

**2010**  
**B A S I C S**  
**CORRESPONDENCE**  
**COURSE**  
**FOR**  
**CONTINUING**  
**EDUCATION**  
  
**BY**  
**TAX EDUCATORS**

**[www.tax-educators.com](http://www.tax-educators.com)**  
**31869 HERMAN ROAD**  
**COBURG, OR 97408**

**TOLL FREE - FAX OR VOICE 866-755-2853**  
**OR**  
**VOICE(only) 541-915-4915**

## **BASICS CORRESPONDENCE COURSE**

Tax Educators correspondence courses are designed for CONTINUING education. The courses are ADVANCED BASIC and not approved for the BASIC course that is required to sit for the Oregon PREPARER exam.

Tax Educator courses are approved for continuing education credit by the Oregon State Board of Tax Service Examiners and the Society of Enrolled Agents.

Tax Educators does not make express or implied warranties in regard to the use of the materials and/or forms. Each tax preparer must depend on his or her own knowledge of the law and expertise in the use or modification of these materials. Preparers must be aware that the laws are constantly changing and this information may be superseded at any time.

Courses are updated annually when new forms are available and are maintained at Federal tax laws that pertain to the current TAX year and the same law that the Oregon Consultants Exam covers.

### **Acknowledgments**

**KLEINROCK - CCH  
IRS Forms and Publications  
IRS Code and Regulations  
J. K. LASSER**

## **TAX EDUCATORS**

**31869 Herman Road, Coburg, OR 97408-9483**

**TOLL FREE - Voice OR FAX: 866-755-2853  
OR  
Voice: 541-915-4915**

## **MARITAL STATUS**

Determined as of end of year (Dec. 31 in most cases)

State law governs whether married, divorced or legally separated under decree of separate maintenance

### **MARRIED IF:**

Married and living together as husband and wife

Living together in common law marriage IF recognized in the State where taxpayers now live OR in the state where the common law marriage BEGAN.

Married and living APART but NOT legally separated under a FINAL decree or separate maintenance.

Separated under interlocutory decree (still married)  
(interlocutory is NOT a FINAL decree).

Annulments - must file as single or head of household and must amend any prior returns that were filed as married.

### **SINGLE:**

Unmarried

Considered single for whole year if ON LAST DAY of tax year taxpayer is unmarried or separated from spouse by divorce or separate maintenance decree.

MAY QUALIFY AS HEAD OF HOUSEHOLD OR QUALIFIED WIDOW(ER)

EXCEPT:

If divorce obtained for sole purpose of filing tax returns as unmarried, AND, at time of divorce **INTEND TO** and **DID** remarry each other in next tax year, must file as MARRIED.

## FILING STATUS

### HEAD OF HOUSEHOLD: (IRS worksheet form 4752)

1. Unmarried as of Dec. 31
2. Paid more than half the cost of keeping up a home that is the principal residence of taxpayer AND of at least **one relative** for **more than half** of the tax year
  - a. Taxpayer's Mother and Father **only**:  
May live in separate house BUT Taxpayer must pay more than half costs to maintain the house for the ENTIRE year in this case.  
  
**THEY MUST BE DEPENDENTS.**  
(Multiple support agreement does NOT qualify)
  - b. **TAXPAYER'S UNMARRIED** child, grand, step, adopted, foster  
  
See 'Qualifying Child' - here-in - page 13  
  
**Must LIVE WITH TAXPAYER**  
  
Do **NOT** have to be dependents  
EXCEPT foster child must be a dependent.
  - c. **ALL OTHER RELATIVES MUST LIVE WITH TAXPAYER AND BE DEPENDENTS**  
(Including married child or married grandchild)  
(Except: married child released by custodial release or pre-85 agreement)

TEMPORARY ABSENCES, BIRTH OR DEATH DO NOT DISQUALIFY THE RELATIVE IF THE CONDITIONS WERE MET DURING LIFE.

### JOINT:

1. Both must have same accounting period
2. May use different accounting methods
3. Held jointly and individually responsible (except Innocent Spouse Rule).  
(See page 4)

## FILING STATUS

### QUALIFIED WIDOW/ER:

1. Second and third year after spouses death
2. Must have been entitled to file joint in year of death
3. Must not have remarried
4. Must have a **dependent child** (step, grand, or adopted included)
5. Must have paid **over half** cost of Maintaining Household for **entire** year for you and qualifying child

### MARRIED FILING SEPARATE:

1. Both must use same filing method (std. or itemized)
2. Can change from separate to joint (amend) but not from joint to separate
3. Can NOT take credit for child care/dependent care in most cases
4. Can NOT take earned income credit
5. Can NOT exclude interest from EE savings bonds issued after 1989 even if used to pay higher education expense in current year.
6. May have to include MORE of SS or equivalent RRT benefits you receive in current year than if filed jointly.
7. Can NOT take the credit for elderly or disabled unless lived apart from spouse for ENTIRE year.
8. Subject to phase-out rules for IRA contributions if other spouse covered by an employer plan
9. May not claim offset of \$25,000 for rental activity losses.

CAUTION: May be qualified to file *Head of Household if* you have a child living with you and lived apart from spouse during the last 6 months of the tax year.

## FILING STATUS

### MARRIED LIVING APART WITH DEPENDENT CHILD (Abandoned Spouse)

Can file as HEAD OF HOUSEHOLD if:

- a) File Separate return
- b) Pay **more than half** the home upkeep costs for the **entire** year
- c) Spouse did not live in home during **last six months** of the tax year
- d) Home was residence for **more than half the year** of a dependent child

Exceptions

See 'Qualifying Child' - here-in - Page 13.:

Child does not have to be claimed as a dependent if due solely to:

Custodial release  
or  
pre-85 agreement

### INNOCENT SPOUSE RELIEF (Form 8857, Publication 971)

May qualify for relief from liability for tax on a joint return if

- i. Understatement of tax because **spouse** omitted income or claimed false deductions or credits.
- ii. Divorced, separated or no longer living with spouse
- iii. Given all the facts and circumstances, it would be unfair to hold liable for the tax.

## CHOOSING FILING STATUS

Most married taxpayers choose to file jointly because of the lower rates, but that choice is not always wise.

Eligibility for credits and deductions and limitations on their amounts may be determined by this choice.

The more equally taxable incomes are split, then more likely it will be that your eligibility to claim a credit or deduction will affect your overall tax liability.

In addition, the following points should be considered in choosing filing status:

- 1) Joint filing prohibits either to be claimed as a dependent on another return (except where neither is required to file a return but do so only to get a refund of tax withheld)
- 2) Pre-divorce alimony may not be deducted on a joint return
- 3) Threshold for taxing excess social security benefits is higher on a joint return than on separate returns
- 4) If community property state, each spouse is generally required to report his or her share of community income on separate returns.
- 5) **You may be entitled to a larger deduction for un-reimbursed employee business expenses and investment expenses if you file separately.**
- 6) You may be entitled to a larger medical or casualty loss if you file separately.
- 7) **YOU LOSE YOUR ENTITLEMENT TO DEDUCT PASSIVE LOSSES FROM ACTIVE RENTAL REAL ESTATE VENTURES AGAINST UP TO \$25,000 OF NON-PASSIVE INCOME IF YOU FILE MARRIED FILING SEPARATELY (Unless you live apart at all times during the tax year)**
- 8) Eligibility for child/dependent care and elderly/disabled credit or earned income credit may be affected by filing status.
- 9) Choice of filing status may determine whether one or both will be subject to Alternative Minimum Tax, particularly if tax preference items are not evenly divided between spouses.

