recent legislation. Some are effective for tax year 2005 and some for 2006. See chapter 4 for a complete list of the credits and the form numbers.

- Alcohol fuel credit.
- Alternative fuel vehicle refueling property credit.
- Alternative motor vehicle credit.
- Biodiesel and renewable diesel fuels credit.
- Credit for increasing research activities.
- Distilled spirits credit.
- Energy efficient appliance credit.
- Energy efficient home credit.
- Investment credit.
- Nonconventional source fuel credit.
- Qualified railroad track maintenance credit.
- Renewable electricity, refined coal, and Indian coal production credit.

What's New for 2006

The following are some of the tax changes for 2006. For information on other changes, see Publication 553, Highlights of 2005 Tax Changes.

Self-employment tax. The maximum net self-employment earnings subject to the social security part of the self-employment tax increases to \$94,200 for 2006.

Standard mileage rate. The standard mileage rate for the cost of operating your car, van, pickup, or panel truck in 2006 is 44.5 cents a mile for all business miles. For more information, see *Car and Truck Expenses* in chapter 8.

Reminders

Accounting Methods. Certain small business taxpayers may be eligible to adopt or change to the cash method of accounting and may not be required to account for inventories. For more information, see *Inventories* in chapter 2.

Reportable transactions. You must file Form 8886, Reportable Transaction Disclosure Statement, to report certain transactions. You may have to pay a penalty if you are required to file Form 8886 but do not do so. You may also have to pay interest and penalties on any reportable transaction understatements. Reportable transactions include (1) transactions the same as or substantially similar to tax avoidance transactions identified by the IRS, (2) transactions offered to you under conditions of confidentiality for which you paid an advisor a minimum fee, (3) transactions for which you have, or a related party has, contractual protection against disallowance of the tax benefits, (4) transactions that result in losses of at least \$2 million in any single tax year (\$50,000 if from certain foreign currency transactions) or \$4 million in any combination of tax years, (5) transactions resulting in book-tax differences of more than \$10 million on a gross basis, and (6) transactions with asset holding periods of 45 days or less and that result in a tax credit of more than \$250,000. For more information, see the Instructions for Form 8886.

Photographs of Missing Children

The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

1.

Filing and Paying Business Taxes

Introduction

This chapter explains the business taxes you may have to pay and the forms you may have to file. It also discusses taxpayer identification numbers.

Table 1-1 lists the benefits of filing electronically.

Table 1-2 lists the federal taxes you may have to pay, their due dates, and the forms you use to report them.

Table 1-3 provides checklists that highlight the typical forms and schedules you may need to file if you ever go out of business.



You may want to get Publication 509, Tax Calendars for 2006. It has tax calendars that tell you when to file returns and make tax payments.

Useful Items

You may want to see:

Publication

- 505** Tax Withholding and Estimated Tax

Form (and Instructions)

- 1040** U.S. Individual Income Tax Return
- 1040-ES** Estimated Tax for Individuals
- Sch C (Form 1040)** Profit or Loss From Business
- Sch C-EZ (Form 1040)** Net Profit From Business
- Sch SE (Form 1040)** Self-Employment Tax

See chapter 12 for information about getting publications and forms.

Identification Numbers

This section explains three types of taxpayer identification numbers, who needs them, when to use them, and how to get them.

Social security number (SSN). Generally, use your SSN as your taxpayer identification number. You must put this number on each of your individual income tax forms, such as Form 1040 and its schedules.

To apply for an SSN, use Form SS-5, Application for a Social Security Card. This form is available at Social Security Administration (SSA) offices or by calling 1-800-772-1213. It is also available from the SSA website at www.socialsecurity.gov.

Individual taxpayer identification number (ITIN). The IRS will issue an ITIN if you are a nonresident or resident alien and you do not have and are not eligible to get an SSN. In general, if you need to obtain an ITIN, you must attach Form W-7, Application for IRS Individual Taxpayer Identification Number, with your signed, original, completed tax return and mail both to the Philadelphia Service Center. The exceptions are covered in detail in the instructions for Form W-7 (Rev. January 2006). If you must include another person's SSN on your return and that person does not have and cannot get an SSN, enter that person's ITIN. The application is also available in Spanish. The form is available from the IRS website at www.irs.gov or you can call 1-800-829-3676 to order the form.



An ITIN is for tax use only. It does not entitle the holder to social security benefits or change the holder's employment or immigration status.

Employer identification number (EIN). You must also have an EIN to use as a taxpayer identification number if you do either of the following.

- Pay wages to one or more employees.
- File pension or excise tax returns.

If you must have an EIN, include it along with your SSN on your Schedule C or C-EZ.

You can apply for an EIN:

- Online by clicking on the EIN link at www.irs.gov/businesses/small. The EIN is issued immediately once the application information is validated.
- By telephone at 1-800-829-4933 from 8:00 a.m. to 8:00 p.m. in your local time zone.
- By mailing or faxing Form SS-4, Application for Employer Identification Number.

New EIN. You may need to get a new EIN if either the form or the ownership of your business changes. For more information, see Publication 1635, Understanding Your EIN.

When you need identification numbers of other persons. In operating your business, you will probably make certain payments you must report on information returns. These payments are discussed under *Information Returns*, later in this chapter. You must give the recipient of these payments (the payee) a statement showing the total amount paid during the year. You must include the payee's identification number and your identification number on the returns and statements.

Employee. If you have employees, you must get an SSN from each of them. Record the name and SSN of each employee exactly as they are shown on the employee's social security card. If the employee's name is not correct as shown on the card, the employee should request a new card from the SSA. This may occur if the employee's name was changed due to marriage or divorce.

Form W-4 is completed by each employee so the correct federal income tax can be withheld from their pay.

If your employee does not have an SSN, he or she should file Form SS-5 with the SSA.

Other payee. If you make payments to someone who is not your employee and you must report the payments on an information return, get that person's SSN. If you must report payments to an organization, such as a corporation or partnership, you must get its EIN.

To get the payee's SSN or EIN, use **Form W-9**, Request for Taxpayer Identification Number and Certification.

A payee who does not provide you with an identification number may be subject to backup withholding. For information on backup withholding, see the Form W-9 instructions and the General Instructions for Forms 1099, 1098, 5498, and W-2G.

Income Tax

This part explains whether you have to file an income tax return and when you file it. It also explains how you pay the tax.

Do I Have To File an Income Tax Return?

You have to file an income tax return for 2005 if your net earnings from self-employment were \$400 or more. If your net earnings from self-employment were less than \$400, you still have to file an income tax return if you meet any other filing requirement listed in the Form 1040 instructions.

How Do I File?

File your income tax return on **Form 1040** and attach **Schedule C** or **Schedule C-EZ**. Enter the net profit or loss from Schedule C or Schedule C-EZ on page 1 of Form 1040. Use Schedule C to figure your net profit or loss from your business. If you operated more than one business as a sole proprietorship, you must attach a separate Schedule C for each business. You can use the simpler Schedule C-EZ if you operated only one business as a sole proprietorship, you did not have a net loss, and you meet the other requirements listed in Part I of the schedule.

IRS e-file (Electronic Filing)



You may be able to file your tax returns electronically using an IRS *e-file* option. Table 1-1 lists the benefits of IRS *e-file*. IRS *e-file* uses automation to replace most of the manual steps needed to process paper returns. As a result, the processing of *e-file* returns is faster and more accurate than the processing of paper returns. As with a paper return, you are responsible for making sure your return contains accurate information and is filed on time.

Using *e-file* does not affect your chances of an IRS examination of your return.

You can file most commonly used business forms using IRS *e-file*. For more information, visit the IRS website at www.irs.gov.

Electronic signatures. Paperless filing is easier than you think and it's available to most taxpayers who file electronically—including those first-time filers who were 16 or older at the end of 2005. If you file electronically using tax preparation software or a tax professional, you may be able to participate in the Self-Select PIN (personal identification number) program. If you are married filing jointly, you and your spouse will each need to create a PIN and enter these PINs as your electronic signatures.

To create a PIN, you must know your adjusted gross income (AGI) from your originally filed 2004 income tax return (not from an amended return, Form 1040X, or any math error notice from the IRS). You will also need to provide your date of birth (DOB). Make sure your DOB is accurate and matches the information on record with the Social Security Administration before you *e-file*. To do this, check your annual Social Security Statement.

If you use a Self-Select PIN, there is nothing to sign and nothing to mail—not even your Forms W-2. For more details on the Self-Select PIN program, visit the IRS website at www.irs.gov.

Forms 8453 and 8453-OL. Your return is not complete without your signature. If you are not eligible or choose not to sign your return electronically, you must complete, sign, and file Form 8453, U.S. Individual Income Tax Declaration for an IRS *e-file* Return, or Form 8453-OL, U.S. Individual Income Tax Declaration for an IRS *e-file* Online Return, whichever applies.

State returns. In most states, you can file an electronic state return simultaneously with your federal return. For more information, check with your local IRS office, state tax agency, tax professional, or the IRS website at www.irs.gov.

Refunds. You can have your refund check mailed to you, or you can have your refund deposited directly to your checking or savings account.

With *e-file*, your refund will be issued in half the time as when filing on paper. Most refunds are issued within 3 weeks. If you choose Direct Deposit, you can receive your refund in as few as 10 days.

Offset against debts. As with a paper return, you may not get all of your refund if you owe certain past-due amounts, such as federal tax, state tax, a student loan, or child support. You will be notified if the refund you claimed has been offset against your debts.

Refund inquiries. You can check the status of your refund if it has been at least 3 weeks from the date you filed your return. Be sure to have a copy of your tax return available because you will need to know the filing status, the first social security number shown on the return, and the exact whole-dollar amount of the refund. To check on your refund, do one of the following.

- Go to www.irs.gov, and click on *Where's My Refund*.

- Call 1-800-829-4477 for automated refund information, and follow the recorded instructions.
- Call 1-800-829-1954 during the hours shown in your form instructions.

Balance due. If you owe tax, you must pay it by April 17, 2006, to avoid late-payment penalties and interest. You can make your payment electronically by scheduling an electronic funds withdrawal from your checking or savings account or by credit card.

Using an Authorized IRS *e-file* Provider

Many tax professionals can electronically file paperless returns for their clients. You have two options.

1. You can prepare your return, take it to an authorized IRS *e-file* provider, and have the provider transmit it electronically to the IRS.
2. You can have an authorized IRS *e-file* provider prepare your return and transmit it for you electronically.

You will be asked to complete Form 8879 to authorize the provider to enter your self-selected PIN on your return.

Depending on the provider and the specific services requested, a fee may be charged. To find an authorized IRS *e-file* provider near you, go to www.irs.gov or look for an “Authorized IRS *e-file* Provider” sign.

Using Your Personal Computer

A computer with a modem or Internet access is all you need to file your tax return using IRS *e-file*. Best of all, when you use your personal computer, you can *e-file* your return from the comfort of your home any time of the day or night. Sign your return electronically using a self-selected PIN to complete the process. There is no signature form to submit or Forms W-2 to send in.

Free Internet filing options. More taxpayers can now prepare and *e-file* their individual income tax returns free using commercial tax preparation software accessible through www.irs.gov or www.firstgov.gov. The IRS is partnering with the tax software industry to offer free preparation and filing services to a significant number of taxpayers. Security and privacy certificate programs will assure tax data is safe and secure. To see if you qualify for these services, visit the Free Internet Filing Homepage at www.irs.gov.

If you cannot use the free services, you can buy tax preparation software at various electronics stores or computer and office supply stores. You can also download software from the Internet or prepare and file your return completely online by using a tax preparation software package available on the Internet.

Through Employers and Financial Institutions

Some businesses offer free *e-file* to their employees, members, or customers. Others offer it for a fee. Ask your employer or financial institution if they offer IRS *e-file* as an employee, member, or customer benefit.

Free Help With Your Return

Free help in preparing your return is available nationwide from IRS-trained volunteers. The Volunteer Income Tax Assistance (VITA) program is designed to help low-income taxpayers and the Tax Counseling for the Elderly (TCE) program is designed to assist taxpayers age 60 or older with their tax returns. Some locations offer free electronic filing.

When Is My Tax Return Due?

Form 1040 for calendar year 2005 is due by April 17, 2006. If you use a fiscal year (explained in chapter 2), your return

Table 1-1. **Benefits of IRS *e-file***

Accuracy	• Your chance of getting an error notice from the IRS is significantly reduced.
Security	• Your privacy and security are assured.
Electronic signatures	• Create your own personal identification number (PIN) and file a completely paperless return through your tax preparation software or tax professional. There is nothing to mail!
Proof of acceptance	• You receive an electronic acknowledgement within 48 hours that the IRS has accepted your return for processing.
Fast refunds	• You get your refund in half the time, even faster with Direct Deposit—in as few as 10 days.
Free Internet filing options	• Use the IRS website www.irs.gov to access commercial tax preparation and <i>e-file</i> services available at no cost to eligible taxpayers.
Electronic payment options	• Convenient, safe and secure electronic payment options are available. <i>E-file</i> and pay your taxes in a single step. Schedule an electronic funds withdrawal from your checking or savings account (up to and including April 17, 2006) or pay by credit card.
Federal/State filing	• Prepare and file your federal and state tax returns together and double the benefits you get from <i>e-file</i> .

is due by the 15th day of the 4th month after the end of your fiscal year. If you file late, you may have to pay penalties and interest. If you cannot file your return on time, use **Form 4868**, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return, to request an automatic 6-month extension.

How Do I Pay Income Tax?

Federal income tax is a pay-as-you-go tax. You must pay it as you earn or receive income during the year. An employee usually has income tax withheld from his or her pay. If you do not pay your tax through withholding, or do not pay enough tax that way, you might have to pay estimated tax. You generally have to make estimated tax payments if you expect to owe taxes, including self-employment tax (discussed later), of \$1,000 or more when you file your return. Use **Form 1040-ES** to figure and pay the tax. If you do not have to make estimated tax payments, you can pay any tax due when you file your return. For more information on estimated tax, see Publication 505.

What are my payment options? You can pay your estimated tax electronically using various options. If you pay electronically, there is no need to mail in Form 1040-ES payment vouchers. These options include:

1. Paying electronically through the Electronic Federal Tax Payment System (EFTPS).
2. Paying by authorizing an electronic funds withdrawal when you file Form 1040 electronically.
3. Paying by credit card over the phone or by Internet.

Other options include crediting an overpayment from your 2005 return to your 2006 estimated tax, and mailing a check or money order with a Form 1040-ES payment voucher.

EFTPS

1. To enroll in EFTPS, go to www.eftps.gov or call 1-800-555-4477.
2. When you request a new EIN and you will have a tax obligation, you are automatically enrolled in EFTPS.
3. Benefits of EFTPS:
 - a. The chance of an error in making your payments is reduced.
 - b. You receive immediate confirmation of every transaction.

Penalty for underpayment of tax. If you did not pay enough income tax and self-employment tax for 2005 by withholding or by making estimated tax payments, you may have to pay a penalty on the amount not paid. The IRS will figure the penalty for you and send you a bill. Or you can use **Form 2210**, Underpayment of Estimated Tax by Individuals, Estates, and Trusts, to see if you have to pay a penalty and to figure the penalty amount. For more information, see Publication 505.

Self-Employment (SE) Tax

Self-employment tax (SE tax) is a social security and Medicare tax primarily for individuals who work for themselves. It is similar to the social security and Medicare taxes withheld from the pay of most wage earners.



If you earned income as a statutory employee, you do not pay SE tax on that income.

Social security coverage. Social security benefits are available to self-employed persons just as they are to wage earners. Your payments of 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.



By not reporting all of your self-employment income, you could cause your social security benefits to be lower when you retire.

How to become insured under social security. 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 credits (also called quarters of coverage), discussed next.

Earning credits in 2005 and 2006. For 2005, you received one credit, up to a maximum of four credits, for each \$920 (\$970 for 2006) of income subject to social security taxes. Therefore, for 2005, if you had income (self-employment and wages) of \$3,680 that was subject to social security taxes, you received four credits ($\$3,680 \div \920).

For an explanation of the number of credits you must have to be insured and the benefits available to you and your family under the social security program, consult your nearest Social Security Administration (SSA) office.



Making false statements to get or to increase social security benefits may subject you to penalties.

The Social Security Administration (SSA) time limit for posting self-employment income. Generally, the SSA will give you credit only for self-employment income reported on a tax return filed within 3 years, 3 months, and 15 days after the tax year you earned the income. If you file your tax return or report a change in your self-employment income after this time limit, the SSA may change its records, but only to remove or reduce the amount. The SSA will not change its records to increase your self-employment income.

Who must pay self-employment tax. You must pay SE tax and file Schedule SE (Form 1040) if either of the following applies.

1. Your net earnings from self-employment (excluding church employee income) were \$400 or more.
2. You had church employee income of \$108.28 or more.



The SE tax rules apply no matter how old you are and even if you are already receiving social security or Medicare benefits.

SE tax rate. The SE tax rate on net earnings is 15.3% (12.4% social security tax plus 2.9% Medicare tax).

Maximum earnings subject to SE tax. Only the first \$90,000 of your combined wages, tips, and net earnings in 2005 is subject to any combination of the 12.4% social security part of SE tax, social security tax, or railroad retirement (tier 1) tax.

All your combined wages, tips, and net earnings in 2005 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 \$90,000, do not 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.



Deduct one-half of your SE tax as an adjustment to income on line 27 of Form 1040.

More information. For information on methods of calculating SE tax, see Chapter 10, Self-Employment Tax.

Employment Taxes

If you have employees, you will need to file forms to report employment taxes. Employment taxes include the following items.

- Social security and Medicare taxes.
- Federal income tax withholding.
- Federal unemployment (FUTA) tax.

For more information, see Publication 15 (Circular E), Employer's Tax Guide. That publication explains your tax responsibilities as an employer.

To help you determine whether the people working for you are your employees, see Publication 15-A, Employer's Supplemental Tax Guide. That publication has information to help you determine whether an individual is an independent contractor or an employee.



If you incorrectly classify an employee as an independent contractor, you may be held liable for employment taxes for that worker plus a penalty.

An independent contractor is someone who is self-employed. You do not generally have to withhold or pay any taxes on payments to an independent contractor.

Excise Taxes

This section identifies some of the excise taxes you may have to pay and the forms you have to file if you do any of the following.

- Manufacture or sell certain products.
- Operate certain kinds of businesses.
- Use various kinds of equipment, facilities, or products.
- Receive payment for certain services.

For more information on excise taxes, see Publication 510, Excise Taxes for 2006.

Form 720. The federal excise taxes reported on Form 720, Quarterly Federal Excise Tax Return, consist of several broad categories of taxes, including the following.

- Environmental taxes on the sale or use of ozone-depleting chemicals and imported products containing or manufactured with these chemicals.
- Communications and air transportation taxes.
- Fuel taxes.
- Tax on the first retail sale of heavy trucks, trailers, and tractors.
- Manufacturers taxes on the sale or use of a variety of different articles.

Form 2290. There is a federal excise tax on the use of certain trucks, truck tractors, and buses on public highways. The tax applies to vehicles having a taxable gross weight of 55,000 pounds or more. Report the tax on Form 2290, Heavy Highway Vehicle Use Tax Return. For more information, see the instructions for Form 2290.

Depositing excise taxes. If you have to file a quarterly excise tax return on Form 720, you may have to deposit your excise taxes before the return is due. For details on depositing excise taxes, see the instructions for Form 720.

Information Returns

If you make or receive payments in your business, you may have to report them to the IRS on information returns. The IRS compares the payments shown on the information returns with each person's income tax return to see if the payments were included in income. You must give a copy of each information return you are required to file to the recipient or payer. In addition to the forms described below, you may have to use other returns to report certain kinds of payments or transactions. For more details on information returns and when you have to file them, see the General Instructions for Forms 1099, 1098, 5498, and W-2G.

Table 1-2. Which Forms Must I File?

