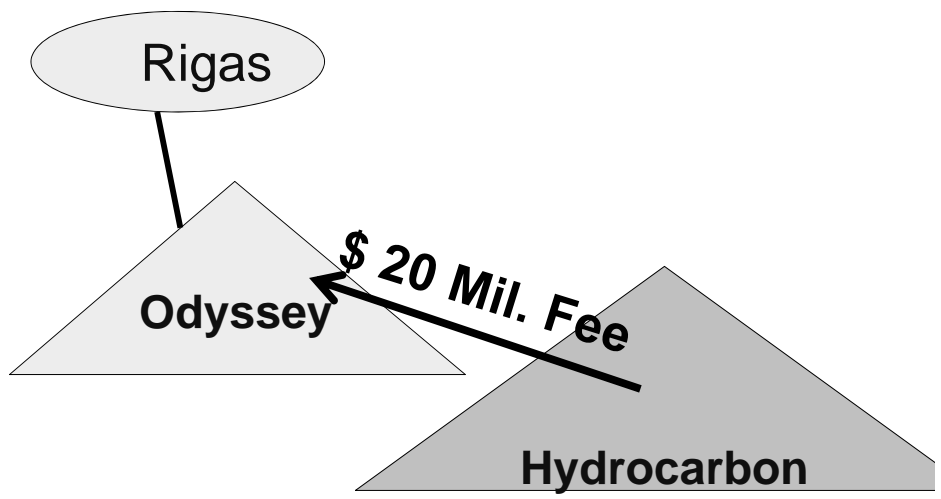
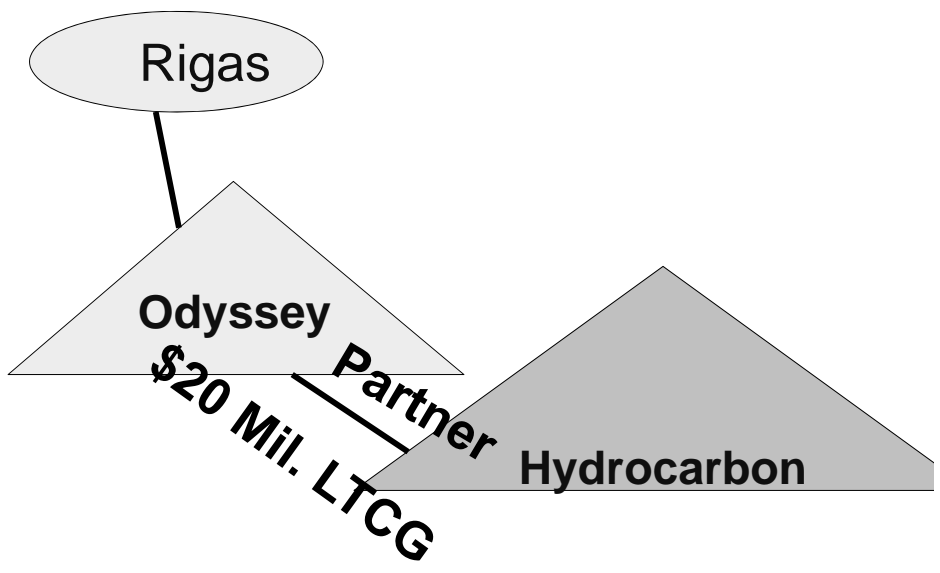


Rigas v. U.S. (Dist. Ct. Tex.
5/2/2011)

**No Joint Venture Between
Service Provider and
Asset Owner**
Fee based upon % profit

Ch. 5

Partnerships



***Historic Boardwalk Hall,
LLC v. Comm’r,*** (5-4)
136 TC 1 (1/3/2011)

**Rehabilitation Tax Credit
Partnership Withstands
IRS Scrutiny**

**For every \$.74– \$.80
contributed by an
investor, the Fund would
provide the investor with
\$1 in tax credits or refund
the capital “net of
expenses”.**

***Virginia Historic Tax Credit
Fund 2001 LP v. Comm’r***
(4th Cir. 3/29/2011) (5-6)

**Fourth Circuit Finds
Disguised Sale of Virginia
Tax Credits**

(5-9)
Renkemeyer v. Comm’r, 36
TC 137 (2/9/2011)

**Law Firm LLP Member
Cannot Escape SE Tax**

The attorney partner's distributive share of income arose from legal services performed on behalf of the law firm...subject to SE Tax.