**COST OF MAINTAINING HOUSEHOLD**

**(DO NOT CONFUSE WITH SUPPORT REQUIREMENTS)**

**INCLUDE**

**Rent**

**Mortgage interest**

**Taxes/Ins.on home**

**Utilities**

**Domestic Help**

**Food eaten**

**Repairs on home**

**DO NOT INCLUDE**

**Clothing costs**

**Education**

**Medical**

**Vacations**

**Life Insurance**

**Transportation**

**Rental value of home**

**Value of Services by taxpayer or member  
of household**

**AFDC-Aid to Families with Dependent Children:**

**Included in TOTAL cost of keeping a home but NOT as  
amounts contributed by taxpayer**

## BASIC STANDARD DEDUCTION

Additionally add real estate taxes for 2010

<b>Joint and Surviving Spouse</b>	<b>\$11,400</b>	
<b>Head of Household</b>	<b>\$ 8,350</b>	
<b>Single Individual</b>	<b>\$ 5,700</b>	
<b>Married Filing Separate</b>	<b>\$ 5,700</b>	

## ADDITIONAL STANDARD DEDUCTION FOR 65 OR OVER OR BLIND

This is a special standard deduction, **NOT** an extra EXEMPTION .

**AGE 65:** (Considered 65 the day before 65th birthday)

**BLIND:** If blind on last day of the tax year

Totally blind: Attach physicians statement to first return

Partially blind: Attach statements each year unless it will never improve and cannot see better than 20/200 in better eye with glasses or contacts  
OR field of vision is not more than 20 degrees

If correctable only by contact lenses that can be worn only briefly because of pain, infection or ulcers, may take the blind deduction.

### Special standard deduction IN ADDITION to basic standard deduction

For **EACH** over **65 OR BLIND** condition:

(Double amount shown if BOTH blind and over 65)

Married filing joint, or separate or qual. widow	\$1,100.
Single or head of household	\$1,400.

### ADDITIONAL STANDARD DEDUCTION FOR REAL ESTATE TAXES:

**For 2010: State & Local R.E. Taxes:** Lesser of actual taxes paid or maximum of:  
\$1000. Married, \$500. All others.

**STANDARD DEDUCTIONS FOR AGE 65 OR OLDER AND/OR BLIND**

Caution: If Someone else can claim you as a dependent do NOT use this worksheet

Caution: Do NOT use the number of EXEMPTIONS for this worksheet

Check if:                     Taxpayer over 65                     Taxpayer Blind  
                                   Spouse over 65                     Spouse Blind

Total Checked above \_\_\_\_\_

If filing status is:	And Total number Above is:	Standard Deduction 2010
Single	1	\$7,100.
	2	\$8,500.
Joint or Qual. Widow	1	\$12,500.
	2	\$13,600.
	3	\$14,700.
	4	\$15,800.
(For married filing separate (3) and (4) only apply if taxpayer can claim spouse as a dependent)		
Married Filing Separate	1	\$6,800.
	2	\$7,900.
	3	\$9,000.
	4	\$10,100.
Head of Household	1	\$9,750.
	2	\$11,150.

**If married filing a SEPARATE return and spouse itemizes deductions, or if taxpayer is a dual-status alien -- can not take the standard deduction even if you are over 65 or blind.**

**LIMITED STANDARD DEDUCTION FOR DEPENDENT CLAIMED BY ANOTHER TAXPAYER**

Maximum STANDARD deduction \$950 or **EARNED income PLUS \$300** (greater of)

Can not exceed basic standard deduction.

Single standard deduction is \$5,700 FOR 2010

Example: If claimed by parents but has \$6,000 EARNED income he can **ONLY CLAIM** standard deduction up to \$5,700.

**DEPENDENT OVER 65 OR BLIND**

Minimum standard deduction is (Greater of) **\$950 plus ADDITIONAL standard deduction OR earned income plus \$300** not to exceed basic standard deduction.

**STANDARD DEDUCTION WORKSHEETS FOR DEPENDENTS**

USE THESE WORKSHEETS **ONLY** IF SOMEONE CAN CLAIM YOU AS DEPENDENT

1. Enter dependents EARNED income if over \$650. <b>PLUS \$300</b>	
2. MINIMUM AMOUNT if not over \$650.	950.00
3. Compare amounts on line 1 and 2 and enter LARGER amount	
4. Enter on line 4 the amount shown for your filing status Single = \$5,700 Married filing separate = \$5,700 Married/Joint or Qual. Widow(er) = \$11,400 Head of Household = \$8,350	
5. Compare the amounts on 3 and 4 and enter SMALLER	
6. Enter any net disaster loss from Form 4684 (If amount on this line is over 0 use Schedule L.)NO 1040A	
7. Enter the State and/or Local Real Estate taxes that would be deductible on Schedule A if you were filing Schedule A, that you paid for, Up to \$1,000. For Married Filing Joint or up to \$500 for all others	
8. IF 65 OR OVER OR BLIND, Multiply number of qualified over 65 or blind conditions times applicable number of additional standard deduction for current year. <b>NEW in 2008: Partial Blindness.</b>	
9. Add line 5, 6, 7 & 8 This is your TOTAL STANDARD DEDUCTION for 2010	

**PARTIAL BLINDNESS MUST BE 20/200 or FIELD OF VISION NOT LESS THAN 20 DEGREES MINIMUM SIGHT - CERTIFIED by MD or Optometrist**

**STANDARD DEDUCTION NOT AVAILABLE TO:**

Married filing separate if spouse itemizes or Non resident aliens or Short year returns  
(The above must itemize or use -0- standard deduction.)

## EXEMPTIONS

### EXEMPTION(S) FOR HOUSING HURRICANE KATRINA VICTIM(S):

The hurricane Katrina relief legislation allows an extra \$500 exemption to taxpayers who provide free housing to persons displaced from their home-expired 1/1/2007.

Some of the new law relief provisions apply only to taxpayers who were within the “Hurricane Katrina disaster area”, and others require that taxpayers have been in the ‘core disaster area’. The Hurricane Katrina disaster area includes the parts of “Alabama, Florida, Louisiana, and Mississippi with respect to which a major disaster was declared by the President before September 14, 2005.

The core area is that portion of the Hurricane Katrina disaster area that warranted assistance to individual(s), as well as public assistance from the “Federal Government.

Starting in 2005 there is a new definition of a qualifying child for exemption purposes of Head of Household, Child Tax Credit, Dependent Care Credit, and Earned Income Credit.

2001 - \$2,900 Each, 2002 - \$3,000 Each, 2003 - \$3,050 Each, 2004 - \$3,100 Each,  
2005 - \$3,200 Each, 2006 - \$3,300 Each, 2007 - \$3,400 Each, 2008 - \$3,500 Each,  
2009 - \$3,650 Each, 2010 - \$3,650 Each

### NO ADDITIONAL EXEMPTIONS FOR ELDERLY OR BLIND

### NO PERSONAL EXEMPTION IF CLAIMED BY ANOTHER TAXPAYER

### PHASE OUT OF PERSONAL EXEMPTION: *NOT APPLICABLE FOR 2010.*

The amount you can claim as a deduction for exemptions is phased out once your taxable income goes above a certain level for your filing status. 1993 Revenue Reconciliation Act made this phase-out provision permanent.