IF you are liable for:	THEN use Form:	DUE by: ¹
Income tax	1040 and Schedule C or C-EZ ²	15th day of 4th month after end of tax year.
Self-employment tax	Schedule SE	File with Form 1040.
Estimated tax	1040-ES	15th day of 4th, 6th, and 9th months of tax year, and 15th day of 1st month after the end of tax year.
Social security and Medicare taxes and income tax withholding	941 8109 (to make deposits) ³	April 30, July 31, October 31, and January 31 ⁴ . See Publication 15.
Providing information on social security and Medicare taxes and income tax withholding	W-2 (to employee) W-2 and W-3 (to the Social Security Administration)	January 31 ⁴ . Last day of February (March 31 if filing electronically) ⁴ .
Federal unemployment (FUTA) tax	940 or 940-EZ 8109 (to make deposits) ³	January 31 ⁴ . April 30, July 31, October 31, and January 31, but only if the liability for unpaid tax is more than \$500.
Filing information returns for payments to nonemployees and transactions with other persons	See <i>Information Returns</i>	Forms 1099—to the recipient by January 31 and to the IRS by February 28 (March 31 if filing electronically). Other forms—See the General Instructions for Forms 1099, 1098, 5498, and W-2G.
Excise tax	See <i>Excise Taxes</i>	See the instructions to the forms.

¹ If a due date falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. For more information, see Publication 509, *Tax Calendars for 2006*.

² File a separate schedule for each business.

³ Do not use if you deposit taxes electronically.

⁴ See the form instructions if you go out of business, change the form of your business, or stop paying wages.

Form 1099-MISC. Use Form 1099-MISC, Miscellaneous Income, to report certain payments you make in your business. These payments include the following items.

- Payments of \$600 or more for services performed for your business by people not treated as your employees, such as fees to subcontractors, attorneys, accountants, or directors.
- Rent payments of \$600 or more, other than rents paid to real estate agents.
- Prizes and awards of \$600 or more that are not for services, such as winnings on TV or radio shows.
- Royalty payments of \$10 or more.
- Payments to certain crew members by operators of fishing boats.

You also use Form 1099-MISC to report your sales of \$5,000 or more of consumer goods to a person for resale anywhere other than in a permanent retail establishment.

Form W-2. You must file Form W-2, Wage and Tax Statement, to report payments to your employees, such as

wages, tips, and other compensation, withheld income, social security, and Medicare taxes, and advance earned income credit payments. For more information on what to report on Form W-2, see the Instructions for Forms W-2 and W-3.

Penalties. The law provides for the following penalties if you do not file Form 1099-MISC or Form W-2 or do not correctly report the information. For more information, see the General Instructions for Forms 1099, 1098, 5498, and W-2G.

- Failure to file information returns. This penalty applies if you do not file information returns by the due date, do not include all required information, or report incorrect information.
- Failure to furnish correct payee statements. This penalty applies if you do not furnish a required statement to a payee by the required date, do not include all required information, or report incorrect information.

Table 1-3. Going Out of Business Checklists

(**Note.** The following checklists highlight the typical final forms and schedules you may need to file if you ever go out of business. For more information, see the instructions for the listed forms.)

IF you are liable for:	THEN you may need to:
Income tax	<ul style="list-style-type: none"> <input type="checkbox"/> File Schedule C or C-EZ with your Form 1040 for the year in which you go out of business. <input type="checkbox"/> File Form 4797 with your Form 1040 for each year in which you sell or exchange property used in your business or in which the business use of certain section 179 or listed property drops to 50% or less. <input type="checkbox"/> File Form 8594 with your Form 1040 if you sold your business.
Self-employment tax	<ul style="list-style-type: none"> <input type="checkbox"/> File Schedule SE with your Form 1040 for the year in which you go out of business.
Employment taxes	<ul style="list-style-type: none"> <input type="checkbox"/> File Form 941 for the calendar quarter in which you make final wage payments. Note. Do not forget to check the box and enter the date final wages were paid on line 16. <input type="checkbox"/> File Form 940 or 940-EZ for the calendar year in which final wages were paid. Note. Do not forget to check the box, <i>If you will not have to file returns in the future...</i>, under Question D.
Information returns	<ul style="list-style-type: none"> <input type="checkbox"/> Provide Forms W-2 to your employees for the calendar year in which you make final wage payments. Note. These forms are generally due by the due date of your final Form 941. <input type="checkbox"/> File Form W-3 to file Forms W-2. Note. These forms are generally due within 1 month after the due date of your final Form 941. <input type="checkbox"/> Provide Forms 1099-MISC to each person to whom you have paid at least \$600 for services (including parts and materials) during the calendar year in which you go out of business. <input type="checkbox"/> File Form 1096 to file Forms 1099-MISC.

Waiver of penalties. These penalties will not apply if you can show that the failure was due to reasonable cause and not willful neglect.

In addition, there is no penalty for failure to include all required information, or for including incorrect information, on a *de minimis* (small) number of information returns if you correct the errors by August 1 of the year the returns are due. (A *de minimis* number of returns is the greater of 10 or 1/2 of 1% of the total number of returns you are required to file for the year.)

Form 8300. You must file Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business, if you receive more than \$10,000 in cash in one transaction, or two or more related business transactions. Cash includes U.S. and foreign coin and currency. It also includes certain monetary instruments such as cashier's and traveler's checks and money orders. Cash does not include a check drawn on an individual's personal account (personal check). For more information, see Publication 1544, Reporting Cash Payments of Over \$10,000 (Received in a Trade or Business).

Penalties. There are civil and criminal penalties, including up to 5 years in prison, for not filing Form 8300, filing (or causing the filing of) a false or fraudulent Form 8300, or structuring a transaction to evade reporting requirements.

2.

Accounting Periods and Methods

Introduction

You must figure your taxable income and file an income tax return for an annual accounting period called a tax year. Also, you must consistently use an accounting method that clearly shows your income and expenses for the tax year.

Useful Items

You may want to see:

Publication

- 538** Accounting Periods and Methods

See chapter 12 for information about getting publications and forms.

Accounting Periods

When preparing a statement of income and expenses (generally your income tax return), you must use your books and records for a specific interval of time called an accounting period. The annual accounting period for your income tax return is called a **tax year**. You can use one of the following tax years.

- A calendar tax year.
- A fiscal tax year.

Unless you have a required tax year, you adopt a tax year by filing your first income tax return using that tax year. A required tax year is a tax year required under the Internal Revenue Code or the Income Tax Regulations.

Calendar tax year. A calendar tax year is 12 consecutive months beginning January 1 and ending December 31.

You must adopt the calendar tax year if any of the following apply.

- You keep no books.
- You have no annual accounting period.
- Your present tax year does not qualify as a fiscal year.
- Your use of the calendar tax year is required under the Internal Revenue Code or the Income Tax Regulations.

If you filed your first income tax return using the calendar tax year and you later begin business as a sole proprietor, you must continue to use the calendar tax year unless you get IRS approval to change it or are otherwise allowed to change it without IRS approval. For more information, see *Change in tax year*, later.

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

Fiscal tax year. A fiscal tax year is 12 consecutive months ending on the last day of any month except December. A 52-53-week tax year is a fiscal tax year that varies from 52 to 53 weeks but does not have to end on the last day of a month.

If you adopt a fiscal tax year, you must maintain your books and records and report your income and expenses using the same tax year.

For more information on a fiscal tax year, including a 52-53-week tax year, see Publication 538.

Change in tax year. Generally, you must file Form 1128, Application To Adopt, Change, or Retain a Tax Year, to request IRS approval to change your tax year. See the instructions for Form 1128 for exceptions. If you qualify for an automatic approval request, a user fee is not required. If you do not qualify for automatic approval, a ruling must be requested. See the instructions for **Form 1128** for information about user fees if you are requesting a ruling.

Accounting Methods

An accounting method is a set of rules used to determine when and how income and expenses are reported. Your accounting method includes not only the overall method of accounting you use, but also the accounting treatment you use for any material item.

You choose an accounting method for your business when you file your first income tax return that includes a Schedule C for the business. After that, if you want to change your accounting method, you must generally get IRS approval. See *Change in Accounting Method*, later.

Kinds of methods. Generally, you can use any of the following accounting methods.

- Cash method.
- An accrual method.
- Special methods of accounting for certain items of income and expenses.
- Combination method using elements of two or more of the above.

You must use the same accounting method to figure your taxable income and to keep your books. Also, you must use an accounting method that clearly shows your income.

Business and personal items. You can account for business and personal items under different accounting methods. For example, you can figure your business income under an accrual method, even if you use the cash method to figure personal items.

Two or more businesses. If you have two or more separate and distinct businesses, you can use a different accounting method for each if the method clearly reflects the income of each business. They are separate and distinct only if you maintain complete and separate books and records for each business.

Cash Method

Most individuals and many sole proprietors with no inventory use the cash method because they find it easier to keep cash method records. However, if an inventory is necessary to account for your income, you must generally use an accrual method of accounting for sales and purchases. For more information, see *Inventories*, later.

Income

Under the cash method, include in your gross income all items of income you actually or constructively receive during your tax year. If you receive property or services, you must include their fair market value in income.

Example. On December 30, 2004, Mrs. Sycamore sent you a check for interior decorating services you provided to

her. You received the check on January 2, 2005. You must include the amount of the check in income for 2005.

Constructive receipt. You have constructive receipt of income when an amount is credited to your account or made available to you without restriction. You do not need to have possession of it. If you authorize someone to be your agent and receive income for you, you are treated as having received it when your agent received it.

Example. Interest is credited to your bank account in December 2005. You do not withdraw it or enter it into your passbook until 2006. You must include it in your gross income for 2005.

Delaying receipt of income. You cannot hold checks or postpone taking possession of similar property from one tax year to another to avoid paying tax on the income. You must report the income in the year the property is received or made available to you without restriction.

Example. Frances Jones, a service contractor, was entitled to receive a \$10,000 payment on a contract in December 2005. She was told in December that her payment was available. At her request, she was not paid until January 2006. She must include this payment in her 2005 income because it was constructively received in 2005.

Checks. Receipt of a valid check by the end of the tax year is constructive receipt of income in that year, even if you cannot cash or deposit the check until the following year.

Example. Dr. Redd received a check for \$500 on December 31, 2005, from a patient. She could not deposit the check in her business account until January 3, 2006. She must include this fee in her income for 2005.

Debts paid by another person or canceled. If your debts are paid by another person or are canceled by your creditors, you may have to report part or all of this debt relief as income. If you receive income in this way, you constructively receive the income when the debt is canceled or paid. For more information, see *Canceled Debt* under *Kinds of Income* in chapter 5.

Repayment of income. If you include an amount in income and in a later year you have to repay all or part of it, you can usually deduct the repayment in the year in which you make it. If the amount you repay is over \$3,000, a special rule applies. For details about the special rule, see Publication 535, Business Expenses, chapter 13, Repayments.

Expenses

Under the cash method, you generally deduct expenses in the tax year in which you actually pay them. This includes business expenses for which you contest liability. However, you may not be able to deduct an expense paid in advance or you may be required to capitalize certain costs, as explained later under *Uniform Capitalization Rules*.

Expenses paid in advance. You can deduct an expense you pay in advance only in the year to which it applies.

Example. You are a calendar year taxpayer and you pay \$1,000 in 2005 for a business insurance policy effective for one year, beginning July 1. You can deduct \$500 in 2005 and \$500 in 2006.

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 an accrual method of accounting is to match income and expenses in the correct year.

Income—General Rule

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

Example. You are a calendar year, accrual method taxpayer. You sold a computer on December 28, 2005. You billed the customer in the first week of January 2006, but you did not receive payment until February 2006. You must include the amount received for the computer in your 2005 income.

Income—Special Rules

The following are special rules that apply to advance payments, estimating income, and changing a payment schedule for services.

Estimated income. If you include a reasonably estimated amount in gross income, and later determine the exact amount is different, take the difference into account in the tax year in which you make the determination.

Change in payment schedule for services. If you perform services for a basic rate specified in a contract, you must accrue the income at the basic rate, even if you agree to receive payments at a lower rate until you complete the services and then receive the difference.

Advance payments for services. Generally, you report an advance payment for services to be performed in a later tax year as income in the year you receive the payment. However, if you receive an advance payment for services you agree to perform by the end of the next tax year, you can elect to postpone including the advance payment in income until the next tax year. However, you cannot postpone including any payment beyond that tax year.

For more information, see *Advance Payment for Services* under *Accrual Method* in Publication 538. That publication also explains special rules for reporting the following types of income.

- Advance payments for service agreements.

- Advance payments under guarantee or warranty contracts.
- Prepaid interest.
- Prepaid rent.

Advance payments for sales. Special rules apply to including income from advance payments on agreements for future sales or other dispositions of goods you hold primarily for sale to your customers in the ordinary course of your business. If the advance payments are for contracts involving both the sale and service of goods, it may be necessary to treat them as two agreements. An agreement includes a gift certificate that can be redeemed for goods. Treat amounts that are due and payable as amounts you received.

You generally include an advance payment in income for the tax year in which you receive it. However, you can use an alternative method. For information about the alternative method, see Publication 538.

Expenses

Under an accrual method of accounting, you generally deduct or capitalize a business expense when both the following apply.

1. The all-events test has been met. The test has been met when:
 - 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.

Economic performance. 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 as 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. An exception allows certain recurring items to be treated as incurred during a tax year even though economic performance has not occurred. For more information on economic performance, see *Economic Performance* under *Accrual Method* in Publication 538.

Example. You are a calendar year taxpayer and use an accrual method of accounting. You buy office supplies in December 2005. You receive the supplies and the bill in December, but you pay the bill in January 2006. You can deduct the expense in 2005 because all events that fix the fact of liability have occurred, the amount of the liability could be reasonably determined, and economic performance occurred in that year.

Your office supplies may qualify as a recurring expense. In that case, you can deduct them in 2005 even if the supplies are not delivered until 2006 (when economic performance occurs).

Keeping inventories. When the production, purchase, or sale of merchandise is an income-producing factor in your business, you must generally take inventories into account at the beginning and the end of your tax year. If you must account for an inventory, you must generally use an accrual method of accounting for your purchases and sales. For more information, see *Inventories*, later.

Special rule for related persons. You cannot deduct business expenses and interest owed to a related person who uses the cash method of accounting until you make the payment and the corresponding amount is includible in the related person's gross income. Determine the relationship, for this rule, as of the end of the tax year for which the expense or interest would otherwise be deductible. If a deduction is not allowed under this rule, the rule will continue to apply even if your relationship with the person ends before the expense or interest is includible in the gross income of that person.

Related persons include members of your immediate family, including only brothers and sisters (either whole or half), your spouse, ancestors, and lineal descendants. For a list of other related persons, see *Related Persons* under *Accrual Method* in Publication 538.

Combination Method

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

- If an inventory is necessary to account for your income, you must generally use an accrual method for purchases and sales. (See, however, *Inventories*, later.) You can use the cash method for all other items of income and expenses.
- If you use the cash method for figuring your income, you must use the cash method for reporting your expenses.
- If you use an accrual method for reporting your expenses, you must use an accrual method for figuring your income.
- If you use a combination method that includes the cash method, treat that combination method as the cash method.

Inventories

Generally, if you produce, purchase or sell merchandise in your business, you must keep an inventory and use the accrual method for purchases and sales of merchandise. However, the following taxpayers can use the cash method of accounting even if they produce, purchase, or sell merchandise. These taxpayers can also account for inventori-

able items as materials and supplies that are not incidental (discussed later).

1. A qualifying taxpayer under Revenue Procedure 2001-10 in Internal Revenue Bulletin 2001-2.
2. A qualifying small business taxpayer under Revenue Procedure 2002-28 in Internal Revenue Bulletin 2002-18.

Qualifying taxpayer. You are a qualifying taxpayer if:

- Your average annual gross receipts for each prior tax year ending on or after December 17, 1998, is \$1 million or less. (Your average annual gross receipts for a tax year is figured by adding the gross receipts for that tax year and the 2 preceding tax years and dividing by 3.)
- Your business is not a tax shelter, as defined under section 448(d)(3) of the Internal Revenue Code.

Qualifying small business taxpayer. You are a qualifying small business taxpayer if:

- Your average annual gross receipts for each prior tax year ending on or after December 31, 2000, is more than \$1 million but not more than \$10 million. (Your average annual gross receipts for a tax year is figured by adding the gross receipts for that tax year and the 2 preceding tax years and dividing the total by 3.)
- You are not prohibited from using the cash method under section 448 of the Internal Revenue Code.
- Your principal business activity is an eligible business (described in Publication 538 and Revenue Procedure 2002-28).

Business not owned or not in existence for 3 years. If you did not own your business for all of the 3-tax-year period used in figuring your average annual gross receipts, include the period of any predecessor. If your business has not been in existence for the 3-tax-year period, base your average on the period it has existed including any short tax years, annualizing the short tax year's gross receipts.

Materials and supplies that are not incidental. If you account for inventoriable items as materials and supplies that are not incidental, you will deduct the cost of the items you would otherwise include in inventory in the year you sell the items, or the year you pay for them, whichever is later. If you are a producer, you can use any reasonable method to estimate the raw material in your work in process and finished goods on hand at the end of the year to determine the raw material used to produce finished goods that were sold during the year.

Changing methods. If you are a qualifying taxpayer or small business taxpayer and want to change to the cash method or to account for inventoriable items as non-incidental materials and supplies, you must file Form 3115, Application for Change in Accounting Method.

More information. For more information about the qualifying taxpayer exception, see Revenue Procedure 2001-10 in Internal Revenue Bulletin 2001-2. For more information about the qualifying small business taxpayer exception, see Revenue Procedure 2002-28 in Internal Revenue Bulletin 2002-18.

Items included in inventory. If you are required to account for inventories, include the following items when accounting for your inventory.

- Merchandise or stock in trade.
- Raw materials.
- Work in process.
- Finished products.
- Supplies that physically become a part of the item intended for sale.

Valuing inventory. You must value your inventory at the beginning and end of each tax year to determine your cost of goods sold (Schedule C, line 42). To determine the value of your inventory, you need a method for identifying the items in your inventory and a method for valuing these items.

Inventory valuation rules cannot be the same for all kinds of businesses. The method you use to value your inventory must conform to generally accepted accounting principles for similar businesses and must clearly reflect income. Your inventory practices must be consistent from year to year.

More information. For more information about inventories, see Publication 538.

Uniform Capitalization Rules

Under the uniform capitalization rules, you must capitalize the direct costs and part of the indirect costs for production or resale activities. Include these costs in the basis of property you produce or acquire for resale, rather than claiming them as a current deduction. You recover the costs through depreciation, amortization, or cost of goods sold when you use, sell, or otherwise dispose of the property.

Activities subject to the rules. You may be subject to the uniform capitalization rules if you do any of the following, unless the property is produced for your use other than in a business or an activity carried on for profit.

- Produce real or tangible personal property. For this purpose, tangible personal property includes a film, sound recording, video tape, book, or similar property.
- Acquire property for resale.

Exceptions. These rules do not apply to the following property.

1. Personal property you acquire for resale if your average annual gross receipts are \$10 million or less.

2. Property you produce if you meet either of the following conditions.
 - a. Your indirect costs of producing the property are \$200,000 or less.
 - b. You use the cash method of accounting and do not account for inventories. For more information, see *Inventories*, earlier.

Special Methods

There are special methods of accounting for certain items of income or expense. These include the following.

- Amortization, discussed in chapter 9 of Publication 535, *Business Expenses*.
- Bad debts, discussed in chapter 11 of Publication 535.
- Depletion, discussed in chapter 10 of Publication 535.
- Depreciation, discussed in Publication 946, *How To Depreciate Property*.
- Installment sales, discussed in Publication 537, *Installment Sales*.

Change in Accounting Method

Once you have set up your accounting method, you must generally get IRS approval before you can change to another method. A change in your accounting method includes a change in:

1. Your overall method, such as from cash to an accrual method, and
2. Your treatment of any material item.

To get approval, you must file **Form 3115**, *Application for Change in Accounting Method*. You can get IRS approval to change an accounting method under either the automatic change procedures or the advance consent request procedures. You may have to pay a user fee. For more information, see the form instructions.

Automatic change procedures. Certain taxpayers can presume to have IRS approval to change their method of accounting. The approval is granted for the tax year for which the taxpayer requests a change (year of change), if the taxpayer complies with the provisions of the automatic change procedures. No user fee is required for an application filed under an automatic change procedure generally covered in Revenue Procedure 2002-9.

Generally, you must use Form 3115 to request an automatic change. For more information, see the form instructions.

3.