The law firm's income did not arise as a return on the partners' investment and was not "earnings which are basically of an investment nature".

Prop. Reg. 1.469-5(e)
Nov. 25, 2011

The Prop Regs define an "interest in a limited partnership as a limited partner" for PAL material participation purposes (only).

Home About Us Classes Links Slides Updates Inflation

Course Updates



2012 Busy Season Look-Out List

Day 1 Course Updates:

- [RP 2011-55: Reporting Mortgage Assistance Payments - New Form 1098-MA](#)
- [CCA 201144023: Fishing Rights Not Capital Asset](#)
- [RP 2011-58: Expansion of Ponzi Safe Harbor](#)
- [TIGTA Report on Erroneous Theft Loss Claims for Investments](#)

Day 2 Course Updates:

- [PL 112-56: WOTC Expanded for Qualified Veterans](#)
- [FS 2011-19: IRS Fact Sheet on Foreign Reporting for Expats & Dual Citizens](#)
- [RR 2011-29: Bonus Pool Accruals](#)
- [CCA 201147025: MACRS Life for CCRC](#)
- [Final Regs: Partnership Debt-Equity Exchanges](#)
- [Prop Regs: Material Participation by Limited Partners](#)
- [SB 459: California Penalties for Willfully Misclassified Employees](#)

Two Tests To be a “Limited Partner”

1) The entity is a partnership for federal tax purposes.

2) The holder of such interest does not have rights to manage the entity at all times during the entity’s taxable year under the law of the jurisdiction in which the entity is organized and under the governing agreement.

Preamble

“Rights to manage include the power to bind the entity”.

**An LLC managing member is NOT a limited partner for PAL purposes.
(consistent with caselaw)**

**An LLC
non-managing
member is a limited
partner for PAL
purposes.**

Observations

- **The liability of the partner is irrelevant.**
- **A state law limited partner with management power is NOT a “limited partner” for PAL purposes.**

LP + GP

If an individual owns a limited partnership interest and a non-limited partnership interest, then that partner is NOT a limited partner (for PAL purposes).

Ex: LP + GP interest

**Effective
When the Final
Regulations
are Published**

Robucci v. Comm'r, TC

Memo 2011-19 (5-11)

(Jan. 24, 2011)

**Psychiatrist Not Allowed
To Restructure Practice to
Avoid SE Tax**

Klebanoff v. Comm'r, TC

Summ 2011-46 (4/7/ 2011)

(5-12)

**Purported Guaranteed
Payment is a Draw on
Future Earnings**

Bush v. U.S. (5-12)

(Fed. Cir. 8/24/2011)


**No Deficiency Notice
Needed for Partnership
Computational
Adjustments**

Partnership
Interest
Transferred to
Creditor

Final Reg §§ 1.108-8 and
1.721-1 (11/15/2011)

Home About Us Classes Links Slides Updates Inflation

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- [RR 2011-29: Bonus Pool Accruals](#)
- [CCA 201147025: MACRS Life for CCRC](#)
- [Final Regs: Partnership Debt-Equity Exchanges](#)
- [Prop Regs: Material Participation by Limited Partners](#)
- [SB 459: California Penalties for Willfully Misclassified Employees](#)

Website

Effective for such exchanges on or after

Nov. 17, 2011

26

Example

Website

Debt For Capital
(no COD Income per Sec 108(e)(8))

27

Example

- Alice and Bill form the AB equal partnership.
- Year 1, Alice and Bill, each, contribute cash of \$100,000, AB borrows \$1,000,000 and purchases real estate for \$1,200,000.
- Assume income exactly offsets expenses and no depreciation on the real estate for simplicity.