These levels begin as follows: (Exemption Deduction Worksheet on next page.)

FILING STATUS	AGI LEVEL WHICH REDUCES EXEMPTION				
	2005	2006	2007	2008	2009
Single	\$145,950	\$150,500	\$156,400	\$159,950	\$166,800.
Married filing jointly	\$218,950	\$225,750	\$234,600	\$239,950	\$250,200.
Married filing separately	\$109,475	\$112,875	\$117,300	\$119,975	\$125,100.
Head of household	\$182,450	\$188,150	\$195,500	\$199,950	\$208,500.
Qualifying widower	\$218,950	\$225,750	\$234,600	\$239,950	\$250,200.

Reduce dollar amount of exemptions by 2% for each \$2,500 or part of \$2,500, (\$1,250 if married filing separately) that AGI exceeds the amount shown for filing status

2009 Work Sheet below. *No phase out for 2010; thereafter it will return to 2001 amounts*  
**2009 PHASE OUT OF EXEMPTIONS - Worksheet NOT for 2010**

If AGI exceeds the level for your filing status use this worksheet to determine exemption deductions.

1. Multiply exemption allowance  
by total number of exemptions . . . . . 1. \_\_\_\_\_
  
2. Enter Adjusted Gross Income amount from 1040 2. \_\_\_\_\_
  
3. Enter phase-out threshold (previous page)  
for your filing status .....3. \_\_\_\_\_
  
4. Subtract line 3 from line 2. If zero  
or less stop here and enter amount  
from line 1 above on form 1040(exemptions) . . . .4. \_\_\_\_\_

If line 4 is more than: **(SEE the amounts below this worksheet.)**  
**STOP HERE**, Each exemption is \$2,433.  
 OTHERWISE: Continue on Line 5:

5. Divide line 4 by \$2,500 (\$1,250 m.f.s).  
Round UP to nearest whole number.....5. \_\_\_\_\_
  
6. Multiply line 5 by 2% (.02) and enter  
result as a decimal.....6. \_\_\_\_\_
  
7. Multiply line 1 by line 6.....7. \_\_\_\_\_
  
8. Multiply Line 7 by (.3333.)  
This amount is **DISALLOWED**.....8. \_\_\_\_\_
  
9. Deduction for exemptions. Subtract line 8 from  
line 1, this is your adjusted exemption.....9. \_\_\_\_\_

NOT FOR 2010 - NO PHASE-OUT FOR 2010

Married/J, QW, Single, HOH exceeds the amounts shown by more than \$122,500:  
 Married Filing Separately exceeds the amounts by more than \$61,250:

**THEN: Exemption amounts are not less than \$2,433. Each**

## **EXEMPTIONS**

**TAXPAYER** Allowed Exemption for Self **if** not claimed by another taxpayer

### **SPOUSE** -

Never considered a dependent. Exemption allowed only if married

If another taxpayer is ENTITLED to claim spouse as a dependent, they can not be claimed by spouse taxpayer.

Joint return must be filed if spouse had ANY income in order to claim spouse exemption.

Separate return (Married Filing Separate) may claim spouse's exemption ONLY if spouse had NO income and was not the dependent of another taxpayer.

**Deceased spouse** - Taxpayer may claim exemption in year of death IF - not entitled to be claimed by another taxpayer and IF taxpayer has not remarried.

(If remarried during year may NOT take exemption for deceased spouse)

**Surviving spouse** WITHOUT income who remarries:

Surviving spouse exemption may be claimed::

1. on **separate** final return of deceased spouse

or2. on **separate** return of new spouse

or3. on **joint** return with new spouse

**Final decree of divorce or separate maintenance**

**No exemption for spouse** -Even if provided all of support.

This is an **EX** spouse, therefore not a **SPOUSE**  
If all five dependency tests are met, can qualify as a **dependent**.

## **SPOUSE IS NEVER A DEPENDENT**

## **EX-SPOUSE CAN BE DEPENDENT**

### **DEPENDENTS**

(IRS FORM 2038 WORKSHEET-EXEMPTION FOR DEPENDENT)

#### **QUALIFYING CHILDREN**

Beginning in 2005 and for later years, qualifying children include your children, siblings, and their descendants for which you may take an exemption if a residence test and age or student test are also met. In addition, the citizenship or resident and joint return tests applicable to all dependents must also be met.

If the tests for a qualifying child are met, you do not have to show that you provided more than half of the child's support, as was required under pre-2005 rules,. However, a child is not a qualifying child if he or she provides over half of his or her own support. For a qualifying child, there is no gross income test; he or she may earn any amount and still be your dependent.

**NOTE:** Even if a child is not a qualifying child, as where the age/student or place of abode tests are not met, you may still be able to claim exemption for the child as a "qualifying relative".

#### **ALL FIVE TESTS MUST BE MET (Except 'Qualifying Child' above - no Gross Income.)**

1. **SUPPORT:** More than half (See "Support" section of this outline)
2. **GROSS INCOME** - Not more than exemption amount for the current year

All income in form of money, property, services that is NOT tax-exempt.

Gross, not net from rentals

Gross, not net from partnerships

Gross profit, not net from manufacture, merchandising, or mining.

Includes unemployment

Includes taxable scholarships

**Exception to gross income test:** Student or child under 19:

(Caution - this is for **gross income test** only)

## **DEPENDENTS continued**

### **STUDENTS**

Full time, some **part of** 5 calendar months, (not necessarily consecutive months)

**Full time** - enrolled for number of hours or courses the school considers to be full time attendance.

**OR**taking a full time, on -farm training course given by a school described above or a state, county, or local government.

**School** - that has a regular teaching staff, course of study, and regularly enrolled body of students in attendance

Includes elementary, junior and senior high, colleges, universities, and technical, trade and mechanical schools. (See next - continued.)

### **DEPENDENTS**

#### **Gross Income Test Continued:**

Does **not** include on the job training courses, correspondence schools and (night schools-depends if enrolled for amount of hours considered fulltime.)

**NO EXEMPTION FOR DEPENDENT WHO IS A STUDENT WHO HAS ATTAINED THE AGE OF 24 BEFORE CLOSE OF THE CALENDAR YEAR, UNLESS THE CHILD'S GROSS INCOME IS LESS THAN EXEMPTION AMOUNT**

**IF PARENT CAN NOT CLAIM THE EXEMPTION UNDER THIS RULE, THE CHILD MAY CLAIM AN EXEMPTION ON HIS OR HER OWN RETURN.**

#### **Child:**

Son - Stepson

Daughter - Stepdaughter

Child placed by authorized agency for legal adoption.

Foster child who is a member of the household for the **ENTIRE** year.