Dispositions of Business Property

Introduction

If you dispose of business property, you may have a gain or loss that you report on Form 1040. However, in some cases you may have a gain that is not taxable or a loss that is not deductible. This chapter discusses whether you have a disposition, how to figure the gain or loss, and where to report the gain or loss.

Useful Items

You may want to see:

Publication

- 544** Sales and Other Dispositions of Assets

Form (and Instructions)

- 4797** Sales of Business Property
- Sch D (Form 1040)** Capital Gains and Losses

See chapter 12 for information about getting publications and forms.

What Is a Disposition of Property?

A disposition of property includes the following transactions.

- You sell property for cash or other property.
- You exchange property for other property.
- You receive money as a tenant for the cancellation of a lease.
- You receive money for granting the exclusive use of a copyright throughout its life in a particular medium.
- You transfer property to satisfy a debt.
- You abandon property.
- Your bank or other financial institution forecloses on your mortgage or repossesses your property.
- Your property is damaged, destroyed, or stolen, and you receive property or money in payment.
- Your property is condemned, or disposed of under the threat of condemnation, and you receive property or money in payment.

For details about damaged, destroyed, or stolen property, see Publication 547, *Casualties, Disasters, and Thefts*. For

details about other dispositions, see chapter 1 in Publication 544.

Nontaxable exchanges. Certain exchanges of property are not taxable. This means any gain from the exchange is not recognized and you cannot deduct any loss. Your gain or loss will not be recognized until you sell or otherwise dispose of the property you receive.

Like-kind exchanges. A like-kind exchange is the exchange of property for the same kind of property. It is the most common type of nontaxable exchange. To be a like-kind exchange, the property traded and the property received must be both of the following.

- Business or investment property.
- Like property.

Report the exchange of like-kind property on **Form 8824**, Like-Kind Exchanges. For more information about like-kind exchanges, see chapter 1 in Publication 544.

Installment sales. An installment sale is a sale of property where you receive at least one payment after the tax year of the sale. 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.

For more information about installment sales, see Publication 537, Installment Sales.

Sale of a business. The sale of a business usually is not a sale of one asset. Instead, all the assets of the business are sold. Generally, when this occurs, each asset is treated as being sold separately for determining the treatment of gain or loss.

Both the buyer and seller involved in the sale of a business must report to the IRS the allocation of the sales price among the business assets. Use **Form 8594**, Asset Acquisition Statement Under Section 1060, to provide this information. The buyer and seller should each attach Form 8594 to their federal income tax return for the year in which the sale occurred.

For more information about the sale of a business, see chapter 2 of Publication 544.

How Do I Figure a Gain or Loss?

Table 3-1. How To Figure a Gain or Loss

IF your...	THEN you have a...
Adjusted basis is more than the amount realized	Loss.
Amount realized is more than the adjusted basis	Gain.

Basis, adjusted basis, amount realized, fair market value, and amount recognized are defined next. You need to know these definitions to figure your gain or loss.

Basis. The cost or purchase price of property is usually its basis for figuring the gain or loss from its sale or other disposition. However, if you acquired the property by gift, inheritance, or in some way other than buying it, you must use a basis other than its cost. For more information about basis, see Publication 551, Basis of Assets.

Adjusted basis. The adjusted basis of property is your original cost or other basis plus certain additions, and minus certain deductions such as depreciation and casualty losses. In determining gain or loss, the costs of transferring property to a new owner, such as selling expenses, are added to the adjusted basis of the property.

Amount realized. The amount you realize from a disposition 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.

Fair market value. Fair market value is the price at which the 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.

Amount recognized. Your gain or loss realized from a disposition of property is usually a recognized gain or loss for tax purposes. Recognized gains must be included in gross income. Recognized losses are deductible from gross income. However, a gain or loss realized from certain exchanges of property is not recognized. See *Nontaxable exchanges*, earlier. Also, you cannot deduct a loss from the disposition of property held for personal use.

Is My Gain or Loss Ordinary or Capital?

You must classify your gains and losses as either ordinary or capital gains or losses. You must do this to figure your net capital gain or loss. Generally, you will have a capital gain or loss if you dispose of a capital asset. For the most part, everything you own and use for personal purposes or investment is a capital asset.

Certain property you use in your business is not a capital asset. A gain or loss from a disposition of this property is an ordinary gain or loss. However, if you held the property longer than 1 year, you may be able to treat the gain or loss as a capital gain or loss. These gains and losses are called section 1231 gains and losses.

For more information about ordinary and capital gains and losses, see chapters 2 and 3 in Publication 544.

Is My Capital Gain or Loss Short Term or Long Term?

If you have a capital gain or loss, you must determine whether it is long term or short term. Whether a gain or loss

is long or short term depends on how long you own the property before you dispose of it. The time you own property before disposing of it is called the holding period.

Table 3-2. **Do I Have a Short-Term or Long-Term Gain or Loss?**

IF you hold the property...	THEN you have a...
1 year or less	Short-term capital gain or loss.
More than 1 year	Long-term capital gain or loss.

For more information about short-term and long-term capital gains and losses, see chapter 4 of Publication 544.

Where Do I Report Gains and Losses?

Report gains and losses from the following dispositions on the forms indicated. The instructions for the forms explain how to fill them out.

Dispositions of business property and depreciable property. Use **Form 4797**. If you have taxable gain, you may also have to use Schedule D (Form 1040).

Like-kind exchanges. Use **Form 8824**, Like-Kind Exchanges. You may also have to use Form 4797 and Schedule D (Form 1040).

Installment sales. Use **Form 6252**, Installment Sale Income. You may also have to use Form 4797 and Schedule D (Form 1040).

Casualties and thefts. Use **Form 4684**, Casualties and Thefts. You may also have to use Form 4797.

Condemned property. Use **Form 4797**. You may also have to use Schedule D (Form 1040).

4.

General Business Credits

Introduction

Your general business credit for the year consists of your carryforward of business credits from prior years plus the total of your current year business credits. In addition, your general business credit for the current year may be increased later by the carryback of business credits from later years. You subtract this credit directly from your tax.

Useful Items

You may want to see:

Publication

- 954** Tax Incentives for Distressed Communities

Form (and Instructions)

- 3800** General Business Credit
- 6251** Alternative Minimum Tax—Individuals

See chapter 12 for information about getting publications and forms.

Business Credits

All of the following credits are part of the general business credit. The form you use to figure each credit is shown in parentheses. Be sure you also read *How To Claim the Credit*, later, because you may also have to fill out Form 3800 in certain situations.

Alternative fuel vehicle refueling property credit (Form 8911). This credit applies to the cost of any qualified fuel vehicle refueling property placed in service after December 31, 2005, for tax years ending after that date. For more information, see Form 8911.

Alternative motor vehicle credit (Form 8910). This credit consists of the following four credits for new vehicles placed in service after December 31, 2005, for tax years ending after that date. For more information, see Form 8910.

- Qualified fuel cell motor vehicle credit.
- Advanced lean burn technology motor vehicle credit.
- Qualified hybrid motor vehicle credit.
- Qualified alternative fuel motor vehicle credit.

Biodiesel and renewable diesel fuels credit (Form 8864) This credit applies to certain fuel sold or used in your business. For more information, see Form 8864.

Credit for alcohol used as a fuel (Form 6478). This credit applies to alcohol sold or used as a fuel. Alcohol, for purposes of this credit, includes ethanol and methanol. It does not include alcohol produced from petroleum, natural gas, coal, or peat. For more information, see Form 6478.

Credit for contributions to selected community development corporations (Form 8847). This credit applies to certain contributions made to a selected community development corporation before June 30, 1999. For more information, see Form 8847.

Credit for employee social security and Medicare taxes paid on certain employee tips (Form 8846). The credit is generally equal to your (employer's) portion of social security and Medicare taxes paid on tips received by employees of your food and beverage establishment where tipping is customary. The credit applies regardless

of whether the food is consumed on or off your business premises. However, you cannot get credit for your part of social security and Medicare taxes on those tips that are used to meet the federal minimum wage rate that applies to the employee under the Fair Labor Standards Act. For more information, see Form 8846.

Credit for employer-provided childcare facilities and services (Form 8882). This credit applies to the qualified expenses you paid for employee childcare and qualified expenses you paid for childcare resource and referral services. The credit is 25% of qualified expenses you paid for employee childcare and 10% of qualified expenses you paid for childcare resource and referral services. This credit is limited to \$150,000 each year. For more information, see Form 8882.

Credit for increasing research activities (Form 6765). The research credit is designed to encourage businesses to increase the amounts they spend on research and experimental activities, including energy research. The credit is generally 20% of the amount by which your research expenses for the year are more than your base amount. For more information, see Form 6765.

Credit for small employer pension startup costs (Form 8881). This credit applies to pension plan startup costs. If you begin a new qualified defined benefit or defined contribution plan (including a 401(k) plan), SIMPLE plan, or simplified employee pension, you can receive a tax credit of 50% of the first \$1,000 of qualified startup costs. For more information, see Publication 560, Retirement Plans for Small Business (SEP, Simple, and Qualified Plans).

Disabled access credit (Form 8826). The disabled access credit is a nonrefundable tax credit for an eligible small business that pays or incurs expenses to provide access to persons who have disabilities. You must pay or incur the expenses to enable your business to comply with the Americans with Disabilities Act of 1990. For more information, see Form 8826.

Distilled spirits credit (Form 8906). This credit is available to distillers and importers of distilled spirits and eligible wholesalers of distilled spirits for tax years beginning after September 30, 2005. For more information, see Form 8906.

Empowerment zone and renewal community employment credit (Form 8844). You may qualify for this credit if you have employees and are engaged in a business in an empowerment zone or renewal community for which the credit is available. For more information, see Form 8844 and Publication 954.

Energy efficient appliance credit (Form 8909). This credit is available for each type of qualified energy efficient appliance produced by the taxpayer after December 31, 2005, in a tax year ending on or after December 31, 2006. For more information, see Form 8909.

Energy efficient home credit (Form 8908). This credit is available for eligible contractors of certain homes sold for use as a residence after December 31, 2005. For more information, see Form 8908.

Enhanced oil recovery credit (Form 8830). This credit applies to your qualified enhanced oil recovery costs. For more information, see Form 8830.

Hurricane Katrina employee retention credit (Form 5884-A). This credit provides certain employers with an incentive to continue to pay certain wages after August 28, 2005, and before January 1, 2006. For more information, see Form 5884-A.

Indian employment credit (Form 8845). This credit applies to the part of the qualified wages and health insurance costs (up to \$20,000 per employee) you paid or incurred during a tax year that is more than the sum of the comparable costs you (or your predecessor) paid or incurred during calendar year 1993. The employee must be an enrolled member, or the spouse of an enrolled member, of an Indian tribe. The employee must perform substantially all of his or her services within an Indian reservation while living on or near the reservation. For more information, see Form 8845 and Publication 954.

Investment credit (Form 3468). The investment credit is the total of the following credits. For more information, see Form 3468.

- Rehabilitation credit.
- Energy credit for periods ending before January 1, 2006.
- Energy credit for periods ending after December 31, 2005.
- Qualifying advanced coal project credit for periods ending after August 8, 2005.
- Qualifying gasification project credit for periods ending after August 8, 2005.

Low sulfur diesel fuel production credit (Form 8896). This credit applies to expenses paid or incurred after December 31, 2002, in tax years ending after such date. For more information, see Form 8896.

Low-income housing credit (Form 8586). This credit generally applies to qualified low-income housing buildings placed in service after 1986. For more information, see Form 8586.

New markets credit (Form 8874). This credit is for qualified equity investments made in qualified community development entities. For more information, see Form 8874.

Nonconventional source fuel credit (Form 8907). For tax years ending after December 31, 2005, this credit will be treated as a general business credit. For more information, see Form 8907.

Orphan drug credit (Form 8820). The orphan drug credit applies to qualified expenses incurred in testing certain drugs, known as "orphan drugs for rare diseases and conditions." For more information, see Form 8820.

Qualified railroad track maintenance credit (Form 8900). Certain regional and switching railroads may be able to claim a credit for expenses made to upgrade their

railroad tracks (including roadbed, bridges, and related track structures). For more information, see Form 8900.

Renewable electricity, refined coal, and Indian coal production credit (Form 8835). For more information on the renewable electricity, refined coal, and Indian coal production credit, see Form 8835.

Welfare-to-work credit (Form 8861). The welfare-to-work credit provides businesses with an incentive to hire long-term family assistance recipients. For more information, see Form 8861 and Publication 954.

Work opportunity credit (Form 5884). The work opportunity credit provides businesses with an incentive to hire individuals from targeted groups that have a particularly high unemployment rate or other special employment needs. For more information, see Form 5884 and Publication 954.

How To Claim the Credit

To claim a general business credit, you will first have to get the forms you need to claim your current year business credits.

In addition to the credit form, you may also need to file Form 3800. See the next discussion to decide whether you need to file Form 3800.

Who must file Form 3800?

You must file Form 3800 if any of the following apply.

- You have more than one of the credits listed above (other than the credit for alcohol used as a fuel (Form 6478), the empowerment zone and renewal community employment credit (Form 8844), or the renewable electricity, refined coal, and Indian coal production credit (Form 8835, Section B)).
- Any of these credits (other than the low-income housing credit) is from a passive activity. For information about passive activity credits, see Form 8582-CR.
- You have a carryback or carryforward of any of these credits.

The general business credit includes the credits listed under *General Business Credits*, the empowerment zone and renewal community employment credit (Form 8844), the alcohol fuel credit (Form 6478), and the portion of the renewable electricity, refined coal, and Indian coal production credit figured in Section B of Form 8835.

Forms 8844, 6478, and 8835 have special tax liability limits and are not reported on Form 3800. Any carryback, carryforward, and passive activity limitation of these credits is computed separately on the forms on which they are claimed.

Alternative minimum tax (AMT). Although you may not owe AMT, you must still figure your tentative minimum tax on Form 6251 if you claim a general business credit. After you fill in Form 6251, attach it to your tax return.

5.

Business Income

Introduction

This chapter primarily explains business income and how to account for it on your tax return, what items are not considered income, and gives guidelines for selected occupations.

If there is a connection between any income you receive and your business, the income is business income. A connection exists if it is clear that the payment of income would not have been made if you did not have the business.

You can have business income even if you are not involved in the activity on a regular full-time basis. Income from work you do on the side in addition to your regular job can be business income.

You report most business income, such as income from the sale of your products or services, on Schedule C or C-EZ. But you report the income from the sale of business assets, such as land and office buildings, on other forms instead of Schedule C or C-EZ. For information on selling business assets, see chapter 3.



Nonemployee compensation. *Business income includes amounts you received in your business that were properly shown on Forms 1099-MISC. This includes amounts reported as nonemployee compensation in box 7 of the form. You can find more information in the instructions on the back of the Form 1099-MISC you received.*

Kinds of Income

You must report on your tax return all income you receive from your business unless it is excluded by law. In most cases, your business income will be in the form of cash, checks, and credit card charges. But business income can be in other forms, such as property or services. These and other types of income are explained next.



CAUTION *If you are a U.S. citizen who has business income from sources outside the United States (foreign income), you must report that income on your tax return unless it is exempt from tax under U.S. law. If you live outside the United States, you may be able to exclude part or all of your foreign-source business income. For details, see Publication 54, Tax Guide for U.S. Citizens and Resident Aliens Abroad.*

Bartering for Property or Services

Bartering is an exchange of property or services. You must include in your gross receipts, at the time received, the fair market value of property or services you receive in bar-

tering. If you exchange services with another person and you both have agreed ahead of time on the value of the services, that value will be accepted as the fair market value unless the value can be shown to be otherwise.

Example 1. You are a self-employed lawyer. You perform legal services for a client, a small corporation. In payment for your services, you receive shares of stock in the corporation. You must include the fair market value of the shares in income.

Example 2. You are an artist and create a work of art to compensate your landlord for the rent-free use of your apartment. You must include the fair rental value of the apartment in your gross receipts. Your landlord must include the fair market value of the work of art in his or her rental income.

Example 3. You are a self-employed accountant. Both you and a house painter are members of a barter club, an organization that each year gives its members a directory of members and the services each member provides. Members get in touch with other members directly and bargain for the value of the services to be performed.

In return for accounting services you provided for the house painter's business, the house painter painted your home. You must include in gross receipts the fair market value of the services you received from the house painter. The house painter must include the fair market value of your accounting services in his or her gross receipts.

Example 4. You are a member of a barter club that uses credit units to credit or debit members' accounts for goods or services provided or received. As soon as units are credited to your account, you can use them to buy goods or services or sell or transfer the units to other members.

You must include the value of credit units you received in your gross receipts for the tax year in which the units are credited to your account.

The dollar value of units received for services by an employee of the club, who can use the units in the same manner as other members, must be included in the employee's gross income for the tax year in which received. It is wages subject to social security and Medicare taxes (FICA), federal unemployment taxes (FUTA), and income tax withholding. See Publication 15 (Circular E), Employer's Tax Guide.

Example 5. You operate a plumbing business and use the cash method of accounting. You join a barter club and agree to provide plumbing services to any member for a specified number of hours. Each member has access to a directory that lists the members of the club and the services available.

Members contact each other directly and request services to be performed. You are not required to provide services unless requested by another member, but you can use as many of the offered services as you wish without paying a fee.

You must include the fair market value of any services you receive from club members in your gross receipts when you receive them even if you have not provided any services to club members.

Information returns. If you are involved in a bartering transaction, you may have to file either of the following forms.

- Form 1099-B, Proceeds From Broker and Barter Exchange Transactions.
- Form 1099-MISC, Miscellaneous Income.

For information about these forms, see the General Instructions for Forms 1099, 1098, 5498, and W-2G.

Real Estate Rents

If you are a real estate dealer who receives income from renting real property or an owner of a hotel, motel, etc., who provides services (maid services, etc.) for guests, report the rental income and expenses on Schedule C or C-EZ. If you are not a real estate dealer or the kind of owner described in the preceding sentence, report the rental income and expenses on Schedule E.

Real estate dealer You are a real estate dealer if you are engaged in the business of selling real estate to customers with the purpose of making a profit from those sales. Rent you receive from real estate held for sale to customers is subject to SE tax. However, rent you receive from real estate held for speculation or investment is not subject to SE tax.

Trailer park owner. Rental income from a trailer park is subject to SE tax if you are a self-employed trailer park owner who provides trailer lots and facilities and substantial services for the convenience of your tenants.

You generally are considered to provide substantial services for tenants if they are primarily for the tenants' convenience and normally are not provided to maintain the lots in a condition for occupancy. Services are substantial if the compensation for the services makes up a material part of the tenants' rental payments.

Examples of services that are not normally provided for the tenants' convenience include supervising and maintaining a recreational hall provided by the park, distributing a monthly newsletter to tenants, operating a laundry facility, and helping tenants buy or sell their trailers.

Examples of services that are normally provided to maintain the lots in a condition for tenant occupancy include city sewerage, electrical connections, and roadways.

Hotels, boarding houses, and apartments. Rental income you receive for the use or occupancy of hotels, boarding houses, or apartment houses is subject to SE tax if you provide services for the occupants.

Generally, you are considered to provide services for the occupants if the services are primarily for their convenience and are not services normally provided with the rental of rooms for occupancy only. An example of a service that is not normally provided for the convenience of the occupants is maid service. However, providing heat

and light, cleaning stairways and lobbies, and collecting trash are services normally provided for the occupants' convenience.

Prepaid rent. Advance payments received under a lease that does not put any restriction on their use or enjoyment are income in the year you receive them. This is true no matter what accounting method or period you use.

Lease bonus. A bonus you receive from a lessee for granting a lease is an addition to the rent. Include it in your gross receipts in the year received.

Lease cancellation payments. Report payments you receive from your lessee for canceling a lease in your gross receipts in the year received.

Payments to third parties. If your lessee makes payments to someone else under an agreement to pay your debts or obligations, include the payments in your gross receipts when the lessee makes the payments. A common example of this kind of income is a lessee's payment of your property taxes on leased real property.

Settlement payments. Payments you receive in settlement of a lessee's obligation to restore the leased property to its original condition are income in the amount that the payments exceed the adjusted basis of the leasehold improvements destroyed, damaged, removed, or disconnected by the lessee.