## DEPENDENTS continued

### 3. MEMBER OF HOUSEHOLD OR RELATIONSHIP

Lives with you the **entire** year, need not be related  
Temporary absences do NOT disqualify for this purpose  
(illness, education, business, vacation, military)  
(placed in nursing home for unspecified time-absence is considered temporary)

**A foster child must live with taxpayer as member of household for the entire year to qualify as a dependent. Unless a 'Qualified Child.**

Related: Need not live with you.

**Except: If they are a 'Qualified Child':**

**Must live with you more than ½ of the year.**

Most anyone closer than but **NOT including** a cousin.

Includes: child, grandchild, adopted or stepchild, brother, sister, step-brother/sister, parent, grandparent, step parent, aunt, uncle, niece, nephew, half-brother, half sister.

In-laws: Parents, brother, sister, son or daughter.

**Not foster parents!**

**Relationships are not terminated by death or divorce**

(Once a mother-in-law, always a mother-in-law)

**If Married Filing Separate, must be YOUR blood relative.**

## DEPENDENTS

### 4. CITIZENSHIP

A. U.S. Citizen

U.S. Resident

Resident of Canada or Mexico

U.S. National

(Foreign students brought to this country under qualified international education program and placed in American homes for a temporary period generally are not US residents and do not meet citizenship test. However – may be able to take a charitable contribution deduction for providing the home.)

(Adopted child who is not a U S citizen or resident - can be claimed if a member of taxpayer's household for entire tax year)

## DEPENDENTS Continued

### 5. JOINT RETURN TEST

Must not have filed with another taxpayer

Exception: If dependent filed with spouse on a joint return only for purpose of receiving refund, dependent can still be claimed on parents return **IF** dependent **AND** spouse that they filed with have **no tax liability and none would have existed for either spouse on the basis of separate returns.**

**Caution: Do not confuse dependency test with head of household tests.**

### SPECIAL COMMENTS:

Child born alive qualifies for dependent status.

Can not claim exemption for stillborn child.

Dependent who died during the year qualifies for dependent.

You cannot claim housekeepers, maids or servants that work for you.

Temporary absences due to special circumstances do not disqualify a dependent from member of household. (Illness, education, business, vacation, and military service.

A person placed in a nursing home for indefinite period of time to receive medical care absence is considered temporary.

A person does not meet the member of household test if at any time during the tax year, the relationship violates local law.

Foster Child: If state or political subdivisions or a tax-exempt child-placing agency makes payment to taxpayer as a foster parent, taxpayer may **NOT** claim child as a dependent.

Gross income does not include income received by permanently and totally disabled individual at a sheltered workshop.

Lump sum advance payments to home for the aged support is the lump sum payment divided by life expectancy of the aged person.

## SUPPORT

Total **COST**, not period of time, determines whether more than half

**CASH basis: The year you provide the support is the year you pay for it**

**Not support unless USED FOR support!**

### INCLUDED IN SUPPORT

Fair rental value of lodging \*

All items paid or incurred directly or indirectly for dependent

Proportionate share of expenses (food & utilities)

Clothing

Education

Medical/Dental Care

Medical Insurance Premiums

Recreation

Transportation

Supplemental Medicare Premium (Not basic Medicare)

Capital expenditures if solely for dependent's use,  
not family use.

GI bill tuition payments & allowances

Armed Forces dependent allotments

Tax exempt military quarters allowance

Non taxable benefits and Non Tax. Income

- a) Social Security
- b) Welfare
- c) Life Insurance proceeds
- d) Non taxable pensions
- e) Non taxable interest
- f) Aid to Families with Dep. Children
- g) Funds paid to an institution by:  
State, Federal, Religious,  
Fraternal

Child care or disabled dependent care

Borrowed money used for dependent support

Foster care payments received

### NOT INCLUDED IN SUPPORT

Medical insurance benefits

Basic and supplemental Medicare benefits

Scholarships

Retarded child tuition, room, and board at an institution.

Fed., State, Local Taxes paid by dependent from his own earnings

Life insurance Premiums

Funeral expenses

Social Sec tax paid by dependent

Student nurse room and board furnished

War Orphans education payment

---

**\* Use Fair rental Value as furnished instead of taxes, interest, depreciation, insurance, repairs, cost of furniture. Include a reasonable allowance for use of furniture and appliances and for heat and other utilities.**

## **SUPPORT**

### **PERSON LIVING IN HIS OR HER OWN HOME:**

Fair rental value of home is support by owner of home

### **TAXPAYER PART PAYMENT ON MAINTAINING HOME OWNED BY RELATIVE:**

Reduce Fair rental value furnished by owner by amounts paid by taxpayer.

### **TAXPAYER LIVING WITH PERSON RENT FREE IN HIS OR HER OWN HOME:**

Reduce amount taxpayer provides by fair rental value of lodging received.

### **MULTIPLE SUPPORT:**

Each must contribute over 10% and file form 2120.

Can change dependency exemption each year.

### **NOT SUPPORT UNLESS USED FOR SUPPORT ITEMS**

If funds held in savings and not USED for support, not included in TOTAL support.

#### **EXCEPTION:**

**Child support payments are considered support by the payer regardless of whether used for support items.**

### **PROPERTY PROVIDED AS SUPPORT**

Measured by Fair Market Value

Capital items such as furniture, appliances, cars that are bought for a person during a year can be included in total support if for the use of the person ONLY.

### **DEPENDENT CARE COSTS**

Amounts paid for child care of disabled dependent care can be included in support even if a credit is claimed for the payments.

## SUPPORT

### SUPPORT TEST FOR DIVORCED OR SEPARATED PARENTS

#### SPECIAL RULES APPLICABLE ONLY IF:

1. divorced
  - or 2. legally separated under decree of divorce or separate maintenance
  - or 3. separated under written separation agreement
  - or 4. **lived apart at all times during LAST 6 MONTHS of year**
- AND** One or both parents provide more than half child's support for year
- AND** One or both of parents have custody for more than half the year

#### IF ALL OF ABOVE RULES MET:

GENERAL RULE: Custodial parent gets exemption for child

1. Custody determined by decree of divorce/sep. maintenance
2. If neither decree or agreement establishes custody parent who has physical custody greater part of year is allowed exemption.
3. Divorced/separated in current year and joint custody before separation parent who has physical custody greater part of year allowed dependency exemption

#### SPECIAL NON CUSTODIAL PARENT RULE

Non custodial parent TREATED as having provided more than half support IF:

1. **Form 8332** Custodial Release form signed and attached
- OR 2. Pre 1985 agreement that provides that the non-custodial parent is entitled to the exemption AND he or she provides **at least** \$600 for year (unless pre 85 decree modified)
- OR 3. A POST-1984 decree or agreement states that the non-custodial Parent can claim the child as a dependent without regard to any conditions, such as support.

**SUPPORT BY THIRD PARTY:** Does not count as furnished by either parent.

#### DELINQUENT SUPPORT PAYMENTS

If total amount for year exceeds required amount, the amount applied to delinquent payments **NOT** qualified for current year support.

## **FILING REQUIREMENTS**

### **BASED ON PERSONAL EXEMPTIONS PLUS STANDARD DEDUCTION**

#### **STANDARD DEDUCTION FOR FILING REQUIREMENTS:**

Although **BLIND** taxpayers may use the additional amount for standard deduction, they are NOT allowed to use the additional for **filing requirements**

For **filing requirements**, use basic standard deduction for over 65 OR blind, but add **additional ONLY for over 65.**

#### **MUST FILE IF**

Have Self Employment Net Earnings over \$400

Advanced Earned Income Credit payments received

Owe FICA tax on tips

Owe Alternative Minimum Tax

Owe ITC recapture

Owe tax on early withdrawal of IRA or other pension

Have wages exempt from Soc. Sec. tax of \$108.28 or more from church or qualified church controlled organization that is exempt from social security and medicare tax

#### **SHOULD FILE IF**

Refund of withholding available

Earned Income Credit available

Child tax credit available

## **FILING REQUIREMENTS**

### **SPECIAL FILING STATUS REQUIREMENTS**

**ALIENS:** Full year residents-filing requirements same as U.S. Citizen

**NONRESIDENT ALIENS:** (Non-resident for whole year) -DIFFERENT FORMS

**NON-RES. ALIEN MARRIED TO U.S. CITIZEN OR U.S. RESIDENT:**

May file joint return

**DUAL STATUS:** (Resident and non-resident for whole year) Special requirements

**SURVIVING SPOUSE, EXECUTORS, ADMINISTRATORS, LEGAL REPRESENTATIVES:**

Must file return if decedent met income requirements at date of death.

**U.S. CITIZENS LIVING ABROAD:**

Must file if income requirements are met.

**RESIDENTS OF PUERTO RICO:**

Must file if income requirements are met,  
BUT; Gross income from sources WITHIN Puerto Rico are NOT included  
UNLESS they are from U.S. sources.

**USE CHART A TO SEE IF YOU MUST FILE A RETURN.**

You must use Chart B if someone (such as your parent) can claim you as a dependent on his or her return.

<b>CHART A - 2010 FILING REQUIREMENTS FOR MOST TAXPAYERS</b>			
<u>MARITAL STATUS</u>	<u>FILING STATUS</u>	<u>AGE</u>	<u>GROSS INCOME</u>
Single (including divorced and legally separated)	Single	Under 65	\$ 9,350
		65 or older	\$10,750
	Head of Household	Under 65	\$12,050
		65 or older	\$13,450
Married with a child and living apart from your spouse during last 6 months of this year.	Head of Household	Under 65	\$12,050
		65 or older	\$13,450
Married and living with your spouse at end of current year At end of current year or date spouse died.	Married Joint return	both under 65	\$18,700
		one over 65	\$19,800
		both over 65	\$20,900
	Married Separate return	any age	\$ 3,650
Married, not living with spouse at end of year (or on date spouse died)	Married, joint or separate	any age	\$ 3,650
Widow with dependent child not remarried		under 65	\$15,050
		65 or older	\$16,150

## **CHART B - 2010 FILING REQUIREMENTS FOR DEPENDENTS**

You must use Chart B if someone (such as your parent) can claim you as a dependent on his or her return.

Earned Income includes wages, tips and taxable scholarship and fellowship grants

Unearned income includes taxable interest and dividends

Single dependents under 65 and not blind - must file a return if:

Earned income was more than \$5,700.

Unearned income was more than \$950.

Gross income was more than

The larger of \$950 or Earned income up to \$5,400. Plus \$300.

Single dependents 65 or older or blind must file a return if:

Earned income plus \$300 was more than \$7,100 (\$8,500 if 65 or older AND blind)

Unearned income was more than \$2,350 (\$3,750 if 65 or older AND blind)

Gross income was more than

The larger of \$2,350.(\$3,750. If 65 or older and blind) or

Your earned income (up to \$5,400 plus \$1,700. (\$3,100 if 65 or older and blind).

Married dependents under 65 and not blind must file a return if:

Earned income was more than \$5,700

Unearned income was more than \$950

Gross income was at least \$5 and your spouse files a separate return and itemizes deductions

Gross income was more than

The larger of \$950 or earned income up to \$5,400 Plus \$300

Married dependents 65 or older OR blind - must file a return if:

Earned income was more than \$6,800 (\$7,900 if 65 or older AND blind)

Unearned income was more than \$2,050 (\$3,150 if 65 or older AND blind)

Gross income was at least \$5 and your spouse files a separate return and itemizes deductions

Gross income was more than

The larger of \$2,050. (\$3,150.if 65 or older and blind), or

Your earned income (up to \$5,400.) Plus \$1,400. (\$2,500. if 65 or older AND blind)

## DECEDENT'S FINAL RETURN

Must file final return if filing requirements met.

Should file if withholding or estimated tax paid.

Refund claim form 1310 must be filed EXCEPT if surviving spouse filing a joint return

If fiduciary (executor or administrator) must file Form 56-Notice Concerning Fiduciary relationship with IRS.

**Date of death shown on tax return in name and address section**

**"Deceased" written after the person's name on the return AND across top of return with date of death.**

If not joint return, personal representative's name and address should be shown on name and address section of return.

Joint return shows deceased income prior to death and spouses income for full year.

If spouse remarries before end of year, deceased return is: Married filing separate.

Due date of final return: Date it would have been due if death had not occurred.

Signature: Surviving spouse must sign joint return

If surviving spouse filing-must write in "Filing as surviving spouse" in signature area.

If executor or administrator appointed- they must sign return AND spouse must also sign if joint return filed.

Itemized Deductions: Only those paid before death, except medical.

Medical expenses treated as paid at time incurred even if after death.

Standard Deduction: Same as if decedent had continued to live.

Income in respect of the decedent: (Income the decedent had a RIGHT to receive but was not received prior to death). Included in:

- 1) Decedent's estate
- OR 2) Person to whom right to receive passed directly
- OR 3) Person to whom the estate assigns the right to receive

Expenses in respect of the decedent:

Federal estate tax: Deductible by recipient of included taxable income from estate.

- 1) If income is ordinary income:  
deduction is an itemized misc. deduction NOT subject to 2% limit.
- 2) If income is capital gain:  
may reduce capital gain by the estate tax to compute maximum capital gains tax.

**UNEARNED INCOME - CHILDREN UNDER AGE 18**  
**(Age 14 changed to 18 for 2006 and later years)**

**Parent may elect to include child's income on parents return.**

If so elected:

Child is not required to file a return.

**Form 8814** must be filed with parent's return for **each** child.

Parent can use form 1040A or 1040EZ

Parent can NOT take deductions for (what would be allowed if child's return filed:

1. Additional standard deduction if child blind
2. Deduction for early withdrawal penalty of child's savings
3. Itemized deductions (child's investment expenses or contributions)

**CAUTION: Increased AGI result by election to include in parental income may limit or reduce itemized deductions for the parent (medical, contributions, casualty losses, misc. 2% itemized deductions) as well as IRA contributions & child care credit.**<sup>9</sup>

Can make election only if ALL conditions are met:

1. Child under age 18 on Jan. 1 of FOLLOWING year
2. Child required to file return for current year UNLESS election made.
3. Child had income ONLY from interest and dividends  
(including Alaska permanent fund dividends) of less than \$9,500.
4. No estimated pmts made for current year under child's name/soc/sec #
5. No Federal income tax withheld from child's income under backup withholding system
6. You are the parent whose return must be used when applying the special "Kiddie Tax" rules.