Personal Property Rents

If you are in the business of renting personal property (equipment, vehicles, formal wear, etc.), include the rental amount you receive in your gross receipts on Schedule C or C-EZ. Prepaid rent and other payments described in the preceding *Real Estate Rents* discussion can also be received for renting personal property. If you receive any of those payments, include them in your gross receipts as explained in that discussion.

Interest and Dividend Income

Interest and dividends may be considered business income.

Interest. Interest received on notes receivable that you have accepted in the ordinary course of business is business income. Interest received on loans is business income if you are in the business of lending money.

Uncollectible loans. If a loan payable to you becomes uncollectible during the tax year and you use an accrual method of accounting, you must include in gross income interest accrued up to the time the loan became uncollectible. If the accrued interest later becomes uncollectible, you may be able to take a bad debt deduction. See *Bad Debts* in chapter 8.

Unstated interest. If little or no interest is charged on an installment sale, you may have to treat a part of each payment as unstated interest. See *Unstated Interest and Original Issue Discount* in Publication 537, *Installment Sales*.

Dividends. Generally, dividends are business income to dealers in securities. For most sole proprietors and statutory employees, however, dividends are nonbusiness income. If you hold stock as a personal investment separately from your business activity, the dividends from the stock are nonbusiness income.

If you receive dividends from business insurance premiums you deducted in an earlier year, you must report all or part of the dividend as business income on your return. To find out how much you have to report, see *Recovery of items previously deducted* under *Other Income*, later.

Canceled Debt

The following explains the general rule for including canceled debt in income and the exceptions to the general rule.

General Rule

Generally, if your debt is canceled or forgiven, other than as a gift or bequest to you, you must include the canceled amount in your gross income for tax purposes. Report the canceled amount on line 6 of Schedule C if you incurred the debt in your business. If the debt is a nonbusiness debt, report the canceled amount on line 21 of Form 1040.

Exceptions

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

Price reduced after purchase. If you owe a debt to the seller for property you bought and the seller reduces the amount you owe, you generally do not have income from the reduction. Unless you are bankrupt or insolvent, treat the amount of the reduction as a purchase price adjustment and reduce your basis in the property.

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

Example. You get accounting services for your business 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 canceled debt depends on your method of accounting.

- Cash method – You do not include the canceled debt in income because payment of the debt would have been deductible as a business expense.
- Accrual method – You include the canceled debt in income because the expense was deductible when you incurred the debt.

For information on the cash and accrual methods of accounting, see chapter 2.

Exclusions

Do not include canceled debt in income in the following situations. However, you may be required to file **Form 982**, Reduction of Tax Attributes Due to Discharge of Indebtedness. For more information, see Form 982.

1. The cancellation takes place in a bankruptcy case under title 11 of the U.S. Code (relating to bankruptcy). See Publication 908, Bankruptcy Tax Guide.
2. The cancellation takes place when you are insolvent. You can exclude the canceled debt to the extent you are insolvent. See Publication 908.
3. The canceled debt is a qualified farm debt owed to a qualified person. See chapter 3 in Publication 225, Farmer's Tax Guide.
4. The canceled debt is a qualified real property business debt. This situation is explained later.

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

Debt. For purposes of this discussion, debt includes any debt for which you are liable or which attaches to property you hold.

Qualified real property business debt. You can choose to exclude (up to certain limits) the cancellation of qualified real property business debt. If you make the choice, you must reduce the basis of your depreciable real property by the amount excluded. Make this reduction at the beginning of your tax year following the tax year in which the cancellation occurs. However, if you dispose of the property before that time, you must reduce its basis immediately before the disposition.

Cancellation of qualified real property business debt. Qualified real property business debt is debt (other than qualified farm debt) that meets all the following conditions.

1. It was incurred or assumed in connection with real property used in a trade or business.
2. It was secured by such real property.
3. It was incurred or assumed at either of the following times.
 - a. Before January 1, 1993.
 - b. After December 31, 1992, if incurred or assumed to acquire, construct, or substantially improve the real property.
4. It is debt to which you choose to apply these rules.

Qualified real property business debt includes refinancing of debt described in (3) above, but only to the extent it does not exceed the debt being refinanced.

You cannot exclude more than either of the following amounts.

1. The excess (if any) of:
 - a. The outstanding principal of qualified real property business debt (immediately before the cancellation), over
 - b. The fair market value (immediately before the cancellation) of the business real property that is security for the debt, reduced by the outstanding principal amount of any other qualified real property business debt secured by this property immediately before the cancellation.
2. The total adjusted bases of depreciable real property held by you immediately before the cancellation. These adjusted bases are determined after any basis reduction due to a cancellation in bankruptcy, insolvency, or of qualified farm debt. Do not take into account depreciable real property acquired in contemplation of the cancellation.

Choice. To make this choice, complete Form 982 and attach it to your income tax return for the tax year in which the cancellation occurs. You must file your return by the due date (including extensions). If you timely filed your return for the year without making the choice, you can still make the choice by filing an amended return within 6 months of the due date of the return (excluding extensions). For more information, see *When to file* in the form instructions.

Other Income

The following discussion explains how to treat other types of business income you may receive.

Restricted property. Restricted property is property that has certain restrictions that affect its value. If you receive restricted stock or other property for services performed, the fair market value of the property in excess of your cost is included in your income on Schedule C or C-EZ when the restriction is lifted. However, you can choose to be taxed in the year you receive the property. For more information on including restricted property in income, see Publication 525, Taxable and Nontaxable Income.

Gains and losses. Do not report on Schedule C or C-EZ a gain or loss from the disposition of property that is neither stock in trade nor held primarily for sale to customers. Instead, you must report these gains and losses on other forms. For more information, see chapter 3.

Promissory notes. Report promissory notes and other evidences of debt issued to you in a sale or exchange of property that is stock in trade or held primarily for sale to customers on Schedule C or C-EZ. In general, you report them at their stated principal amount (minus any unstated interest) when you receive them.

Lost income payments. If you reduce or stop your business activities, report on Schedule C or C-EZ any payment you receive for the lost income of your business from insurance or other sources. Report it on Schedule C or

C-EZ even if your business is inactive when you receive the payment.

Damages. You must include in gross income compensation you receive during the tax year as a result of any of the following injuries connected with your business.

- Patent infringement.
- Breach of contract or fiduciary duty.
- Antitrust injury.

Economic injury. You may be entitled to a deduction against the income if it compensates you for actual economic injury. Your deduction is the smaller of the following amounts.

- The amount you receive or accrue for damages in the tax year reduced by the amount you pay or incur in the tax year to recover that amount.
- Your loss from the injury that you have not yet deducted.

Punitive damages. You must also include punitive damages in income.

Kickbacks. If you receive any kickbacks, include them in your income on Schedule C or C-EZ. However, do not include them if you properly treat them as a reduction of a related expense item, a capital expenditure, or cost of goods sold.

Recovery of items previously deducted. If you recover a bad debt or any other item deducted in a previous year, include the recovery in income on Schedule C or C-EZ. However, if all or part of the deduction in earlier years did not reduce your tax, you can exclude the part that did not reduce your tax. If you exclude part of the recovery from income, you must include with your return a computation showing how you figured the exclusion.

Example. Joe Smith, a sole proprietor, had gross income of \$8,000, a bad debt deduction of \$300, and other allowable deductions of \$7,700. He also had 2 personal exemptions for a total of \$6,400. He would not pay income tax even if he did not deduct the bad debt. Therefore, he will not report as income any part of the \$300 he may recover in any future year.

Exception for depreciation. This rule does not apply to depreciation. You recover depreciation using the rules explained next.

Recapture of depreciation. In the following situations, you have to recapture the depreciation deduction. This means you include in income part or all of the depreciation you deducted in previous years.

Listed property. If your business use of listed property (explained in chapter 8 under *Depreciation*) falls to 50% or less in a tax year after the tax year you placed the property in service, you may have to recapture part of the depreciation deduction. You do this by including in income on Schedule C part of the depreciation you deducted in previous years. Use Part IV of **Form 4797**, Sales of Business

Property, to figure the amount to include on Schedule C. For more information, see *What is the Business-Use Requirement* in chapter 5 of Publication 946, How To Depreciate Property. That chapter explains how to determine whether property is used more than 50% in your business.

Section 179 property. If you take a section 179 deduction (explained in chapter 8 under *Depreciation*) for an asset and before the end of the asset's recovery period the percentage of business use drops to 50% or less, you must recapture part of the section 179 deduction. You do this by including in income on Schedule C part of the deduction you took. Use Part IV of Form 4797 to figure the amount to include on Schedule C. See chapter 2 in Publication 946 to find out when you recapture the deduction.

Sale or exchange of depreciable property. If you sell or exchange depreciable property at a gain, you may have to treat all or part of the gain due to depreciation as ordinary income. You figure the income due to depreciation recapture in Part III of Form 4797. For more information, see chapter 4 in Publication 544, Sales and Other Dispositions of Assets.

Items That Are Not Income

In some cases the property or money you receive is not income.

Appreciation. Increases in value of your property are not income until you realize the increases through a sale or other taxable disposition.

Consignments. Consignments of merchandise to others to sell for you are not sales. The title of merchandise remains with you, the consignor, even after the consignee possesses the merchandise. Therefore, if you ship goods on consignment, you have no profit or loss until the consignee sells the merchandise. Merchandise you have shipped out on consignment is included in your inventory until it is sold.

Do not include merchandise you receive on consignment in your inventory. Include your profit or commission on merchandise consigned to you in your income when you sell the merchandise or when you receive your profit or commission, depending upon the method of accounting you use.

Construction allowances. If you enter into a lease after August 5, 1997, you can exclude from income the construction allowance you receive (in cash or as a rent reduction) from your landlord if you receive it under both the following conditions.

- Under a short-term lease of retail space.
- For the purpose of constructing or improving qualified long-term real property for use in your business at that retail space.

Amount you can exclude. You can exclude the construction allowance to the extent it does not exceed the amount you spent for construction or improvements.

Short-term lease. A short-term lease is a lease (or other agreement for occupancy or use) of retail space for 15 years or less. The following rules apply in determining whether the lease is for 15 years or less.

- Take into account options to renew when figuring whether the lease is for 15 years or less. But do not take into account any option to renew at fair market value determined at the time of renewal.
- Two or more successive leases that are part of the same transaction (or a series of related transactions) for the same or substantially similar retail space are treated as one lease.

Retail space. Retail space is real property leased, occupied, or otherwise used by you as a tenant in your business of selling tangible personal property or services to the general public.

Qualified long-term real property. Qualified long-term real property is nonresidential real property that is part of, or otherwise present at, your retail space and that reverts to the landlord when the lease ends.

Exchange of like-kind property. If you exchange your business property or property you hold for investment solely for property of a like kind to be used in your business or to be held for investment, no gain or loss is recognized. This means that the gain is not taxable and the loss is not deductible. A common type of nontaxable exchange is the trade-in of a business automobile for another business automobile. See *Nontaxable exchanges* in chapter 3.

Leasehold improvements. If a tenant erects buildings or makes improvements to your property, the increase in the value of the property due to the improvements is not income to you. However, if the facts indicate that the improvements are a payment of rent to you, then the increase in value would be income.

Loans. Money borrowed through a bona fide loan is not income.

Sales tax. State and local sales taxes imposed on the buyer, which you were required to collect and pay over to state or local governments, are not income.

Guidelines for Selected Occupations.

This section provides information to determine whether your earnings should be reported on Schedule C (Form 1040) or C-EZ (Form 1040).

Direct seller. You must report all income you receive as a direct seller on Schedule C or C-EZ. This includes any of the following.

- Income from sales—payments you receive from customers for products they buy from you.

- Commissions, bonuses, or percentages you receive for sales and the sales of others who work under you.
- Prizes, awards, and gifts you receive from your selling business.

You must report this income regardless of whether it is reported to you on an information return.

You are a direct seller if you meet all the following conditions.

1. You are engaged in one of the following trades or businesses.
 - a. Selling or soliciting the sale of consumer products either in a home or other place that is not a permanent retail establishment, or to any buyer on a buy-sell basis or a deposit-commission basis for resale in a home or other place of business that is not a permanent retail establishment.
 - b. Delivering or distributing newspapers or shopping news (including any services directly related to that trade or business).
2. Substantially all your pay (whether paid in cash or not) for services described above is directly related to sales or other output (including performance of services) rather than to the number of hours worked.
3. Your services are performed under a written contract between you and the person for whom you perform the services, and the contract provides that you will not be treated as an employee for federal tax purposes.

Executor or administrator. If you administer a deceased person's estate, your fees are reported on Schedule C or C-EZ if you are one of the following:

1. A professional fiduciary.
2. A nonprofessional fiduciary (personal representative) and both of the following apply.
 - a. The estate includes an active trade or business in which you actively participate.
 - b. Your fees are related to the operation of that trade or business.
3. A nonprofessional fiduciary of a single estate that requires extensive managerial activities on your part for a long period of time, provided these activities are enough to be considered a trade or business.

If the fees do not meet the above requirements, report them on line 21 of Form 1040.

Fishing crew member. If you are a member of the crew that catches fish or other water life, your earnings are reported on Schedule C or C-EZ if you meet all the requirements shown in chapter 10 under *Fishing crew member*.

Insurance agent, former. Termination payments you receive as a former self-employed insurance agent from an insurance company because of services you performed for that company are not reported on Schedule C or C-EZ if all the following conditions are met.

- You received payments after your agreement to perform services for the company ended.
- You did not perform any services for the company after your service agreement ended and before the end of the year in which you received the payment.
- You entered into a covenant not to compete against the company for at least a 1-year period beginning on the date your service agreement ended.
- The amount of the payments depended primarily on policies sold by you or credited to your account during the last year of your service agreement or the extent to which those policies remain in force for some period after your service agreement ended, or both.
- The amount of the payment did not depend to any extent on length of service or overall earnings from services performed for the company (regardless of whether eligibility for the payments depended on length of service).

Insurance agent, retired. Income paid by an insurance company to a retired self-employed insurance agent based on a percentage of commissions received before retirement is reported on Schedule C or C-EZ. Also, renewal commissions and deferred commissions for sales made before retirement are generally reported on Schedule C or C-EZ.

However, renewal commissions paid to the survivor of an insurance agent are not reported on Schedule C or C-EZ.

Newspaper carrier or distributor. You are a direct seller and your earnings are reported on Schedule C or C-EZ if all the following conditions apply.

- You are in the business of delivering or distributing newspapers or shopping news (including directly related services such as soliciting customers and collecting receipts).
- Substantially all your pay for these services directly relates to your sales or other output rather than to the number of hours you work.
- You perform the services under a written contract that says you will not be treated as an employee for federal tax purposes.

This rule applies whether or not you hire others to help you make deliveries. It also applies whether you buy the papers from the publisher or are paid based on the number of papers you deliver.

Newspaper or magazine vendor. If you are 18 or older and you sell newspapers or magazines, your earnings are

reported on Schedule C or C-EZ if all the following conditions apply.

- You sell newspapers or magazines to ultimate consumers.
- You sell them at a fixed price.
- Your earnings are based on the difference between the sales price and your cost of goods sold.

This rule applies whether or not you are guaranteed a minimum amount of earnings. It also applies whether or not you receive credit for unsold newspapers or magazines you return to your supplier.

Notary public. Fees you receive for services you perform as a notary public are reported on Schedule C or C-EZ.

Public official. Public officials generally do not report what they earn for serving in public office on Schedule C or C-EZ. This rule applies to payments received by an elected tax collector from state funds on the basis of a fixed percentage of the taxes collected. Public office includes any elective or appointive office of the United States or its possessions, the District of Columbia, a state or its political subdivisions, or a wholly owned instrumentality of any of these.

Public officials of state or local governments report their fees on Schedule C or C-EZ if they are paid solely on a fee basis and if their services are eligible for, but not covered by, social security under a federal-state agreement.

Real estate agent or direct seller. If you are a licensed real estate agent or a direct seller, your earnings are reported on Schedule C or C-EZ if both the following apply.

- Substantially all your pay for services as a real estate agent or direct seller directly relates to your sales or other output rather than to the number of hours you work.
- You perform the services under a written contract that says you will not be treated as an employee for federal tax purposes.

Securities dealer. If you are a dealer in options or commodities, your gains and losses from dealing or trading in section 1256 contracts (regulated futures contracts, foreign currency contracts, nonequity options, dealer equity options, and dealer securities futures contracts) or property related to those contracts (such as stock used to hedge options) are reported on Schedule C or C-EZ. For more information, see sections 1256 and 1402(i).

Securities trader. You are a trader in securities if you are engaged in the business of buying and selling securities for your own account. As a trader in securities, your gain or loss from the disposition of securities is not reported on Schedule C or C-EZ. However, see *Dealer in Securities*, earlier, for an exception that applies to section 1256 contracts. For more information about traders in securities, see Publication 550, Investment Income and Expenses.

Accounting for Your Income

Accounting for your income for income tax purposes differs at times from accounting for financial purposes. This section discusses some of the more common differences that may affect business transactions.

Figure your business income on the basis of a tax year and according to your regular method of accounting (see chapter 2). If the sale of a product is an income-producing factor in your business, you usually have to use inventories to clearly show your income. Dealers in real estate are not allowed to use inventories. For more information on inventories, see chapter 2.

Income paid to a third party. All income you earn is taxable to you. You cannot avoid tax by having the income paid to a third party.

Example. You rent out your property and the rental agreement directs the lessee to pay the rent to your son. The amount paid to your son is gross income to you.

Cash discounts. These are amounts the seller permits you to deduct from the invoice price for prompt payment. For income tax purposes, you can use either of the following two methods to account for cash discounts.

1. Deduct the cash discount from purchases (see *Line 36, Purchases Less Cost of Items Withdrawn for Personal Use in chapter 6*).
2. Credit the cash discount to a discount income account.

You must use the chosen method every year for all your purchase discounts.

If you use the second method, the credit balance in the account at the end of your tax year is business income. Under this method, you do not reduce the cost of goods sold by the cash discounts you received. When valuing your closing inventory, you cannot reduce the invoice price of merchandise on hand at the close of the tax year by the average or estimated discounts received on the merchandise.

Trade discounts. These are reductions from list or catalog prices and usually are not written into the invoice or charged to the customer. Do not enter these discounts on your books of account. Instead, use only the net amount as the cost of the merchandise purchased. For more information, see *Trade discounts* in chapter 6.

Payment placed in escrow. If the buyer of your property places part or all of the purchase price in escrow, you do not include any part of it in gross sales until you actually or constructively receive it. However, upon completion of the terms of the contract and the escrow agreement, you will have taxable income, even if you do not accept the money until the next year.

Sales returns and allowances. Credits you allow customers for returned merchandise and any other al-

lowances you make on sales are deductions from gross sales in figuring net sales.

Advance payments. Special rules dealing with an accrual method of accounting for payments received in advance are discussed in chapter 2 under *Accrual Method*.

Insurance proceeds. If you receive insurance or another type of reimbursement for a casualty or theft loss, you must subtract it from the loss when you figure your deduction. You cannot deduct the reimbursed part of a casualty or theft loss.

For information on casualty or theft losses, see Publication 547, *Casualties, Disasters, and Thefts*.

6.

How To Figure Cost of Goods Sold

Introduction

If you make or buy goods to sell, you can deduct the cost of goods sold from your gross receipts on Schedule C. However, to determine these costs, you must value your inventory at the beginning and end of each tax year.

This chapter applies to you if you are a manufacturer, wholesaler, or retailer or if you are engaged in any business that makes, buys, or sells goods to produce income. This chapter does not apply to a personal service business, such as the business of a doctor, lawyer, carpenter, or painter. However, if you work in a personal service business and also sell or charge for the materials and supplies normally used in your business, this chapter applies to you.



If you must account for an inventory in your business, you must generally use an accrual method of accounting for your purchases and sales. For more information, see chapter 2.

Figuring Cost of Goods Sold on Schedule C Lines 35 Through 42

Figure your cost of goods sold by filling out lines 35 through 42 of Schedule C. These lines are reproduced below and are explained in the discussion that follows.