**KIDDIE TAX RULES APPLICABLE**

**BASICALLY:** Child under age 18 with more than **\$1,900** of investment income.

**INVESTMENT INCOME:**

All income other than wages and other compensation for work actually performed.

**Includes:** Interest, Dividends, Capital Gains, Certain Trust Distribution, Taxable Portion of Social Security and Pensions.

**Does Not Include:** Nontaxable Interest/ Dividends

**IF PARENT ELECTS TO REPORT CHILD'S UNEARNED INCOME (FORM 8814). THE CHILD'S INVESTMENT INCOME IS CONSIDERED THE PARENT'S INVESTMENT INCOME FOR INVESTMENT INTEREST LIMITATIONS**

## UNEARNED INCOME - CHILDREN UNDER AGE 18

### NET (INVESTMENT) UNEARNED INCOME OF CHILD UNDER 18

#### TAXED:

1. To the child
- But **2. at parent's marginal rate.**

**CHILD:** One who has not attained the age of 18 before close of year **AND**  
**has at least one living parent at close of taxable year**

#### NET (INVESTMENT) UNEARNED INCOME:

**IS:** Gross income which is NOT earned income

#### REDUCED BY:

**\$1,900 if child does not itemize deductions**

**If child itemizes** deductions reduce Investment income  
by the **larger of:**

\$950 plus child's itemized deductions that are directly  
connected with production of investment income

Or \$1,900

### TAX IMPOSED ON CHILD UNDER 18 WITH NET UNEARNED INCOME SUBJECT TO PARENTS RATE

GREATER OF:

1. Tax imposed on child as a single individual
- OR 2. The SUM OF:
  - a) tax which would be imposed IF the child's taxable income was reduced by his NET unearned income
  - PLUS b) the child's share of the "allocable parental tax."

### ALLOCABLE PARENTAL TAX

The tax which would be imposed on parent's taxable income if such income included the net unearned income of ALL the parent's children under 18 to whom this provision applies MINUS the tax imposed on the parent WITHOUT regard to the net unearned income of the children under 18.

### CHILD'S SHARE OF PARENTAL TAX

RATIO of child's net unearned income to TOTAL unearned income of ALL children under 18 of the parents, times tax computed for parental tax above.

## **UNEARNED INCOME - CHILDREN UNDER AGE 18**

**EARNED INCOME OF CHILD UNDER 18 IS TAXED FULLY AT CHILD'S RATE!!!**

**AFTER CHILD REACHES AGE 18 ALL INCOME IS TAXED AT CHILD'S RATE!!**

**FOR CHILDREN 18 AND OVER, INCOME IS NOT INCLUDED IN PARENTAL TAX COMPUTATION**

### **SPECIAL RULES FOR CERTAIN PARENTS-REGARDING PARENTAL TAX**

Child's parents NOT married (divorced or legally separated or never married and did NOT live together all year)

Parental tax computed on custodial parent

Child's parents never married but living together all year:

Use return of parent with greater taxable income.

Married but not living together-treated as not married

Custodial Parent remarried - stepparent (rather than noncustodial parent) is treated as the child's "other" parent.

If married filing joint return - use joint income

Joint Custody - parent who has custody for greater part of year

Child's parents Married Filing Separate:

Income of parent having GREATER income used for parental tax computation

Foster Parents income used for parental tax for foster children

**PARENT'S ID NUMBER IS REQUIRED ON CHILD'S TAX RETURN**

## UNEARNED INCOME - CHILDREN UNDER AGE 18

### COMMENT

### CONFIDENTIAL INFORMATION-PARENT?

A parent's income tax return is **OPEN TO INSPECTION** by his child or his child's **LEGAL REPRESENTATIVE** to extent necessary to comply with the provision taxing unearned income to the child at parent's marginal rate.

---

In order to do the **CHILD'S** tax return, preparer must obtain the following:

1. Parent's tax return information  
(if joint or not married to other parent)
2. **OTHER** parent's (non custodial) if married filing separate tax return information and ID number
3. Income of **ALL OTHER** children under 18 of that parent.

**Example:** Joe and Mary were married in 2008. Joe had two children age 3 and 4. Mary had two children age 3 and 4. They had a baby in 2010 (their's). They didn't get along and are separated and not speaking at the end of 2010 but not divorced. They are filing married filing separate returns. **ALL FIVE** of the children had unearned income of \$1,900 each. Mary has custody of the baby. In order to file a return for the baby, you must know Joe's income and his children's income. ??? Easy to get this information???

---

**SEE `ANNOUNCEMENT 88-70 I.R.B. 1988-16,37' FOLLOWING FOR HOW TO FILE A CHILD'S RETURN IF INFORMATION IS NOT OBTAINED BY DUE DATE. (ESTIMATES ALLOWED)**

**HOW TO FILE RETURN - CHILD UNDER AGE 18  
(INFORMATION NOT OBTAINED BY DUE DATE)**

The Internal Revenue Service issued Announcement 88-70 providing administrative relief for parents or guardians of children under the age of 18, who are required to report and pay tax on the child's unearned income.

**Full Text - Announcement 88-70**

This announcement describes what a parent or guardian of a child who has investment income should do to file the child's federal income tax return when the parent or guardian cannot obtain, before the due date of the child's return, certain information that is necessary in completing form 8615, Computation of Tax for Children Under Age 18 Who Have Investment Income of More Than \$1,500.

For taxable years beginning after December 31, 1986, section 1(I) of the Internal Revenue Code provides that the tax imposed on the net unearned income of a child who at the close of the taxable year is under 18 years of age, and has a least one living parent, shall be no less than the additional tax that would have been imposed on the child's net unearned income if such income had been added to such parent's taxable income. If the parent has two or more children subject to section 1(I), the tax imposed on each is the child's proportionate share of the additional tax that would have been imposed on the net unearned income of all such children if such income were aggregated and added to the parent's taxable income.

If a child is subject to tax on net unearned income under section 1(I) of the Code, Form 8615 must be completed and attached to the child's federal income tax return to determine the child's investment income subject to the parent's rate and to calculate the child's tax due thereon. Form 8615 requires entry of the parent's taxable income, the net investment income of all other children of the parent filing Form 8615 and the parent's tax based on the parent's filing status.

There are circumstances, such as separation or divorce, where a parent or guardian filing for the child may have difficulty determining or acquiring the information necessary to complete form 8615 so as to file a timely income tax return. In other circumstances, the child's parent may file for an extension of time to file his or her own income tax return.

When the necessary parental or sibling information cannot be obtained before the due date of the child's return, Sept 2 of Form 8615 may be completed using reasonable estimates of the parent's taxable income or filing status, or of the net investment income of siblings. The appropriate line of Form 8615 must be marked "Estimated". For example, a parent or guardian estimating parental taxable income should enter "Estimated" on line 6 next to the estimated amount. A reasonable estimate would be the amount of the parent's taxable income or siblings investment income from last year's income tax return or any other estimate that is reasonable. The Internal Revenue service will not assess any penalties with respect to use of any reasonable estimate.

When correct information is obtained, the child's return should be amended to claim any refund due or to report and pay any additional tax due. If the amended return shows a refund is due, interest will be payable from April 15 if the return was timely filed, or from date it was filed if it was filed late. If the amended return shows a greater amount of tax due than was originally reported by estimating as described above, interest will be charged on the additional tax shown from April 15.