35	Inventory at beginning of year. If different from last year's closing inventory, attach explanation	_____
36	Purchases less cost of items withdrawn for personal use	_____
37	Cost of labor. Do not include any amounts paid to yourself	_____
38	Materials and supplies	_____
39	Other costs	=====
40	Add lines 35 through 39	_____
41	Inventory at end of year	=====
42	Cost of goods sold. Subtract line 41 from line 40. Enter the result here and on page 1, line 4	=====

Line 35 Inventory at Beginning of Year

If you are a merchant, beginning inventory is the cost of merchandise on hand at the beginning of the year that you will sell to customers. If you are a manufacturer or producer, it includes the total cost of raw materials, work in process, finished goods, and materials and supplies used in manufacturing the goods (see *Inventories* in chapter 2).

Opening inventory usually will be identical to the closing inventory of the year before. You must explain any difference in a schedule attached to your return.

Donation of inventory. If you contribute inventory (property that you sell in the course of your business), the amount you can claim as a contribution deduction is the smaller of its fair market value on the day you contributed it or its basis. The basis of donated inventory is any cost incurred for the inventory in an earlier year that you would otherwise include in your opening inventory for the year of the contribution. You must remove the amount of your contribution deduction from your opening inventory. It is not part of the cost of goods sold.

If the cost of donated inventory is not included in your opening inventory, the inventory's basis is zero and you cannot claim a charitable contribution deduction. Treat the inventory's cost as you would ordinarily treat it under your method of accounting. For example, include the purchase price of inventory bought and donated in the same year in the cost of goods sold for that year.

Note. See Publication 4492, Tax Information Related To Hurricane Katrina, for information on donations of food inventory to Hurricane Katrina victims.

Example 1. You are a calendar year taxpayer who uses an accrual method of accounting. In 2005 you contributed property from inventory to a church. It had a fair market value of \$600. The closing inventory at the end of 2004 properly included \$400 of costs due to the acquisition of the property, and in 2004, you properly deducted \$50 of administrative and other expenses attributable to the property as business expenses. The charitable contribution allowed for 2005 is \$400 (\$600 – \$200). The \$200 is the amount that would be ordinary income if you had sold the contributed inventory at fair market value on the date of the gift. The cost of goods sold you use in determining gross

income for 2005 must not include the \$400. You remove that amount from opening inventory for 2005.

Example 2. If, in Example 1, you acquired the contributed property in 2005 at a cost of \$400, you would include the \$400 cost of the property in figuring the cost of goods sold for 2005 and deduct the \$50 of administrative and other expenses attributable to the property for that year. You would not be allowed any charitable contribution deduction for the contributed property.

Line 36 Purchases Less Cost of Items Withdrawn for Personal Use

If you are a merchant, use the cost of all merchandise you bought for sale. If you are a manufacturer or producer, this includes the cost of all raw materials or parts purchased for manufacture into a finished product.

Trade discounts. The differences between the stated prices of articles and the actual prices you pay for them are called trade discounts. You must use the prices you pay (not the stated prices) in figuring your cost of purchases. Do not show the discount amount separately as an item in gross income.

An automobile dealer must record the cost of a car in inventory reduced by a manufacturer's rebate that represents a trade discount.

Cash discounts. Cash discounts are amounts your suppliers let you deduct from your purchase invoices for prompt payments. There are two methods of accounting for cash discounts. You can either credit them to a separate discount account or deduct them from total purchases for the year. Whichever method you use, you must be consistent. If you want to change your method of figuring inventory cost, you must file Form 3115, Application for Change in Accounting Method. For more information, see *Change in Accounting Method* in chapter 2.

If you credit cash discounts to a separate account, you must include this credit balance in your business income at the end of the tax year. If you use this method, do not reduce your cost of goods sold by the cash discounts.

Purchase returns and allowances. You must deduct all returns and allowances from your total purchases during the year.

Merchandise withdrawn from sale. If you withdraw merchandise for your personal or family use, you must exclude this cost from the total amount of merchandise you bought for sale. Do this by crediting the purchases or sales account with the cost of merchandise you withdraw for personal use. You should charge the amount to your drawing account.

A drawing account is a separate account you should keep to record the business income you withdraw to pay for personal and family expenses. As stated above, you also use it to record withdrawals of merchandise for personal or family use. This account is also known as a "withdrawals account" or "personal account."

Line 37 Cost of Labor

Labor costs are usually an element of cost of goods sold only in a manufacturing or mining business. Small merchandisers (wholesalers, retailers, etc.) usually do not have labor costs that can properly be charged to cost of goods sold. In a manufacturing business, labor costs properly allocable to the cost of goods sold include both the direct and indirect labor used in fabricating the raw material into a finished, saleable product.

Direct labor. Direct labor costs are the wages you pay to those employees who spend all their time working directly on the product being manufactured. They also include a part of the wages you pay to employees who work directly on the product part time if you can determine that part of their wages.

Indirect labor. Indirect labor costs are the wages you pay to employees who perform a general factory function that does not have any immediate or direct connection with making the saleable product, but that is a necessary part of the manufacturing process.

Other labor. Other labor costs not properly chargeable to the cost of goods sold can be deducted as selling or administrative expenses. Generally, the only kinds of labor costs properly chargeable to your cost of goods sold are the direct or indirect labor costs and certain other costs treated as overhead expenses properly charged to the manufacturing process, as discussed later under *Line 39 Other Costs*.

Line 38 Materials and Supplies

Materials and supplies, such as hardware and chemicals, used in manufacturing goods are charged to cost of goods sold. Those that are not used in the manufacturing process are treated as deferred charges. You deduct them as a business expense when you use them. Business expenses are discussed in chapter 8.

Line 39 Other Costs

Examples of other costs incurred in a manufacturing or mining process that you charge to your cost of goods sold are as follows.

Containers. Containers and packages that are an integral part of the product manufactured are a part of your cost of goods sold. If they are not an integral part of the manufactured product, their costs are shipping or selling expenses.

Freight-in. Freight-in, express-in, and cartage-in on raw materials, supplies you use in production, and merchandise you purchase for sale are all part of cost of goods sold.

Overhead expenses. Overhead expenses include expenses such as rent, heat, light, power, insurance, depreciation, taxes, maintenance, labor, and supervision. The

overhead expenses you have as direct and necessary expenses of the manufacturing operation are included in your cost of goods sold.

Line 40 Add Lines 35 through 39

The total of lines 35 through 39 equals the cost of the goods available for sale during the year.

Line 41 Inventory at End of Year

Subtract the value of your closing inventory (including, as appropriate, the allocable parts of the cost of raw materials and supplies, direct labor, and overhead expenses) from line 40. Inventory at the end of the year is also known as closing or ending inventory. Your ending inventory will usually become the beginning inventory of your next tax year.

Line 42 Cost of Goods Sold

When you subtract your closing inventory (inventory at the end of the year) from the cost of goods available for sale, the remainder is your cost of goods sold during the tax year.

7.

Figuring Gross Profit

Introduction

After you have figured the gross receipts from your business (chapter 5) and the cost of goods sold (chapter 6), you are ready to figure your gross profit. You must determine gross profit before you can deduct any business expenses. These expenses are discussed in chapter 8.

If you are filing Schedule C-EZ, your gross profit is your gross receipts plus certain other amounts, explained later under *Additions to Gross Profit*.

Businesses that sell products. If you are filing Schedule C, figure your gross profit by first figuring your net receipts. Figure net receipts on Schedule C by subtracting any returns and allowances (line 2) from gross receipts (line 1). Returns and allowances include cash or credit refunds you make to customers, rebates, and other allowances off the actual sales price.

Next, subtract the cost of goods sold (line 4) from net receipts (line 3). The result is the gross profit from your business.

Businesses that sell services. You do not have to figure the cost of goods sold if the sale of merchandise is not an income-producing factor for your business. Your gross profit is the same as your net receipts (gross receipts minus any refunds, rebates, or other allowances). Most professions and businesses that sell services rather than products can figure gross profit directly from net receipts in this way.

Illustration. This illustration of the gross profit section of the income statement of a retail business shows how gross profit is figured.

**Income Statement
Year Ended December 31, 2005**

Gross receipts	\$400,000
Minus: Returns and allowances	14,940
Net receipts	<u>\$385,060</u>
Minus: Cost of goods sold	288,140
Gross profit	<u>\$96,920</u>

The cost of goods sold for this business is figured as follows:

Inventory at beginning of year	\$37,845
Plus: Purchases	\$285,900
Minus: Items withdrawn for personal use	2,650
Goods available for sale	<u>\$321,095</u>
Minus: Inventory at end of year	32,955
Cost of goods sold	<u>\$288,140</u>

Items To Check

Consider the following items before figuring your gross profit.

Gross receipts. At the end of each business day, make sure your records balance with your actual cash and credit receipts for the day. You may find it helpful to use cash registers to keep track of receipts. You should also use a proper invoicing system and keep a separate bank account for your business.

Sales tax collected. Check to make sure your records show the correct sales tax collected.

If you collect state and local sales taxes imposed on you as the seller of goods or services from the buyer, you must include the amount collected in gross receipts.

If you are required to collect state and local taxes imposed on the buyer and turn them over to state or local governments, you generally do not include these amounts in income.

Inventory at beginning of year. Compare this figure with last year's ending inventory. The two amounts should usually be the same.

Purchases. If you take any inventory items for your personal use (use them yourself, provide them to your family, or give them as personal gifts, etc.) be sure to remove them from the cost of goods sold. For details on how to

adjust cost of goods sold, see *Merchandise withdrawn from sale* in chapter 6.

Inventory at end of year. Check to make sure your procedures for taking inventory are adequate. These procedures should ensure all items have been included in inventory and proper pricing techniques have been used.

Use inventory forms and adding machine tapes as the only evidence for your inventory. Inventory forms are available at office supply stores. These forms have columns for recording the description, quantity, unit price, and value of each inventory item. Each page has space to record who made the physical count, who priced the items, who made the extensions, and who proofread the calculations. These forms will help satisfy you that the total inventory is accurate. They will also provide you with a permanent record to support its validity.

Inventories are discussed in chapter 2.

Testing Gross Profit Accuracy

If you are in a retail or wholesale business, you can check the accuracy of your gross profit figure. First, divide gross profit by net receipts. The resulting percentage measures the average spread between the merchandise cost of goods sold and the selling price.

Next, compare this percentage to your markup policy. Little or no difference between these two percentages shows that your gross profit figure is accurate. A large difference between these percentages may show that you did not accurately figure sales, purchases, inventory, or other items of cost. You should determine the reason for the difference.

Example. Joe Able operates a retail business. On the average, he marks up his merchandise so that he will realize a gross profit of 33 $\frac{1}{3}$ % on its sales. The net receipts (gross receipts minus returns and allowances) shown on his income statement is \$300,000. His cost of goods sold is \$200,000. This results in a gross profit of \$100,000 (\$300,000 – \$200,000). To test the accuracy of this year's results, Joe divides gross profit (\$100,000) by net receipts (\$300,000). The resulting 33 $\frac{1}{3}$ % confirms his markup percentage of 33 $\frac{1}{3}$ %.

Additions to Gross Profit

If your business has income from a source other than its regular business operations, enter the income on line 6 of Schedule C and add it to gross profit. The result is gross business income. If you use Schedule C-EZ, include the income on line 1 of the schedule. Some examples include income from an interest-bearing checking account, income from scrap sales, and amounts recovered from bad debts.

8.

Business Expenses

Introduction

You can deduct the costs of running your business. These costs are known as business expenses. These are costs you do not have to capitalize or include in the cost of goods sold.

To be deductible, a business expense must be both ordinary and necessary. An ordinary expense is one that is common and accepted in your field of business. A necessary expense is one that is helpful and appropriate for your business. An expense does not have to be indispensable to be considered necessary.

For more information about the general rules for deducting business expenses, see chapter 1 in Publication 535, Business Expenses.



If you have an expense that is partly for business and partly personal, separate the personal part from the business part.

Useful Items

You may want to see:

Publication

- **535** Business Expenses

See chapter 12 for information about getting publications and forms.

Bad Debts

If someone owes you money you cannot collect, you have a bad debt. There are two kinds of bad debts, business bad debts and nonbusiness bad debts.

A business bad debt is generally one that comes from operating your trade or business. You may be able to deduct business bad debts as an expense on your business tax return.

Business bad debt. A business bad debt is a loss from the worthlessness of a debt that was either of the following.

1. Created or acquired in your business.
2. Closely related to your business when it became partly or totally worthless.

A debt is closely related to your business if your primary motive for incurring the debt is a business reason.

Business bad debts are mainly the result of credit sales to customers. They can also be the result of loans to suppliers, clients, employees, or distributors. Goods and services customers have not paid for are shown in your books as either accounts receivable or notes receivable. If

you are unable to collect any part of these accounts or notes receivable, the uncollectible part is a business bad debt.



You can take a bad debt deduction for these accounts and notes receivable only if the amount owed you was included in your gross income either for the year the deduction is claimed or for a prior year.

Accrual method. If you use an accrual method of accounting, you normally report income as you earn it. You can take a bad debt deduction for an uncollectible receivable if you have included the uncollectible amount in income.

Cash method. If you use the cash method of accounting, you normally report income when you receive payment. You cannot take a bad debt deduction for amounts owed to you that you have not received and cannot collect if you never included those amounts in income.

More information. For more information about business bad debts, see chapter 11 in Publication 535.

Nonbusiness bad debts. All other bad debts are nonbusiness bad debts and are deductible as short-term capital losses on Schedule D (Form 1040). For more information on nonbusiness bad debts, see Publication 550, Investment Income and Expenses.

Car and Truck Expenses

If you use your car or truck in your business, you may be able to deduct the costs of operating and maintaining your vehicle. You also may be able to deduct other costs of local transportation and traveling away from home overnight on business.



*You may be entitled to a tax credit for an **electric vehicle** or a deduction from gross income for a part of the cost of a **clean-fuel vehicle** you place in service during the year. The vehicle must meet certain requirements and you do not have to use it in your business to qualify for the credit or the deduction. The deduction for clean-fuel vehicles expires on December 31, 2005. This deduction is being replaced by the alternative motor vehicle credit for vehicles purchased after December 31, 2005. For more information, see chapter 12 in Publication 535 and Form 8910.*

Local transportation expenses. Local transportation expenses include the ordinary and necessary costs of all the following.

- Getting from one workplace to another in the course of your business or profession when you are traveling within the city or general area that is your tax home. Tax home is defined later.
- Visiting clients or customers.
- Going to a business meeting away from your regular workplace.

- Getting from your home to a temporary workplace when you have one or more regular places of work. These temporary workplaces can be either within the area of your tax home or outside that area.

Local business transportation does not include expenses you have while traveling away from home overnight. Those expenses are deductible as travel expenses and are discussed later under *Travel, Meals, and Entertainment*. However, if you use your car while traveling away from home overnight, use the rules in this section to figure your car expense deduction.

Generally, your tax home is your regular place of business, regardless of where you maintain your family home. It includes the entire city or general area in which your business or work is located.

Example. You operate a printing business out of rented office space. You use your van to deliver completed jobs to your customers. You can deduct the cost of round-trip transportation between your customers and your print shop.



You cannot deduct the costs of driving your car or truck between your home and your main or regular workplace. These costs are personal commuting expenses.

Office in the home. Your workplace can be your home if you have an office in your home that qualifies as your principal place of business. For more information, see *Business Use of Your Home*, later.

Example. You are a graphics designer. You operate your business out of your home. Your home qualifies as your principal place of business. You occasionally have to drive to your clients to deliver your completed work. You can deduct the cost of the round-trip transportation between your home and your clients.

Methods for Deducting Car and Truck Expenses

For local transportation or overnight travel by car or truck, you generally can use one of the following methods to figure your expenses.

- Standard mileage rate.
- Actual expenses.

Standard mileage rate. You may be able to use the standard mileage rate to figure the deductible costs of operating your car, van, pickup, or panel truck for business purposes. For 2005, the standard mileage rate is 40.5 cents a mile for all business miles driven before September 1, 2005. The rate is 48.5 cents a mile for business miles driven after August 31, 2005, and before January 1, 2006.



If you choose to use the standard mileage rate for a year, you cannot deduct your actual expenses for that year except for business-related parking fees and tolls.

Choosing the standard mileage rate. If you want to use the standard mileage rate for a car or truck you own, you must choose to use it in the first year the car is available for use in your business. In later years, you can choose to use either the standard mileage rate or actual expenses.

If you use the standard mileage rate for a car you lease, you must choose to use it for the entire lease period (including renewals).

Standard mileage rate not allowed. You cannot use the standard mileage rate if you:

1. Use the car for hire (such as a taxi),
2. Operate five or more cars at the same time,
3. Claimed a depreciation deduction using any method other than straight line, for example, ACRS or MACRS,
4. Claimed a section 179 deduction on the car,
5. Claimed the special depreciation allowance on the car,
6. Claimed actual car expenses for a car you leased, or
7. Are a rural mail carrier who received a qualified reimbursement.

Parking fees and tolls. In addition to using the standard mileage rate, you can deduct any business-related parking fees and tolls. (Parking fees you pay to park your car at your place of work are nondeductible commuting expenses.)

Actual expenses. If you do not choose to use the standard mileage rate, you may be able to deduct your actual car or truck expenses.



If you qualify to use both methods, figure your deduction both ways to see which gives you a larger deduction.

Actual car expenses include the costs of the following items.

Depreciation	Lease payments	Registration
Garage rent	Licenses	Repairs
Gas	Oil	Tires
Insurance	Parking fees	Tolls

If you use your vehicle for both business and personal purposes, you must divide your expenses between business and personal use. You can divide your expenses based on the miles driven for each purpose.

Example. You are the sole proprietor of a flower shop. You drove your van 20,000 miles during the year. 16,000 miles were for delivering flowers to customers and 4,000 miles were for personal use. You can claim only 80% (16,000 ÷ 20,000) of the cost of operating your van as a business expense.

More information. For more information about the rules for claiming car and truck expenses, see Publication 463, *Travel, Entertainment, Gift, and Car Expenses*.

Reimbursing Your Employees for Expenses

You generally can deduct the amount you reimburse your employees for car and truck expenses. The reimbursement you deduct and the manner in which you deduct it depend in part on whether you reimburse the expenses under an accountable plan or a nonaccountable plan. For details, see chapter 13 in Publication 535. That chapter explains accountable and nonaccountable plans and tells you whether to report the reimbursement on your employee's Form W-2, Wage and Tax Statement.

Depreciation

If property you acquire to use in your business is expected to last more than one year, you generally cannot deduct the entire cost as a business expense in the year you acquire it. You must spread the cost over more than one tax year and deduct part of it each year on Schedule C. This method of deducting the cost of business property is called depreciation.

The discussion here is brief. You will find more information about depreciation in Publication 946, *How To Depreciate Property*.

What property can be depreciated? You can depreciate property if it meets all the following requirements.

- It must be property you own.
- It must be used in business or held to produce income. You never can depreciate inventory (explained in chapter 2) because it is not held for use in your business.
- It must have a useful life that extends substantially beyond the year it is placed in service.
- It must have a determinable useful life, which means that it must be something that wears out, decays, gets used up, becomes obsolete, or loses its value from natural causes. You never can depreciate the cost of land because land does not wear out, become obsolete, or get used up.
- It must not be excepted property. This includes property placed in service and disposed of in the same year.

Repairs. You cannot depreciate repairs and replacements that do not increase the value of your property, make it more useful, or lengthen its useful life. You can deduct these amounts on line 21 of Schedule C or line 2 of Schedule C-EZ.

Depreciation method. The method for depreciating most business and investment property placed in service after 1986 is called the Modified Accelerated Cost Recovery System (MACRS). MACRS is discussed in detail in Publication 946.

Section 179 deduction. You can elect to deduct a limited amount of the cost of certain depreciable property in the year you place the property in service. This deduction is known as the "section 179 deduction." The maximum amount you can elect to deduct during 2005 is \$105,000. This limit is reduced by the amount by which the cost of the property placed in service during the tax year exceeds \$420,000. The total amount of depreciation (including the section 179 deduction) you can take for a passenger automobile you use in your business and first place in service in 2005 is \$2,960. Special rules apply to electric vehicles and trucks and vans. For more information, see Publication 946. It explains what property qualifies for the deduction, what limits apply to the deduction, and when and how to recapture the deduction.



Your section 179 election for the cost of any sport utility vehicle (SUV) and certain other vehicles is limited to \$25,000. For more information, see the Instructions for Form 4562 or Publication 946.

Limited applicability of special depreciation allowance. The additional special depreciation allowances no longer apply to most property placed in service after December 31, 2004. Generally, you can only claim the special depreciation allowances for certain aircraft and certain property with a long production period. For more information, see Publication 946.

Listed property. Listed property is any of the following.

- Most passenger automobiles.
- Most other property used for transportation.
- Any property of a type generally used for entertainment, recreation, or amusement.
- Certain computers and related peripheral equipment.
- Any cellular telephone (or similar telecommunications equipment).

You must follow special rules and recordkeeping requirements when depreciating listed property. For more information about listed property, see Publication 946.

Form 4562. Use Form 4562, *Depreciation and Amortization*, if you are claiming any of the following.

- Depreciation on property placed in service during the current tax year.
- A section 179 deduction.
- Depreciation on any listed property (regardless of when it was placed in service).



If you have to use Form 4562, you must file Schedule C. You cannot use Schedule C-EZ.

Employees' Pay

You can generally deduct on Schedule C the pay you give your employees for the services they perform for your business. The pay may be in cash, property, or services.

To be deductible, your employees' pay must be an ordinary and necessary expense and you must pay or incur it in the tax year. In addition, the pay must meet both the following tests.

- The pay must be reasonable.
- The pay must be for services performed.

Chapter 2 in Publication 535 explains and defines these requirements.

You cannot deduct your own salary or any personal withdrawals you make from your business. As a sole proprietor, you are not an employee of the business.



If you had employees during the year, you must use Schedule C. You cannot use Schedule C-EZ.

Kinds of pay. Some of the ways you may provide pay to your employees are listed below. For an explanation of each of these items, see chapter 2 in Publication 535.

- Awards.
- Bonuses.
- Education expenses.
- Fringe benefits (discussed later).
- Loans or advances you do not expect the employee to repay if they are for personal services actually performed.
- Property you transfer to an employee as payment for services.
- Reimbursements for employee business expenses.
- Sick pay.
- Vacation pay.

Fringe benefits. A fringe benefit is a form of pay for the performance of services. The following are examples of fringe benefits.

- Benefits under qualified employee benefit programs.
- Meals and lodging.
- The use of a car.
- Flights on airplanes.
- Discounts on property or services.
- Memberships in country clubs or other social clubs.
- Tickets to entertainment or sporting events.

Employee benefit programs include the following.

- Accident and health plans.

- Adoption assistance.
- Cafeteria plans.
- Dependent care assistance.
- Educational assistance.
- Group-term life insurance coverage.
- Welfare benefit funds.

You can generally deduct the cost of fringe benefits you provide on your Schedule C in whatever category the cost falls. For example, if you allow an employee to use a car or other property you lease, deduct the cost of the lease as a rent or lease expense. If you own the property, include your deduction for its cost or other basis as a section 179 deduction or a depreciation deduction.



You may be able to exclude all or part of the fringe benefits you provide from your employees' wages. For more information about fringe benefits and the exclusion of benefits, see Publication 15-B, Employer's Tax Guide to Fringe Benefits.

Insurance

You can generally deduct premiums you pay for the following kinds of insurance related to your business.

1. Fire, theft, flood, or similar insurance.
2. Credit insurance that covers losses from business bad debts.
3. Group hospitalization and medical insurance for employees, including long-term care insurance.
4. Liability insurance.
5. Malpractice insurance that covers your personal liability for professional negligence resulting in injury or damage to patients or clients.
6. Workers' compensation insurance set by state law that covers any claims for bodily injuries or job-related diseases suffered by employees in your business, regardless of fault.
7. Contributions to a state unemployment insurance fund are deductible as taxes if they are considered taxes under state law.
8. Overhead insurance that pays for business overhead expenses you have during long periods of disability caused by your injury or sickness.
9. Car and other vehicle insurance that covers vehicles used in your business for liability, damages, and other losses. If you operate a vehicle partly for personal use, deduct only the part of the insurance premium that applies to the business use of the vehicle. If you use the standard mileage rate to figure your car expenses, you cannot deduct any car insurance premiums.

10. Life insurance covering your employees if you are not directly or indirectly the beneficiary under the contract.
11. Business interruption insurance that pays for lost profits if your business is shut down due to a fire or other cause.

Nondeductible premiums. You cannot deduct premiums on the following kinds of insurance.

1. Self-insurance reserve funds. You cannot deduct amounts credited to a reserve set up for self-insurance. This applies even if you cannot get business insurance coverage for certain business risks. However, your actual losses may be deductible. For more information, see Publication 547, Casualties, Disasters, and Thefts.
2. Loss of earnings. You cannot deduct premiums for a policy that pays for your lost earnings due to sickness or disability. However, see item (8) in the previous list.
3. Certain life insurance and annuities.
 - a. For contracts issued before June 9, 1997, you cannot deduct the premiums on a life insurance policy covering you, an employee, or any person with a financial interest in your business if you are directly or indirectly a beneficiary of the policy. You are included among possible beneficiaries of the policy if the policy owner is obligated to repay a loan from you using the proceeds of the policy. A person has a financial interest in your business if the person is an owner or part owner of the business or has lent money to the business.
 - b. For contracts issued after June 8, 1997, you generally cannot deduct the premiums on any life insurance policy, endowment contract, or annuity contract if you are directly or indirectly a beneficiary. The disallowance applies without regard to whom the policy covers.
4. Insurance to secure a loan. If you take out a policy on your life or on the life of another person with a financial interest in your business to get or protect a business loan, you cannot deduct the premiums as a business expense. Nor can you deduct the premiums as interest on business loans or as an expense of financing loans. In the event of death, the proceeds of the policy are not taxed as income even if they are used to liquidate the debt.

Self-employed health insurance deduction. You may be able to deduct the amount you paid for medical and dental insurance and qualified long-term care insurance for you and your family.

How to figure the deduction. Generally, you can use the worksheet in the Form 1040 instructions to figure your deduction. However, if any of the following apply, you must use the worksheet in chapter 7 of Publication 535.

- You have more than one source of income subject to self-employment tax.
- You file Form 2555 or Form 2555-EZ (relating to foreign earned income).
- You are using amounts paid for qualified long-term care insurance to figure the deduction.

Prepayment. You cannot deduct expenses in advance, even if you pay them in advance. This rule applies to any expense paid far enough in advance to, in effect, create an asset with a useful life extending substantially beyond the end of the current tax year.

Example. In 2005, you signed a 3-year insurance contract. Even though you paid the premiums for 2005, 2006, and 2007 when you signed the contract, you can only deduct the premium for 2005 on your 2005 tax return. You can deduct in 2006 and 2007 the premium allocable to those years.

More information. For more information about deducting insurance, see chapter 7 in Publication 535.

Interest

You can generally deduct as a business expense all interest you pay or accrue during the tax year on debts related to your business. Interest relates to your business if you use the proceeds of the loan for a business expense. It does not matter what type of property secures the loan. You can deduct interest on a debt only if you meet all of the following requirements.

- You are legally liable for that debt.
- Both you and the lender intend that the debt be repaid.
- You and the lender have a true debtor-creditor relationship.

You cannot deduct on Schedule C or C-EZ the interest you paid on personal loans. If a loan is part business and part personal, you must divide the interest between the personal part and the business part.

Example. In 2005, you paid \$600 interest on a car loan. During 2005, you used the car 60% for business and 40% for personal purposes. You are claiming actual expenses on the car. You can only deduct \$360 (60% × \$600) for 2005 on Schedule C or C-EZ. The remaining interest of \$240 is a nondeductible personal expense.

More information. For more information about deducting interest, see chapter 5 in Publication 535. That chapter explains the following items.

- Interest you can deduct.
- Interest you cannot deduct.

- How to allocate interest between personal and business use.
- When to deduct interest.
- The rules for a below-market interest rate loan. (This is generally a loan on which no interest is charged or on which interest is charged at a rate below the applicable federal rate.)

Legal and Professional Fees

Legal and professional fees, such as fees charged by accountants, that are ordinary and necessary expenses directly related to operating your business are deductible on Schedule C or C-EZ. However, you usually cannot deduct legal fees you pay to acquire business assets. Add them to the basis of the property.

If the fees include payments for work of a personal nature (such as making a will), you can take a business deduction only for the part of the fee related to your business. The personal part of legal fees for producing or collecting taxable income, doing or keeping your job, or for tax advice may be deductible on Schedule A (Form 1040) if you itemize deductions. For more information, see Publication 529, Miscellaneous Deductions.

Tax preparation fees. You can deduct on Schedule C or C-EZ the cost of preparing that part of your tax return relating to your business as a sole proprietor or statutory employee. You can deduct the remaining cost on Schedule A (Form 1040) if you itemize your deductions.

You can also deduct on Schedule C or C-EZ the amount you pay or incur in resolving asserted tax deficiencies for your business as a sole proprietor or statutory employee.

Pension Plans

You can set up and maintain the following small business retirement plans for yourself and your employees.

- SEP (Simplified Employee Pension) plans.
- SIMPLE (Savings Incentive Match Plan for Employees) plans.
- Qualified plans (including Keogh or H.R. 10 plans).

SEP, SIMPLE, and qualified plans offer you and your employees a tax favored way to save for retirement. You can deduct contributions you make to the plan for your employees on line 19 of Schedule C. If you are a sole proprietor, you can deduct contributions you make to the plan for yourself on line 28 of Form 1040. You can also deduct trustees' fees if contributions to the plan do not cover them. Earnings on the contributions are generally tax free until you or your employees receive distributions from the plan. You may also be able to claim a tax credit of 50% of the first \$1,000 of qualified startup costs if you begin a new qualified defined benefit or defined contribution plan

(including a 401(k) plan), SIMPLE plan, or simplified employee pension.

Under certain plans, employees can have you contribute limited amounts of their before-tax pay to a plan. These amounts (and earnings on them) are generally tax free until your employees receive distributions from the plan.

For more information on retirement plans for small business, see Publication 560, Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans).



Publication 590, Individual Retirement Arrangements (IRAs), discusses other tax favored ways to save for retirement.

Rent Expense

Rent is any amount you pay for the use of property you do not own. In general, you can deduct rent as a business expense only if the rent is for property you use in your business. If you have or will receive equity in or title to the property, you cannot deduct the rent.

Unreasonable rent. You cannot take a rental deduction for unreasonable rents. Ordinarily, the issue of reasonableness arises only if you and the lessor are related. Rent paid to a related person is reasonable if it is the same amount you would pay to a stranger for use of the same property. Rent is not unreasonable just because it is figured as a percentage of gross receipts.

Related persons include members of your immediate family, including only brothers and sisters (either whole or half), your spouse, ancestors, and lineal descendants. For a list of the other related persons, see Publication 538, Accounting Periods and Methods.

Rent on your home. If you rent your home and use part of it as your place of business, you may be able to deduct the rent you pay for that part. You must meet the requirements for business use of your home. For more information, see *Business Use of Your Home*, later.

Rent paid in advance. Generally, rent paid in your business is deductible in the year paid or accrued. If you pay rent in advance, you can deduct only the amount that applies to your use of the rented property during the tax year. You can deduct the rest of your payment only over the period to which it applies.

More information. For more information about rent, see chapter 4 in Publication 535.

Taxes

You can deduct on Schedule C or C-EZ various federal, state, local, and foreign taxes directly attributable to your business.

Income taxes. You can deduct on Schedule C or C-EZ a state tax on gross income (as distinguished from net income) directly attributable to your business. You can deduct other state and local income taxes on Schedule A

(Form 1040) if you itemize your deductions. Do not deduct federal income tax.

Employment taxes. You can deduct the social security, Medicare, and federal unemployment (FUTA) taxes you paid out of your own funds as an employer. Employment taxes are discussed briefly in chapter 1. You can also deduct payments you made as an employer to a state unemployment compensation fund or to a state disability benefit fund. Deduct these payments as taxes.

Self-employment tax. You can deduct one-half of your self-employment tax on line 27 of Form 1040. Self-employment tax is explained in chapters 1 and 10.

Personal property tax. You can deduct on Schedule C or C-EZ any tax imposed by a state or local government on personal property used in your business.

You can also deduct registration fees for the right to use property within a state or local area.

Example. May and Julius Winter drove their car 7,000 business miles out of a total of 10,000 miles. They had to pay \$25 for their annual state license tags and \$20 for their city registration sticker. They also paid \$235 in city personal property tax on the car, for a total of \$280. They are claiming their actual car expenses. Because they used the car 70% for business, they can deduct 70% of the \$280, or \$196, as a business expense.

Real estate taxes. You can deduct on Schedule C or C-EZ the real estate taxes you pay on your business property. Deductible real estate taxes are any state, local, or foreign taxes on real estate levied for the general public welfare. The taxing authority must base the taxes on the assessed value of the real estate and charge them uniformly against all property under its jurisdiction.

For more information about real estate taxes, see chapter 6 in Publication 535. That chapter explains special rules for deducting the following items.

- Taxes for local benefits, such as those for sidewalks, streets, water mains, and sewer lines.
- Real estate taxes when you buy or sell property during the year.
- Real estate taxes if you use an accrual method of accounting and choose to accrue real estate tax related to a definite period ratably over that period.

Sales tax. Treat any sales tax you pay on a service or on the purchase or use of property as part of the cost of the service or property. If the service or the cost or use of the property is a deductible business expense, you can deduct the tax as part of that service or cost. If the property is merchandise bought for resale, the sales tax is part of the cost of the merchandise. If the property is depreciable, add the sales tax to the basis for depreciation. For information on the basis of property, see Publication 551, Basis of Assets.



Do not deduct state and local sales taxes imposed on the buyer that you must collect and pay over to the state or local government. Do not include these taxes in gross receipts or sales.

Excise taxes. You can deduct on Schedule C or C-EZ all excise taxes that are ordinary and necessary expenses of carrying on your business. Excise taxes are discussed briefly in chapter 1.

Fuel taxes. Taxes on gasoline, diesel fuel, and other motor fuels you use in your business are usually included as part of the cost of the fuel. Do not deduct these taxes as a separate item.

You may be entitled to a credit or refund for federal excise tax you paid on fuels used for certain purposes. For more information, see Publication 378, Fuel Tax Credits and Refunds.

Travel, Meals, and Entertainment

This section briefly explains the kinds of travel and entertainment expenses you can deduct on Schedule C or C-EZ.

Travel expenses. These are the ordinary and necessary expenses of traveling away from home for your business. You are traveling away from home if both the following conditions are met.

1. Your duties require you to be away from the general area of your tax home (defined later) substantially longer than an ordinary day's work.
2. You need to get sleep or rest to meet the demands of your work while away from home.

Generally, your **tax home** is your regular place of business, regardless of where you maintain your family home. It includes the entire city or general area in which your business is located. See Publication 463 for more information.

The following is a brief summary of the expenses you can deduct.

Transportation. You can deduct the cost of travel by airplane, train, bus, or car between your home and your business destination.

Taxi, commuter bus, and limousine. You can deduct fares for these and other types of transportation between the airport or station and your hotel, or between the hotel and your work location away from home.

Baggage and shipping. You can deduct the cost of sending baggage and sample or display material between your regular and temporary work locations.

Car or truck. You can deduct the costs of operating and maintaining your vehicle when traveling away from home on business. You can deduct actual expenses or the standard mileage rate (discussed earlier under *Car and Truck*

Table 8-1. When Are Entertainment Expenses Deductible?

(Note. The following is a summary of the rules for deducting entertainment expenses. For more details about these rules, see Publication 463.)

General rule	You can deduct ordinary and necessary expenses to entertain a client, customer, or employee if the expenses meet the directly-related test or the associated test.
Definitions	<ul style="list-style-type: none"> • Entertainment includes any activity generally considered to provide entertainment, amusement, or recreation, and includes meals provided to a customer or client. • An ordinary expense is one that is common and accepted in your field of business, trade, or profession. • A necessary expense is one that is helpful and appropriate, although not necessarily required, for your business.
Tests to be met	Directly-related test <ul style="list-style-type: none"> • Entertainment took place in a clear business setting, or • Main purpose of entertainment was the active conduct of business, and You did engage in business with the person during the entertainment period, and You had more than a general expectation of getting income or some other specific business benefit
	Associated test <ul style="list-style-type: none"> • Entertainment is associated with your trade or business, and • Entertainment directly precedes or follows a substantial business discussion.
Other rules	<ul style="list-style-type: none"> • You cannot deduct the cost of your meal as an entertainment expense if you are claiming the meal as a travel expense. • You cannot deduct expenses that are lavish or extravagant under the circumstances. • You generally can deduct only 50% of your unreimbursed entertainment expenses.

Expenses), as well as business-related tolls and parking. If you rent a car while away from home on business, you can deduct only the business-use portion of the expenses.

Meals and lodging. You can deduct the cost of meals and lodging if your business trip is overnight or long enough that you need to stop for sleep or rest to properly perform your duties. In most cases, you can deduct only 50% of your meal expenses.

Cleaning. You can deduct the costs of dry cleaning and laundry while on your business trip.

Telephone. You can deduct the cost of business calls while on your business trip, including business communication by fax machine or other communication devices.

Tips. You can deduct the tips you pay for any expense in this list.

More information. For more information about travel expenses, see Publication 463, Travel, Entertainment, Gift, and Car Expenses.

Entertainment expenses. You may be able to deduct business-related entertainment expenses for entertaining a client, customer, or employee. In most cases, you can deduct only 50% of these expenses.

The following are examples of entertainment expenses.

- Entertaining guests at nightclubs, athletic clubs, theaters, or sporting events.

- Providing meals, a hotel suite, or a car to business customers or their families.

To be deductible, the expenses must meet the rules listed in Table 8-1. For details about these rules, see Publication 463.

Reimbursing your employees for expenses. You generally can deduct the amount you reimburse your employees for travel and entertainment expenses. The reimbursement you deduct and the manner in which you deduct it depend in part on whether you reimburse the expenses under an accountable plan or a nonaccountable plan. For details, see chapter 13 in Publication 535. That chapter explains accountable and nonaccountable plans and tells you whether to report the reimbursement on your employee's Form W-2, Wage and Tax Statement.

Business Use of Your Home

To deduct expenses related to the part of your home used for business, you must meet specific requirements. Even then, your deduction may be limited.

To qualify to claim expenses for business use of your home, you must meet the following tests.

1. Your use of the business part of your home must be:
 - a. Exclusive (however, see *Exceptions to exclusive use*, later),
 - b. Regular,
 - c. For your business, and
2. The business part of your home must be one of the following:
 - a. Your principal place of business (defined later),
 - b. A place where you meet or deal with patients, clients, or customers in the normal course of your business, or
 - c. A separate structure (not attached to your home) you use in connection with your business.

Exclusive use. To qualify under the exclusive use test, you must use a specific area of your home only for your trade or business. The area used for business can be a room or other separately identifiable space. The space does not need to be marked off by a permanent partition.

You do not meet the requirements of the exclusive use test if you use the area in question both for business and for personal purposes.

Example. You are an attorney and use a den in your home to write legal briefs and prepare clients' tax returns. Your family also uses the den for recreation. The den is not used exclusively in your profession, so you cannot claim a business deduction for its use.

Exceptions to exclusive use. You do not have to meet the exclusive use test if you use part of your home in either of the following ways.

1. For the storage of inventory or product samples.
2. As a daycare facility.

For an explanation of these exceptions, see Publication 587, *Business Use of Your Home (Including Use by Day-care Providers)*.

Regular use. To qualify under the regular use test, you must use a specific area of your home for business on a continuing basis. You do not meet the test if your business use of the area is only occasional or incidental, even if you do not use that area for any other purpose.

Principal place of business. You can have more than one business location, including your home, for a single trade or business. To qualify to deduct the expenses for the business use of your home under the principal place of business test, your home must be your principal place of business for that business. To determine your principal place of business, you must consider all the facts and circumstances.

Your home office will qualify as your principal place of business for deducting expenses for its use if you meet the following requirements.

- You use it exclusively and regularly for administrative or management activities of your business.
- You have no other fixed location where you conduct substantial administrative or management activities of your business.

Alternatively, if you use your home exclusively and regularly for your business, but your home office does not qualify as your principal place of business based on the previous rules, you determine your principal place of business based on the following factors.

- The relative importance of the activities performed at each location.
- If the relative importance factor does not determine your principal place of business, you can also consider the time spent at each location.