A request may also be made for an extension of time to file on form 4868, Application for Automatic Extension of Time to File U. S. Individual Income Tax Return, estimating the tax due in the manner described above.

This document serves as an "administrative pronouncement" as that term is described in section 1.6661-3(b)(2) of the Income Tax Regulations and may be relied upon to the same extent as a revenue ruling or revenue procedure. See Rev. Rule 87-138, 1987-52 I.R.B. 17

**I.D. NUMBERS REQUIRED FOR ANY DEPENDENT**

**Includes adults that are claimed as dependents on the return**

**\$50 Penalty for EACH failure to meet this provision**

**I.D. Number must be shown ON RETURN**

*(Form SS-5)*

**NEW FOR 1998 AND AFTER**

**PRIVACY PROTECTION**

**Social security number no longer on preprinted label**

**MUST PUT S S NUMBER ON PAGE 1 OF TAX RETURN**

**YOU CAN NOW DESIGNATE A PAID TAX PREPARER TO  
RESOLVE CERTAIN TAX ISSUES BY COMPLETING  
THE THIRD PARTY DESIGNEE SECTION OF 1040 PAGE 2**

## **RECORD - KEEPING**

Keep copies of all **RETURNS** filed

Retain **RECORDS** to support INCOME, DEDUCTIONS AND CREDITS  
Canceled checks, receipts, other evidence

Retain for **THREE** years from DUE DATE or DATE FILED **OR** **TWO** years from DATE PAID

**PROPERTY:** Keep records relating to basis of property as long as they are material  
in determination of BASIS of original **OR** replacement property

## **ACCOUNTING PERIODS**

Must choose period with **FIRST** filing of a return (taxpayer's first return)  
May never be longer than 12 months (but can be shorter for **FIRST** year)  
Permission to change **REQUIRED BY IRS** after first filing

**CALENDAR YEAR** -12 months from January 1 to December 31

**FISCAL YEAR** - any 12 month period **NOT** ending on December 31 -  
must end on the last day of some **OTHER** month.

**52-53 WEEK YEAR** - Election - varies from 52-53 weeks per year

Always ends on the same day of the week.

Choice to have year always end on either:

- a) Date a specified day of the week last occurs in a particular month.
- or b) The date that day of the week occurs nearest to the last day of a particular month.

May **CHANGE TO** a 52-53 week tax year that ends with reference to the end of the same month with which your present tax year ends without getting permission from IRS. Must attach statement to tax return for year for which election made

If **CHANGE** to a 52-53 week tax year that ends with reference to the end of a month that is **NOT** the same as your prior tax year, must get IRS approval.

### **SHORT TAX YEAR:**

A year less than 12 months.

- 1) Not in existence entire year **OR** change in accounting period

### **CHANGE IN ACCOUNTING PERIOD**

Requires IRS approval *form 1128*

User fee of \$600

Filed by 15th day of 2nd calendar month after close of the short year.

## FORMS

### 1040 E Z

Must be **single** or **Married filing jointly**  
NOT over 64 or blind  
NO dependents  
Taxable income less than \$100,000  
Only from wages, salaries, tips, Alaska Permanent Fund dividends, unemployment compensation, taxable interest \$1,500 or less AND taxable scholarships/fellowships, Qualified state tuition programs  
Not DIVIDENDS  
NO excess FICA withholdings,  
NO itemized deductions,  
NO advanced EIC payments  
NO ADJUSTMENTS TO INCOME (2106, IRA, Early Withdrawal Int. Penalty)  
NO credits except Earned income Credit or Rate Reduction Credit  
Owe no taxes except amount from tax table  
**No household employment taxes owed**  
**No student loan interest deduction or education credits**  
If non-resident alien at any time during the year must file married filing jointly

### 1040 A

Do NOT have to be single and can be over 65 or blind  
CAN have dependents  
Taxable income less than \$100,000  
From wages, salaries, tips,  
Interest (Use Schedule B if over \$1,500)  
Dividends - (**ordinary** dividends use Schedule B if over \$1,500)  
(Including Alaska permanent fund dividends) unemployment, scholarship and fellowship grants, qualified state tuition earnings, IRA distributions, taxable social security and R R Retirement benefits, pensions and annuities, scholarships, fellowships.  
NO itemized deductions  
MAY have IRA deduction and student loan interest adjustments the only adjustments)  
MAY have credits:  
Child or dependent care credit, Earned income credit, Credit for the elderly, Child tax credit, Education credits, Adoption credit, Rate Reduction Credit  
Taxes from ONLY:  
Tax table, Advanced earned income credit, Alternative Minimum Tax, Capital Gain Tax Worksheet, Form 8615 Tax for Children Under 18, Recapture of education credit

## FORMS

### 1040

#### **MUST USE IF**

**Taxable income \$100,000 or more**

#### **INTEREST OR DIVIDENDS RECEIVED AS NOMINEE**

**Non taxable dividends or Alaska Permanent Fund dividends**

**Capital gain distributions that include 28% rate**

**Interest in or signature or other authority over foreign bank , etc.**

**Income other than allowable on 1040A**

**Gain from sale of personal residence or any other assets, barter income, alimony, self employment income (including farm)**

**Itemize deductions**

**Adjustments to income other than IRA and student loan interest**

**(Keogh, SEP or SIMPLE contributions, early withdrawal penalty, alimony paid, self-employed, medical insurance deduction, self employment tax deduction, medical savings account, moving expenses, jury duty pay turned over to employer, qualified performing artists expenses)**

**Filing any other forms including 2210 penalty**

**W2 reflects uncollected FICA on tips**

**Received tips of \$20 or more in one month and did not report to employer**

**I.R.A. or other pension plan early withdrawal penalty (Form 5329)**

**S.E. tax due**

**Claim any credits OTHER than child care, elderly or disabled, child tax credit, education credits, adoption credit, earned income credit and rate reduction credit**

**Filed parental election form 8818 to report child's interest/dividends**

**Pay household employment taxes**

**Deleted Alternative Minimum Tax**

## **EXTENSIONS, INTEREST, PENALTIES**

### **EXTENSIONS**

Automatic 4 month extension (to Aug. 15)

Must file Form 4868 by 4-15

Extension of time to FILE is NOT an extension of time to PAY

Must have 90% of tax paid in WITH EXTENSION to avoid LATE PAY penalty

**PREPARERS STILL NEED TO KNOW TAX LIABILITY TO FILE EXTENSION.**

### **ADDITIONAL EXTENSIONS:**

Must file for automatic extension FIRST Form 4868

Additional extension request form 2688

Must have good reason stated.

Can not exceed SIX months TOTAL extension if in the U.S.

### **U.S. CITIZEN OR RESIDENT NOT IN THE U.S. ON APRIL 15**

Automatic extension to June 15.

Joint return- only one spouse need be out of U.S.

Includes Military person outside the U.S. or Puerto Rico.

If outside U.S. need not file form 4868 but must attach statement to return stating that you were out of the U.S. on April 15.

### **INTEREST**

REFUNDS: No interest will be paid if refund is made within 45 days of filing

DUE ON AMOUNTS NOT PAID BY DUE DATE: (even if extension granted)

#### **TAX SHELTER ITEMS:**

If substantial underpayment due to unallowable item relating to a tax shelter or similar item, possible interest on underpayment equal to 120% of normal annual rate of interest.

#### **INTEREST ON PENALTIES:**

Interest charged on penalty amounts for failure to file penalty and penalty for substantial understatement of tax liability.

## **EXTENSIONS, INTEREST, PENALTIES**

### **PENALTIES**

#### **FAILURE TO FILE**

5% PER MONTH

Generally not more than 25%

If more than 60 days late not less than \$100 or 100% of tax (lesser of)

Reduced by failure to PAY penalty if both apply to same month

#### **FAILURE TO PAY**

½ of 1% PER MONTH (or part of a month) after due date.

Increased to 1% per month if notice of intent to levy is issued

Beginning 10 days after notice issued

Generally not more than 25%

#### **SUBSTANTIAL UNDERSTATEMENT**

Assessed if tax due is more than 10% of correct tax or more than \$5,000

#### **FRIVOLOUS RETURN - \$5,000.**

In ADDITION to all other penalties

#### **NEGLIGENCE (except fraud)**

A return that does not contain enough information to calculate the correct tax, or clearly shows the intent to cause delay or interfere with administration of federal income tax laws.

5% of entire underpayment

**and** 50% of interest on part due to negligence

#### **FRAUD**

75% of underpayment due to fraud

**and** 50% of interest on underpayment due to fraud

#### **FAILURE TO SUPPLY SOCIAL SECURITY NUMBER**

OWN number on required IRS forms -\$50 per EACH failure to supply

S.S. # of ANOTHER person when required-\$50 penalty per EACH failure

OWN number required to be furnished to another person - \$50 EACH failure

Maximum \$100,000 per year

#### **FAILURE TO SUPPLY TAX SHELTER REGISTRATION NUMBER**

\$250 for each failure

## ACCURACY RELATED PENALTIES

Code Sec. 6662 imposes ACCURACY RELATED PENALTIES if:

Underpayment of tax on return due to either negligence or disregard of rules or regulations  
or  
Substantial understatement of tax.

Penalty equals 20% of the PART OF underpayment DUE TO THE NEGLIGENCE OR DISREGARD NOT on the ENTIRE underpayment on the return.

Negligence: Failure to make a reasonable attempt to obey the rules

Disregard includes: careless, reckless, or intentional disregard.

### ACCURACY RELATED PENALTIES MAY BE AVOIDED:

If adequately disclose a NON-FRIVOLOUS position on the return  
or

If you can show REASONABLE CAUSE and GOOD FAITH for the tax treatment of a PARTICULAR ITEM.

**Form 8275** "Disclosure Statement" or if choose to disclose on the return:

**"Disclosure made under Section 6662"**

(This statement above must appear at TOP LEFT HAND CORNER  
on FRONT of RETURN)

Clearly refer to page or line number containing disclosure

Go to that page or line number and describe relevant facts about tax treatment of the item.

Merely filling in the line on the return is not sufficient.

Example: On page 1 of form 1040, upper left hand corner:

"DISCLOSURE MADE UNDER SECTION 6662. SEE LINE 20 SCH. C".

Disclosure will not be sufficient to avoid penalty for negligence or disregard imposed because taxpayer fails to keep adequate records.

## **ACCURACY RELATED PENALTIES**

### **UNDERSTATEMENT CAUSED BY INCOME TAX RETURN PREPARER:**

1. If not a realistic possibility of the position being sustained on its merits
  2. If preparer knew (or reasonably should have known) of such position
  3. AND such position was NOT disclosed as provided above under Code Sec. 6662 OR was frivolous
- \* Penalty of \$250 unless reasonable cause and good faith
  - \* "Realistic possibility of being sustained on own merits" does not require a certainty, nor even a greater than not likelihood of being sustained. If reasonable and well-informed analysis by a person knowledgeable in the field would lead to a conclusion that the position has approximately a one in three chance of being sustained on its own merits.

### **Negligent Behavior and Civil and Criminal Tax Return Preparer Penalties:**

Applies to Employer, Partnerships, Self Employed and Employee Preparers(Including Partners).

Failure to make reasonable inquiries and understatement of taxpayer's liability due to unreasonable position (including negligence). Greater of \$1,000 or 50% of preparer's expected income from return preparation.

Reckless or intentional disregard for rules = \$5000 penalty or 50% of preparer's expected income from return preparation. Reduced by any penalty assessed by Code Sec. 6694(a)

There are eleven additional Penalties reaching Penalty amounts of \$100,000. Check the Code.

Non frivolous return - penalties NOT imposed IF adequate disclosure made.

## **AMENDED RETURNS**

### **FORM 1040X**

Must attach any forms or schedules to support changes

Within 3 years from date FILED original return

or

2 years from date PAID tax

Later of the above.

Returns filed prior to 4-15 are considered filed 4-15

## **ESTIMATED TAX**

### **REQUIRED TO PAY ESTIMATES IF:**

#### **FOR 1998 AND AFTER**

Estimated tax required if expect to owe \$1,000 or more AFTER withholding and credits  
AND

Total withholdings and credits will be LESS than the LESSER OF:

1. 90% of tax on current tax return
2. 100% of prior year tax if for a full 12 month year

**Exception farmers and fishermen** if at least two-thirds of gross income for current or prior year is from farming and fishing, substitute 66 2/3% for 90% in #1

**Exception higher income taxpayers** if less than 2/3 of gross from farming or fishing and AGI more than \$150,000 (\$75,000 if filing status is married filing separately) substitute 110% for 100% in #2 above **(for 2006 & 2007 & 2008 tax years)**

### **JOINT ESTIMATED TAX PAYMENT**

May file joint estimates even if NOT living together but must be married  
May divide joint est. payments any way between spouses if file separate

### **DUE DATES**

April 15, June 15, Sept. 15, of current year and January 15th of following year  
January payment not required if return filed by Jan. 31 and PAY  
balance (This does NOT relieve requirements for other three due dates)  
Make allowance for Holidays interfering with filing dates.

### **FARMERS AND FISHERMEN**

IF at least 2/3 of gross is from farming or fishing:

Either:

(1) Pay all estimated tax by Jan. 15 and file by April 15

Or (2) File and pay by March 1 and make NO estimate payments

## **UNDERPAYMENT PENALTY**

### **UNDERPAYMENT PENALTY FORM 2210**

Form 2210 must be filed if exceptions apply

If no exceptions apply, IRS will compute and bill taxpayer

### **EXCEPTION TO UNDERPAYMENT PENALTY**

Total taxes less payments and credit is less than \$1000

No tax liability for prior year and were U.S. Citizen or resident for the ENTIRE year.

(Note: You are considered to have had no tax liability for the prior year if your tax was zero **OR you were not required to file.**)

### **ANNUALIZED INCOME:**

Underpayment penalty will not apply if estimated tax payments, reduced by any amounts applied to underpayments of prior periods, were paid by due date for the period and were at least as much as the annualized income installment for the period.

### **ESTIMATED PAYMENTS APPLIED TO EARLIER UNDERPAYMENTS FIRST**

### **WAIVER OF PENALTY**

1. Because of casualty, disaster or unusual circumstances
2. Retired after age 62 or became disabled *during the year or prior year*

**2010**