If, after considering your business locations, your home cannot be identified as your principal place of business, you cannot deduct home office expenses. However, for other ways to qualify to deduct home office expenses, see Publication 587.

Deduction limit. If your gross income from the business use of your home equals or exceeds your total business expenses (including depreciation), you can deduct all your business expenses related to the use of your home. If your gross income from the business use is less than your total business expenses, your deduction for certain expenses for the business use of your home is limited.

Your deduction of otherwise nondeductible expenses, such as insurance, utilities, and depreciation (with depreciation taken last), allocable to the business is limited to the gross income from the business use of your home minus the sum of the following.

1. The business part of expenses you could deduct even if you did not use your home for business (such as mortgage interest, real estate taxes, and casualty and theft losses that are allowable as itemized deductions on Schedule A (Form 1040)).
2. The business expenses that relate to the business activity in the home (for example, business phone, supplies, and depreciation on equipment), but not to the use of the home itself.

Do not include in (2) above your deduction for one-half of your self-employment tax.

Use **Form 8829**, *Expenses for Business Use of Your Home*, to figure your deduction.

More information. For more information on deducting expenses for the business use of your home, see Publication 587.

Other Expenses You Can Deduct

You may also be able to deduct the following expenses. See Publication 535 to find out whether you can deduct them.

- Advertising.
- Clean-fuel vehicles and refueling property placed in service before 2006.
- Donations to business organizations.
- Education expenses.
- Energy efficient commercial buildings deduction expenses.
- Environmental cleanup costs.
- Impairment-related expenses.
- Interview expense allowances.
- Licenses and regulatory fees.
- Moving machinery.
- Outplacement services.
- Penalties and fines you pay for late performance or nonperformance of a contract.
- Repairs that keep your property in a normal efficient operating condition.
- Repayments of income.
- Subscriptions to trade or professional publications.
- Supplies and materials.
- Utilities.

Expenses You Cannot Deduct

You usually cannot deduct the following as business expenses. For more information, see Publication 535.

- Bribes and kickbacks.
- Charitable contributions.
- Demolition expenses or losses.
- Dues to business, social, athletic, luncheon, sporting, airline, and hotel clubs.
- Lobbying expenses.
- Penalties and fines you pay to a governmental agency or instrumentality because you broke the law.
- Political contributions.
- Repairs that add to the value of your property or significantly increase its life.

9.

Figuring Net Profit or Loss

Introduction

After figuring your business income and expenses, you are ready to figure the net profit or net loss from your business. You do this by subtracting business expenses from business income. If your expenses are less than your income, the difference is net profit and becomes part of your income on page 1 of Form 1040. If your expenses are more than your income, the difference is a net loss. You usually can deduct it from gross income on page 1 of Form 1040. But in some situations your loss is limited. This chapter briefly explains two of those situations. Other situations that may limit your loss are explained in the instructions for line G and line 32 of Schedule C.



If you have more than one business, you must figure your net profit or loss for each business on a separate Schedule C.

Net Operating Losses (NOLs)

If your deductions for the year are more than your income for the year (line 41 of your Form 1040 is a negative number), you may have a net operating loss (NOL). You can use an NOL by deducting it from your income in another year or years.

Examples of typical losses that may produce an NOL include, but are not limited to, losses incurred from the following.

- Your trade or business.
- Your work as an employee (unreimbursed employee business expenses).
- A casualty or theft.
- Moving expenses.
- Rental property.

A loss from operating a business is the most common reason for an NOL.

For details about NOLs, see Publication 536, Net Operating Losses (NOLs) for Individuals, Estates, and Trusts. It explains how to figure an NOL, when to use it, how to claim an NOL deduction, and how to figure an NOL carryover.

Not-for-Profit Activities

If you do not carry on your business to make a profit, there is a limit on the deductions you can take. You cannot use a

loss from the activity to offset other income. Activities you do as a hobby, or mainly for sport or recreation, come under this limit.

For details about not-for-profit activities, see chapter 1 in Publication 535, Business Expenses. That chapter explains how to determine whether your activity is carried on to make a profit and how to figure the amount of loss you can deduct.

10.

Self-Employment (SE) Tax



The self-employment tax rules apply no matter how old you are and even if you are already receiving social security and Medicare benefits.

Who Must Pay Self-Employment Tax?

Generally, you must pay self-employment (SE) tax and file Schedule SE (Form 1040) if your net earnings from self-employment were \$400 or more. Use Schedule SE to figure net earnings from self-employment.

Sole proprietor or independent contractor. If you are self-employed as a sole proprietor or independent contractor, use Schedule C or C-EZ (Form 1040) to figure your earnings subject to SE tax.

Self-employment (SE) tax rate. The SE tax rate on net earnings is 15.3% (12.4% social security tax plus 2.9% Medicare tax.)

Maximum earnings subject to self-employment tax. Only the first \$90,000 of your combined wages, tips, and net earnings in 2005 is subject to any combination of the 12.4% social security part of SE tax, social security tax, or railroad retirement (tier 1) tax.

All of your combined wages, tips, and net earnings in 2005 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 \$90,000, do not 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.

Special Rules and Exceptions

Aliens. Resident aliens are generally subject to the same rules that apply to U.S. citizens. Nonresident aliens are not

subject to SE tax. Residents of the Virgin Islands, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa, however, are subject to the tax. For SE tax purposes, they are not nonresident aliens. For more information on aliens, see Publication 519, U.S. Tax Guide for Aliens.

Church employee. If you work for a church or a qualified church-controlled organization (other than as a minister or member of a religious order) that elected an exemption from social security and Medicare taxes, you are subject to SE tax if you receive \$108.28 or more in wages from the church or organization. For more information, see Publication 517, Social Security and Other Information for Members of the Clergy and Religious Workers.

Fishing crew member. If you are a member of the crew on a boat that catches fish or other water life, your earnings are subject to SE tax if all the following conditions apply.

1. You do not get any pay for the work except your share of the catch or a share of the proceeds from the sale of the catch, unless the pay meets all the following conditions.
 - a. The pay is not more than \$100 per trip.
 - b. The pay is received only if there is a minimum catch.
 - c. The pay is solely for additional duties (such as mate, engineer, or cook) for which additional cash pay is traditional in the fishing industry.
2. You get a share of the catch or a share of the proceeds from the sale of the catch.
3. Your share depends on the amount of the catch.
4. The boat's operating crew normally numbers fewer than 10 individuals. (An operating crew is considered as normally made up of fewer than 10 if the average size of the crew on trips made during the last four calendar quarters is fewer than 10.)

You are not subject to SE tax if you are under age 18 and you are working for your father or mother.

Notary public. Fees you receive for services you perform as a notary public are reported on Schedule C or C-EZ but are not subject to self-employment tax (see the Instructions for Schedule SE (Form 1040)).

State or local government employee. You are subject to SE tax if you are an employee of a state or local government, are paid solely on a fee basis, and your services are not covered under a federal-state social security agreement.

Foreign government or international organization employee. You are subject to SE tax if both the following conditions are true.

1. You are a U.S. citizen employed in the United States, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands by:

- a. A foreign government,
 - b. A wholly-owned instrumentality of a foreign government, or
 - c. An international organization.
2. Your employer is not required to withhold social security and Medicare taxes from your wages.

U.S. citizen or resident alien residing abroad. If you are a self-employed U.S. citizen or resident alien living outside the United States, in most cases you must pay SE tax. Do not reduce your foreign earnings from self-employment by your foreign earned income exclusion.

Exception. The United States has social security agreements with many countries to eliminate double taxation under two social security systems. Under these agreements, you generally must only pay social security and Medicare taxes to the country you live in. The country to which you must pay the tax will issue a certificate which serves as proof of exemption from social security tax in the other country.

See the Instructions for Schedule SE (Form 1040) for more information.

More Than One Business

If you have earnings subject to SE tax from more than one trade, business, or profession, you must combine the net profit (or loss) from each to determine your total earnings subject to SE tax. A loss from one business reduces your profit from another business.

Community Property Income

If any of the income from a trade or business, other than a partnership, is community property income under state law, it is included in the earnings subject to SE tax of the spouse carrying on the trade or business.

Gain or Loss

Do not include in earnings subject to SE tax a gain or loss from the disposition of property that is neither stock in trade nor held primarily for sale to customers. It does not matter whether the disposition is a sale, exchange, or an involuntary conversion.

Lost Income Payments

If you are self-employed and reduce or stop your business activities, any payment you receive from insurance or other sources for the lost business income is included in earnings subject to SE tax. If you are not working when you receive the payment, it still relates to your business and is included in earnings subject to SE tax, even though your business is temporarily inactive.

Figuring Earnings Subject to Self-Employment (SE) Tax

Methods for Figuring Net Earnings

There are three ways to figure your net earnings from self-employment.

1. The regular method.
2. The nonfarm optional method.
3. The farm optional method.

You must use the regular method unless you are eligible to use one or both of the optional methods.

Why use an optional method? You may want to use the optional methods (discussed later) when you have a loss or a small net profit and any one of the following applies.

- You want to receive credit for social security benefit coverage.
- You incurred child or dependent care expenses for which you could claim a credit. (An optional method may increase your earned income, which could increase your credit.)
- You are entitled to the earned income credit. (An optional method may increase your earned income, which could increase your credit.)
- You are entitled to the additional child tax credit. (An optional method may increase your earned income, which could increase your credit.)

Effects of using an optional method. Using an optional method could increase your SE tax. Paying more SE tax could result in your getting higher benefits when you retire.

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 earnings in gross income, regardless of which method you use to determine SE tax.

Regular Method

Multiply your total earnings subject to SE tax 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.

Net earnings figured using the regular method are also called actual net earnings.

Nonfarm Optional Method

Use the nonfarm optional method only for earnings that do not come from farming. You may use this method if you meet all the following tests.

1. You are self-employed on a regular basis. This means that your actual net earnings from self-employment were \$400 or more in at least 2 of the 3 tax years before the one for which you use this method. The net earnings can be from either farm or nonfarm earnings or both.
2. You have used this method less than 5 years. (There is a 5-year lifetime limit.) The years do not have to be one after another.
3. Your net nonfarm profits were:
 - a. Less than \$1,733, and
 - b. Less than 72.189% of your gross nonfarm income.

Net nonfarm profits. Net nonfarm profit generally is the total of the amounts from:

- Line 31, Schedule C (Form 1040),
- Line 3, Schedule C-EZ (Form 1040),
- Box 14, code A, Schedule K-1 (Form 1065), (from nonfarm partnerships), and
- Box 9, code K1, Schedule K-1 (Form 1065-B).

However, you may need to adjust the amount reported on Schedule K-1 if you are a general partner or if it is a loss.

Gross nonfarm income. Your gross nonfarm income generally is the total of the amounts from:

- Line 7, Schedule C (Form 1040),
- Line 1, Schedule C-EZ (Form 1040),
- Box 14, code C, Schedule K-1 (Form 1065) (from nonfarm partnerships), and
- Box 9, code K2, Schedule K-2 (Form 1065-B).

Figuring Nonfarm Net Earnings

If you meet the three tests explained earlier, use the following table to figure your net earnings from self-employment under the nonfarm optional method.

Table 10-1. Figuring Nonfarm Net Earnings

IF your gross nonfarm income is ...	THEN your net earnings are equal to ...
\$2,400 or less	Two-thirds of your gross nonfarm income.
More than \$2,400	\$1,600

Actual net earnings. Your actual net earnings are 92.35% of your total earnings subject to SE tax (that is, multiply total earnings subject to SE tax by 92.35% (.9235) to get actual net earnings). Actual net earnings are

equivalent to net earnings figured using the regular method.

Optional net earnings less than actual net earnings. You cannot use this method to report an amount less than your actual net earnings from self-employment.

Gross nonfarm income of \$2,400 or less. The following examples illustrate how to figure net earnings when gross nonfarm income is \$2,400 or less.

Example 1. Net nonfarm profit less than \$1,733 and less than 72.189% of gross nonfarm income. Ann Green runs a craft business. Her actual net earnings from self-employment were \$800 in 2003 and \$900 in 2004. She meets the test for being self-employed on a regular basis. She has used the nonfarm optional method less than 5 years. Her gross income and net profit in 2005 are as follows:

Gross nonfarm income	\$2,100
Net nonfarm profit	\$1,200

Ann's actual net earnings for 2005 are \$1,108 ($\$1,200 \times .9235$). Because her net profit is less than \$1,733 and less than 72.189% of her gross income, she can use the nonfarm optional method to figure net earnings of \$1,400 ($\frac{2}{3} \times \$2,100$). Because these net earnings are higher than her actual net earnings, she can report net earnings of \$1,400 for 2005.

Example 2. Net nonfarm profit less than \$1,733 but not less than 72.189% of gross nonfarm income. Assume that in Example 1 Ann's gross income is \$1,000 and her net profit is \$800. She must use the regular method to figure her net earnings. She cannot use the nonfarm optional method because her net profit is not less than 72.189% of her gross income.

Example 3. Net loss from a nonfarm business. Assume that in Example 1 Ann has a net loss of \$700. She can use the nonfarm optional method and report \$1,400 ($\frac{2}{3} \times \$2,100$) as her net earnings.

Example 4. Nonfarm net earnings less than \$400. Assume that in Example 1 Ann has gross income of \$525 and a net profit of \$175. In this situation, she would not pay any SE tax under either the regular method or the nonfarm optional method because her net earnings under both methods are less than \$400.

Gross nonfarm income of more than \$2,400. The following examples illustrate how to figure net earnings when gross nonfarm income is more than \$2,400.

Example 1. Net nonfarm profit less than \$1,733 and less than 72.189% of gross nonfarm income. John White runs an appliance repair shop. His actual net earnings from self-employment were \$10,500 in 2003 and \$9,500 in 2004. He meets the test for being self-employed on a regular basis. He has used the nonfarm optional method less than 5 years. His gross income and net profit in 2005 are as follows:

Gross nonfarm income	\$12,000
Net nonfarm profit	\$1,200

John's actual net earnings for 2005 are \$1,108 (\$1,200 × .9235). Because his net profit is less than \$1,733 and less than 72.189% of his gross income, he can use the nonfarm optional method to figure net earnings of \$1,600. Because these net earnings are higher than his actual net earnings, he can report net earnings of \$1,600 for 2005.

Example 2. Net nonfarm profit not less than \$1,733. Assume that in Example 1 John's net profit is \$1,800. He must use the regular method. He cannot use the nonfarm optional method because his net nonfarm profit is not less than \$1,733.

Example 3. Net loss from a nonfarm business. Assume that in Example 1 John has a net loss of \$700. He can use the nonfarm optional method and report \$1,600 as his net earnings from self-employment.

Farm Optional Method

Use the farm optional method only for earnings from a farming business. See Publication 225 for information about this method.

Using Both Optional Methods

If you have both farm and nonfarm earnings, you may be able to use both optional methods to determine your net earnings from self-employment.

To figure your net earnings using both optional methods, you must:

- Figure your farm and nonfarm net earnings separately under each method. Do not combine farm earnings with nonfarm earnings to figure your net earnings under either method.
- Add the net earnings figured under each method to arrive at your total net earnings from self-employment.

You can report less than your total actual farm and nonfarm net earnings but not less than actual nonfarm net earnings. If you use both optional methods, you can report no more than \$1,600 as your combined net earnings from self-employment.

Example. You are a self-employed farmer. You also operate a retail grocery store. Your gross income, actual net earnings from self-employment, and optional farm and optional nonfarm net earnings from self-employment are shown in Table 10-2.

Table 10-2. Example—Farm and Nonfarm Earnings

Income and Earnings	Farm	Nonfarm
Gross income	\$1,200	\$1,500
Actual net earnings	\$900	\$500
Optional net earnings (2/3 of gross income)	\$800	\$1,000

Table 10-3 shows four methods or combinations of methods you can use to figure net earnings from self-employment using the farm and nonfarm gross income and actual net earnings shown in Table 5.

- Method 1. Using the regular method for both farm and nonfarm income.
- Method 2. Using the optional method for farm income and the regular method for nonfarm income.
- Method 3. Using the regular method for farm income and the optional method for nonfarm income.
- Method 4. Using the optional method for both farm and nonfarm income.

Note. Actual net earnings is the same as net earnings figured using the regular method.

Table 10-3. Example—Net Earnings

Net Earnings	1	2	3	4
Actual farm	\$ 900		\$ 900	
Optional farm		\$ 800		\$ 800
Actual nonfarm	\$ 500	\$ 500		
Optional nonfarm			\$1,000	\$1,000
Amount you can report:	\$1,400	\$1,300	\$1,900	\$1,600*

*Limited to \$1,600 because you used both optional methods.

Fiscal Year Filer

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, continue to use the same rate and limit throughout your tax year.

Reporting Self-Employment Tax

Use Schedule SE (Form 1040) to figure and report your SE tax. Then enter the SE tax on line 58 of Form 1040 and attach Schedule SE to Form 1040.

Most taxpayers can use Section A-Short Schedule SE to figure their SE tax. However, certain taxpayers must use Section B-Long Schedule SE.



If you have to pay SE tax, you must file Form 1040 (with Schedule SE attached) even if you do not otherwise have to file a federal income tax return.

Joint return. If you file a joint return, you cannot file a joint Schedule SE. This is true whether one spouse or both spouses have earnings subject to SE tax. If both of you have earnings subject to SE tax, each of you must complete a separate Schedule SE. However, if one spouse uses the Short Schedule SE and the other spouse has to use the Long Schedule SE, both can use the same form. Attach both schedules to the joint return.

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 figure your SE tax. A loss from one business will reduce your profit from another business. File one Schedule SE showing the earnings from self-employment, but file a separate Schedule C, C-EZ, or F for each business.

Example. You are the sole proprietor of two separate businesses. You operate a restaurant that made a net profit of \$25,000. You also have a cabinetmaking business that had a net loss of \$500. You must file a Schedule C for the restaurant showing your net profit of \$25,000 and another Schedule C for the cabinetmaking business showing your net loss of \$500. You file Schedule SE showing total earnings subject to SE tax of \$24,500.

11.

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, fair, and courteous manner, you should tell that employee's supervisor. If the supervisor's response is not satisfactory, you should write to the IRS director for your area or the center where you file your return.

Representation. You can either represent yourself or, with proper written authorization, have someone else represent you in your place. Your representative must be a person allowed to practice before the IRS, such as an attorney, certified public accountant, or enrolled agent. If you are in an interview and ask to consult such a person, then we must stop and reschedule the interview in most cases.

You can have someone accompany you at an interview. You can make sound recordings of any meetings with our examination, appeal, 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. If you cannot pay all of your tax when it is due, you may be able to make monthly installment payments.

Help with unresolved tax problems. The Taxpayer Advocate Service can help you if you have tried unsuccessfully to resolve a problem with the IRS. Your local Taxpayer Advocate can offer you special help if you have a significant hardship as a result of a tax problem. For more information, call toll free 1-877-777-4778 (1-800-829-4059 for TTY/TDD) or write to the Taxpayer Advocate at the IRS office that last contacted you.

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 Appeals Office to review your case. You can also ask a court to review your case.

Relief from certain penalties and interest. 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. We will waive interest that is the result of certain errors or delays caused by an IRS employee.

Examinations, Appeals, Collections, and Refunds

Examinations (audits). We accept most taxpayers' 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.

The process of selecting a return for examination usually begins in one of two ways. First, we use computer programs to identify returns that may have incorrect amounts. These programs may be based on information returns, such as Forms 1099 and W-2, on studies of past examinations, or on certain issues identified by compliance projects. Second, we use information from outside sources that indicates that a return may have incorrect amounts. These sources may include newspapers, public records, and individuals. If we determine that the information is accurate and reliable, we may use it to select a return for examination.

Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund, explains the rules and procedures that we follow in examinations. The following sections give an overview of how we conduct examinations.

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. You can respond by mail or you can request a personal interview with an examiner. If you mail 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 to us about anything you do not understand.

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. If our examiner proposes any changes to your return, he or she will explain the reasons for the changes. If you do not agree with these changes, you can meet with the examiner's supervisor.

Repeat examinations. If we examined your 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 see if we should discontinue the examination.

Appeals. If you do not agree with the examiner's proposed changes, you can appeal them to the Appeals Office of IRS. Most differences can be settled without expensive and time-consuming court trials. Your appeal rights are explained in detail in both Publication 5, Your Appeal

Rights and How To Prepare a Protest If You Don't Agree, and Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund.

If you do not wish to use the Appeals Office or disagree with its findings, you may be able to 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 you take your case to court, the IRS will have the burden of proving certain facts if you kept adequate records to show your tax liability, cooperated with the IRS, and meet certain other conditions. 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 the appeals system, and you gave us the information necessary to resolve the case.

Collections. Publication 594, The IRS Collection Process, explains your rights and responsibilities regarding payment of federal taxes. It describes:

- What to do when you owe taxes. It describes what to do if you get a tax bill and what to do if you think your bill is wrong. It also covers making installment payments, delaying collection action, and submitting an offer in compromise.
- IRS collection actions. It covers liens, releasing a lien, levies, releasing a levy, seizures and sales, and release of property.

Your collection appeal rights are explained in detail in Publication 1660, Collection Appeal Rights.

Innocent spouse relief. Generally, both you and your spouse are responsible, jointly and individually, for paying the full amount of any tax, interest, or penalties due on your joint return. To seek relief from any liability related to your spouse (or former spouse), you must file a claim on Form 8857, Request for Innocent Spouse Relief. Form 8857 must be filed within 2 years from the IRS's first attempt to collect the tax from you after July 22, 1998, such as by applying your refund from one year to the joint liability. For more information, see Publication 971, Innocent Spouse Relief, and Form 8857.

Refunds. You can 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 original 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.

If you were due a refund but you did not file a return, you must file within 3 years from the date the return was due (including extensions) to get that refund.

12.

How To Get More Information

This section describes the help the IRS and other federal agencies offer to taxpayers who operate their own businesses.

Internal Revenue Service

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

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

The Taxpayer Advocate independently represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels. While Taxpayer Advocates cannot change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

To contact your Taxpayer Advocate:

- Call the Taxpayer Advocate toll free at 1-877-777-4778.
- Call, write, or fax the Taxpayer Advocate office in your area.
- Call 1-800-829-4059 if you are a TTY/TDD user.
- Visit www.irs.gov/advocate.

For more information, see Publication 1546, How to Get Help With Unresolved Tax Problems (now available in Chinese, Korean, Russian, and Vietnamese, in addition to English and Spanish).

Small Business Tax Education Program. Small business owners and other self-employed individuals can learn about business taxes through a unique partnership between the IRS and local organizations. Through workshops or in-depth tax courses, instructors provide training on starting a business, recordkeeping, preparing business tax returns, self-employment tax issues, and employment taxes.

Some courses are offered free as a community service. Courses given by an educational facility may include costs for materials and tuition. Other courses may have a nominal fee to offset administrative costs of sponsoring organizations.

For more information about this program, call the IRS Monday through Friday during regular business hours. Check your telephone book for the local number of the IRS office closest to you or you can call 1-800-829-1040.

Free tax services. To find out what services are available, get Publication 910, IRS Guide to Free Tax Services. It contains a list of free tax publications and an index of tax topics. It also describes other free tax information services, including tax education and assistance programs and a list of TeleTax topics.



Internet. You can access the IRS website 24 hours a day, 7 days a week, at www.irs.gov to:

- *E-file* your return. Find out about commercial tax preparation and *e-file* services available free to eligible taxpayers.
- Check the status of your 2005 refund. Click on *Where's My Refund*. Be sure to wait at least 6 weeks from the date you filed your return (3 weeks if you filed electronically). Have your 2005 tax return available because you will need to know your filing status and the exact whole dollar amount of your refund.
- Download forms, instructions, and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Figure your withholding allowances using our Form W-4 calculator.
- Sign up to receive local and national tax news by email.
- Get information on starting and operating a small business.



Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call 1-800-829-3676 to order current-year forms, instructions, and publications and prior-year forms and instructions. You should receive your order within 10 days.
- *Asking tax questions.* Call the IRS with your tax questions at 1-800-829-1040.
- *Solving problems.* You can get face-to-face help solving tax problems every business day in IRS Taxpayer Assistance Centers. An employee can explain IRS letters, request adjustment to your account, or help you set up a payment plan. Call your local Taxpayer Assistance Center for an appointment. To find the number, go to www.irs.gov/local-contacts or look in the phone book under *United States Government, Internal Revenue Service*.

- **TTY/TDD equipment.** If you have access to TTY/TDD equipment, call 1-800-829-4059 to ask tax or account questions or to order forms and publications.
- **TeleTax topics.** Call 1-800-829-4477 and press 2 to listen to pre-recorded messages covering various tax topics.
- **Refund information.** If you would like to check the status of your 2005 refund, call 1-800-829-4477 and press 1 for automated refund information or call 1-800-829-1954. Be sure to wait at least 6 weeks from the date you filed your return (3 weeks if you filed electronically). Have your 2005 tax return available because you will need to know your filing status and the exact whole dollar amount of your refund.

Evaluating the quality of our telephone services. To ensure that IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to sometimes listen in on or record telephone calls. Another is to ask some callers to complete a short survey at the end of the call.



Walk-in. Many products and services are available on a walk-in basis.

- **Products.** You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, grocery stores, copy centers, city and county governments, credit unions, and office supply stores have a collection of products available to print from a CD-ROM or photocopy from reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.
- **Services.** You can walk in to your local Taxpayer Assistance Center every business day for personal, face-to-face tax help. An employee can explain IRS letters, request adjustments to your tax account, or help you set up a payment plan. If you need to resolve a tax problem, have questions about how the tax law applies to your individual tax return, or you're more comfortable talking with someone in person, visit your local Taxpayer Assistance Center where you can spread out your records and talk with an IRS representative face-to-face. No appointment is necessary, but if you prefer, you can call your local Center and leave a message requesting an appointment to resolve a tax account issue. A representative will call you back within 2 business days to schedule an in-person appointment at your convenience. To find the number, go

to www.irs.gov/localcontacts or look in the phone book under *United States Government, Internal Revenue Service*.



Mail. You can send your order for forms, instructions, and publications to the address below and receive a response within 10 business days after your request is received.

National Distribution Center
P.O. Box 8903
Bloomington, IL 61702-8903



CD-ROM for tax products. You can order Publication 1796, IRS Federal Tax Products CD-ROM, and obtain:

- A CD that is released twice so you have the latest products. The first release ships in late December and the final release ships in late February.
- Current-year tax forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Tax Map: an electronic research tool and finding aid.
- Tax law frequently asked questions (FAQs).
- Tax Topics from the IRS telephone response system.
- Fill-in, print, and save features for most tax forms.
- Internal Revenue Bulletins.
- Toll-free and email technical support.

Buy the CD-ROM from National Technical Information Service (NTIS) at www.irs.gov/cdorders for \$25 (no handling fee) or call 1-877-233-6767 toll free to buy the CD-ROM for \$25 (plus a \$5 handling fee).



CD-ROM for small businesses. Publication 3207, The Small Business Resource Guide CD-ROM for 2005, has a new look and enhanced navigation features. This year's CD includes:

- Helpful information, such as how to prepare a business plan, find financing for your business, and much more.
- All the business tax forms, instructions, and publications needed to successfully manage a business.
- Tax law changes for 2005.
- IRS Tax Map to help you find forms, instructions, and publications by searching on a keyword or topic.
- Web links to various government agencies, business associations, and IRS organizations.
- "Rate the Product" survey—your opportunity to suggest changes for future editions.

An updated version of this CD is available each year in early April. You can get a free copy by calling 1-800-829-3676 or by visiting www.irs.gov/smallbiz.

Small Business Administration

The Small Business Administration (SBA) offers training and educational programs, counseling services, financial programs, and contract assistance for small business owners. The SBA also has publications and videos on a variety of business topics. The following briefly describes assistance provided by the SBA.

Small Business Development Centers (SBDCs). SBDCs provide counseling, training, and technical services to current and prospective small business owners who cannot afford the services of a private consultant. Help is available when beginning, improving, or expanding a small business.

Business Information Centers (BICs). BICs offer a small business reference library, management video tapes, and computer technology to help plan a business. BICs also offer one-on-one assistance. Individuals who are in business or are interested in starting a business can use BICs as often as they wish at no charge.

Service Corps of Retired Executives (SCORE). SCORE provides small business counseling and training to current and prospective small business owners. SCORE is made up of current and former business people who offer their expertise and knowledge to help people start, manage, and expand a small business. SCORE also offers a variety of small business workshops.



Internet. You can access the SBA website at www.sba.gov. While visiting the SBA website, you can find a variety of information of interest to small business owners.



Phone. Call the SBA Answer Desk at 1-800-UASK-SBA (1-800-827-5722) for general information about programs available to assist small business owners.



Walk-in. You can walk in to a Small Business Development Center or Business Information Center to request assistance with your small business. To find the location nearest you, access the SBA on the Internet or call the SBA Answer Desk.

Other Federal Agencies

Other federal agencies also publish publications and pamphlets to assist small businesses. Most of these are available from the Superintendent of Documents at the Government Printing Office. You can get information and order these publications and pamphlets in several ways.



Internet. You can access the GPO website at www.access.gpo.gov.



Mail. Write to the GPO at the following address.

Superintendent of Documents
U.S. Government Printing Office
P.O. Box 371954
Pittsburgh, PA 15250-7954



Phone. Call the GPO toll-free at 1-866-512-1800 or at 202-512-1800 from the Washington, DC area.



A		
Accounting method:		
Accrual	14, 32	
Cash	13, 32	
Change in	17	
Combination	15	
Special	17	
Accounting periods	13	
Accrual method of		
accounting		
Expenses	15	
Income — general rule	14	
Income — special rules	14	
Related persons, special rule	15	
Adjusted basis of property	18	
Administrator	26	
Alternative fuel vehicle refueling credit		
credit	19	
Alternative minimum tax		
tax	21	
Alternative motor vehicle credit		
credit	19	
Appeal rights	47	
Audits	47	
<hr/>		
B		
Bad debt	32	
Barter income	21	
Basis of property	18	
Biodiesel and renewable diesel fuels credit		
credit	19	
Business credits	19	
Business expenses	32	
Business income	21	
<hr/>		
C		
Calendar tax year defined	13	
Canceled debt	23, 24	
Capital gain or loss	18	
Car expenses	32, 33	
Cash discount	28, 29	
Cash method of accounting		
Expenses	14	
Income	13	
Change, accounting method	17	
Changing methods	16	
Claim for refund	47	
Clean-fuel vehicle credit	32	
Collection of tax	47	
Combination method of		
accounting		
Expenses	15	
Comments on publication	4	
Condemned property	19	
Consignments	25	
<hr/>		
Construction allowances		
allowances	25	
Contributions to selected community development corporations, credit for		
credit for	19	
Cost of goods sold		
cost of goods sold	28	
Credit:		
Advanced lean burn technology motor vehicle credit	19	
Alternative fuel vehicle refueling	19	
Alternative motor vehicle	19	
Biodiesel fuels	19	
Clean-fuel vehicle	32	
Contributions to selected community development corporations	19	
Diesel fuels, renewable	19	
Disabled access	20	
Distilled spirits	20	
Electric vehicle	32	
Empowerment zone employment	20	
Enhanced oil recovery	20	
How to claim	21	
Indian coal	21	
Indian employment	20	
Investment	20	
Low sulfur diesel fuel production	20	
Low-income housing	20	
New markets	20	
Nonconventional source fuel	20	
Orphan drug	20	
Qualified alternative fuel motor vehicle credit	19	
Qualified fuel cell motor vehicle credit	19	
Qualified hybrid motor vehicle credit	19	
Qualified railroad track maintenance	20	
Refined coal	21	
Renewable electricity	21	
Research	20	
Taxes paid on certain employee tips	19	
Welfare-to-work	21	
Work opportunity	21	
Credits:		
Business	19	
<hr/>		
D		
Damages as income	25	
Debt	24	
Bad	32	
Canceled	23	
Qualified real property business	24	
Refund offset against	7	
Definitions:		
Accounting methods	13	
Accounting periods	13	
Bartering	21	
Basis	18	
Business bad debt	32	
Cash discount	28, 29	
Dispositions of property	17	
Drawing account	29	
Entertainment expenses	39	
Fair market value	18	
Fringe benefit	35	
Local transportation expenses	32	
Necessary expense	32	
Net operating loss	41	
Nonbusiness bad debt	32	
Ordinary expense	32	
Principal place of business	40	
Qualified long-term real property	26	
Qualified real property business debt	24	
Rent	37	
Restricted property	24	
Retail space	26	
Self-employment (SE) tax	9	
Sole proprietor	3	
Tax home	33	
Tax year	13	
Trade discount	28, 29	
Travel expenses	38	
Depreciation:		
Deduction	34	
Listed property	34	
Special allowance	34	
Depreciation recapture		
Listed property	25	
Section 179 property	25	
Direct seller		
seller	26, 27	
Disabled access credit		
credit	20	
Disposition of property:		
Business property	17	
Installment sale	18, 19	
Like-kind exchange	18, 19, 26	
Nontaxable exchange	18	
Sale of a business	18	
Distilled spirits credit		
credit	20	
Dividend income		
income	23	
Donation of inventory		
donation of inventory	29	
Drawing account		
account	29	

<hr/>		
E		
e-file	7	
Economic injury	25	
EFTPS	9	
Electric vehicle credit	32	
Electronic filing	7	
Employee benefit programs	35	
Employees' pay	35	
Employer identification number (EIN)	6	
Employment taxes:		
About	10	
Deduction for	38	
Empowerment zone employment credit	20	
Energy efficient appliance credit	20	
Energy efficient home credit	20	
Enhanced oil recovery credit	20	
Entertainment expenses	39	
Escrow, payments placed in	28	
Estimated tax	9	
Examinations (audits)	47	
Excise taxes:		
About	10	
Deduction for	38	
Executor	26	
Expenses	32	
<hr/>		
F		
Fair market value	18	
Figuring earnings subject to SE tax	43	
Filing business taxes	6	
Fiscal tax year defined	13	
Fishing crew member	26, 42	
Form:		
1040	7	
1040-ES	9	
1040-V	8	
1099-B	22	
1099-MISC	11, 22	
1128	13	
2210	9	
2290	10	
3115	17	
3468	20	
3800	21	
4562	34	
4684	19	
4797	19, 25	
4868	9	
5884	21	
6251	21	
6252	19	
6765	20	
720	10	
8300	12	
8586	20	
8594	18	
8820	20	
8824	18, 19	
8826	20	
8829	40	
8830	20	
8835	21	
8844	20	
8845	20	
8846	19	
8847	19	
8857	47	
8861	21	
8864	19	
8874	20	
8896	20	
8900	20	
8906	20	
8907	20	
8910	19	
982	24	
Schedule C	7	
Schedule C-EZ	7	
SS-4	6	
SS-5	6	
W-2	11	
W-7	6	
W-9	7	
Fringe benefits	35	
Fuel taxes	38	
<hr/>		
G		
General business credits	19	
Gross profit:		
Accuracy	31	
Additions to	31	
Guidelines for selected occupations	26	
<hr/>		
H		
Health insurance, deduction for self-employed	36	
Help (See Tax help)		
Help from Small Business Administration	50	
Home, business use of	39	
Hotels, boarding houses, and apartments	22	
Husband and wife business	3	
<hr/>		
I		
Identification numbers	6	
Income:		
Accounting for your	28	
Barter	21	
Other	24	
Paid to a third party	28	
Personal property rent	23	
Rental	22, 23	
Income tax:		
About	7	
Deduction for	37	
How to pay	9	
Underpayment penalty	9	
Income tax return, who must file	7	
Independent contractor	10, 42	
Indian employment credit	20	
Individual taxpayer identification number (ITIN)	6	
Information returns	10	
Innocent spouse relief	47	
Installment sales	18	
Insurance:		
Expense	35	
Proceeds	28	
Insurance agent:		
Former	27	
Retired	27	
Interest expense	36	
Interest income	23	
International organization employee	42	
Inventories	15	
Investment credit	20	
IRS mission	4	
<hr/>		
K		
Kickbacks	25, 41	
<hr/>		
L		
Lease bonus	23	
Lease cancellation payments	23	
Legal fees	37	
Like-kind exchanges	18, 26	
Limited liability company	3	
Local transportation expenses	32	
Lodging	39	
Long-term capital gain or loss	18	
Lost income payments	24	
Low sulfur diesel fuel production credit	20	
Low-income housing credit	20	
<hr/>		
M		
Meals	39	
Methods for figuring net earnings	43	
Mileage rate for vehicles	33	
Motor vehicle, alternative credit	19	
<hr/>		
N		
Net operating losses	41	

Net profit or loss	41
New markets credit	20
Newspaper carrier or distributor	27
Newspaper or magazine vendor	27
Nonbusiness bad debt	32
Nonconventional source fuel credit	20
Nondeductible insurance premiums	36
Nonemployee compensation	21
Nontaxable exchanges	18
Not-for-profit activities	41
Notary public	27
<hr/>	
O	
Optional methods, using both	45
Ordinary gain or loss	18
Orphan drug credit	20
Other deductible expenses	41
Other nondeductible expenses	41
<hr/>	
P	
Parking fees	33
Partners, husband and wife	3
Pay, different kinds of	35
Paying:	
Business taxes	6
Income tax	9
Payments to third parties	23
Penalty:	
Failure to file information returns	11
Failure to furnish correct payee statements	11
Underpayment of tax	9
Pension plans	37
Personal property tax	38
Prepaid expense:	
Extends useful life	36
Rent	37
Prepaid rent	23
Professional fees	37
Promissory notes	24
Public official	27
Punitive damages	25
<hr/>	
Q	
Qualified railroad track maintenance credit	20
Qualified real property business debt	24

R	
Real estate agent	27
Real estate dealer	22
Real estate rents	22
Real estate taxes	38
Recovery of deductions	25
Refund, offset against debts	7
Related persons:	
Special rule	15
Unreasonable rent	37
Renewable electricity, refined coal, and Indian coal production credit	21
Rent expense	37
Rental income	22
Repayment of income	14
Reporting self-employment tax	46
Research credit	20
Restricted property	24
Retirement plans	37
<hr/>	
S	
Salaries	35
Sale of a business	18
Sales of assets	17
Sales tax	38
Schedule C	7
Schedule C-EZ	7
Schedule SE, filing requirement	46
SE tax:	
About	9
Aliens	42
Church employee	42
Community property income	43
Deduction for	38
Effects of using an optional method	43
Farm optional method	45
Fiscal year filer	45
Fishing crew member	42
Foreign government employee	42
Gain or loss	43
Joint return	46
Local government employee	42
Lost income payments	43
Maximum earnings	42
Methods for figuring net earnings	43
More than one business	43, 46
Nonfarm optional method	43
Optional methods:	
Farm	45
Nonfarm	43
Rate	42
Regular method	43
Residing abroad	43

Special rules and exceptions	42
State government employee	42
Tax rate	10
Time limit for posting income	9
Who must pay	42
Why use an optional method	43
Section 179 deduction	34
Securities:	
Dealer	27
Trader	27
Self-employed health insurance deduction	36
Self-employment tax (See SE tax)	
Settlement payments	23
Short-term capital gain or loss	18
Small Business Administration	50
Social security coverage	9
Social security number (SSN)	6
Sole proprietor	3, 42
Sport utility vehicle	34
Standard mileage rate	33
Statutory employee	3
Suggestions for publication	4
SUV	34
<hr/>	
T	
Tax help	48
Tax home	33, 38
Tax preparation fees	37
Tax refund:	
Claim for	47
Offset against debts	7
Tax return:	
How to file	7
Who must file	7
Tax year	13
Taxes:	
Deduction for	37
Employment	10, 38
Excise	10, 38
Fuel	38
Income	7, 37
Paid on certain employee tips	19
Personal property	38
Real estate	38
Sales	38
Self-employment	9, 38
Taxpayer Advocate	48
Taxpayer rights	46
Third parties, Payments to	23
Tolls	33
Trade discount	28, 29
Trade or business	3
Trailer park owner	22

Transportation expenses	32	Uniform capitalization rules	16	Work opportunity credit	21
Travel expenses	38				
Truck expenses	32, 33				
<hr/>		<hr/>		<hr/>	
U		W			
Underpayment of tax penalty	9	Wages	35		
		Welfare-to-work credit	21		