28

Year 1 Ending Balance Sheet

	AB Partnership			Partner's Outside Basis
	Tax Basis	Book Basis	FMV	
Real Estate	\$1,200,000	\$1,200,000	\$1,200,000	
Total Assets	\$1,200,000	\$1,200,000	\$1,200,000	
Debt	\$1,000,000	\$1,000,000	\$1,000,000	
Alice's Capital	\$ 100,000	\$ 100,000	\$ 100,000	\$600,000
Bill Capital	\$ 100,000	\$ 100,000	\$ 100,000	\$600,000
Debt + Equity	\$1,200,000	\$1,200,000	\$1,200,000	

29

Example – Year 2

Year 2:

- No change in FMV of assets.
- Lender (L) exchanges the entire \$1,000,000 of debt for a partnership interest worth (liquidation value) \$1,000,000.

30

Example – Year 2

	<u>Debit</u>	<u>Credit</u>
• Debt	\$1,000,000	
L Capital		\$1,000,000

Sec. 108(e)(8) treats the debt as satisfied (paid) to the extent of the FMV of the partnership interest.

31

After Debt Discharge

	ABL Partnership			Partner's Outside Basis
	Tax Basis	Book Basis	FMV	
Real Estate	\$1,200,000	\$1,200,000	\$1,200,000	
Total Assets	\$1,200,000	\$1,200,000	\$1,200,000	
Debt	\$ -	\$ -	\$ -	
Alice' Capital	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000
Bill's Capital	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000
L's Capital	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Debt + Equity	\$1,200,000	\$1,200,000	\$1,200,000	

32

Tax Consequences

- No realized COD Income by A or B. Sec. 108(e)(8).
- No bad debt for lender.

Alice's Outside Basis (same for Bill):

	\$600,000	Beginning Outside Basis
+	\$0	COD Income (no debt discharge)
-	<u>\$500,000</u>	Deemed Distribution/Debt Share Reduced
=	<u>\$100,000</u>	Ending Outside Basis

33

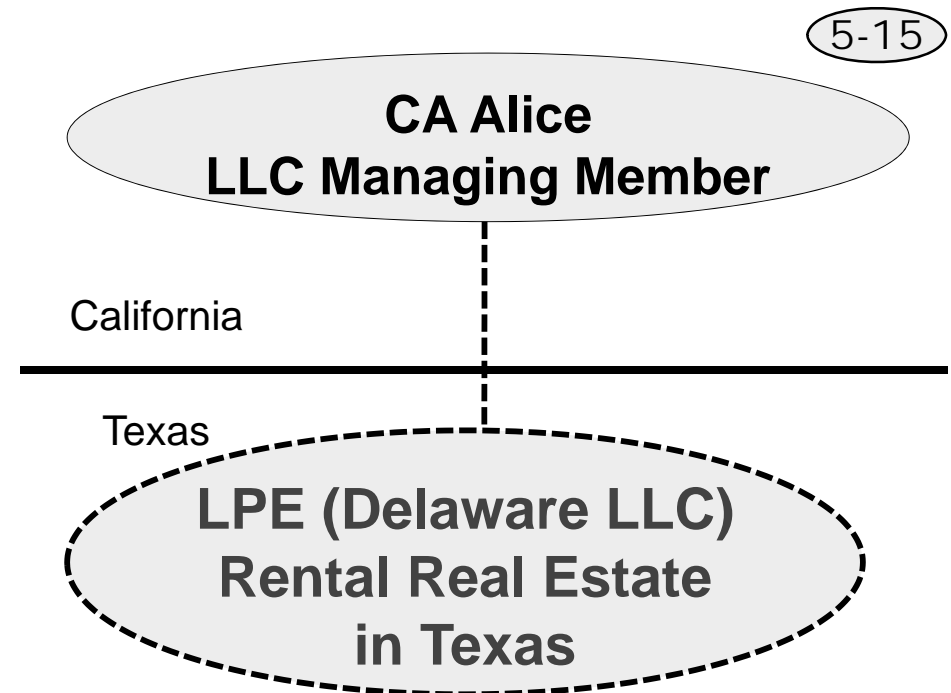
If Debt of \$1 Mil. is exchanged for \$700,000 of Php. Equity

- Alice and Bill have \$300,000 (\$150,000 each) of COD income.
- Lender Bad Debt?
No bad debt to lender per Sec. 721 and final regs.

34

Appeal of Legend Plus Enterprise, LLC, SBE Case ⁽⁵⁻¹⁵⁾ *No. 486026 (2/22/2011)*

**LLC Member Manager in
California = “Doing
Business” in CA**



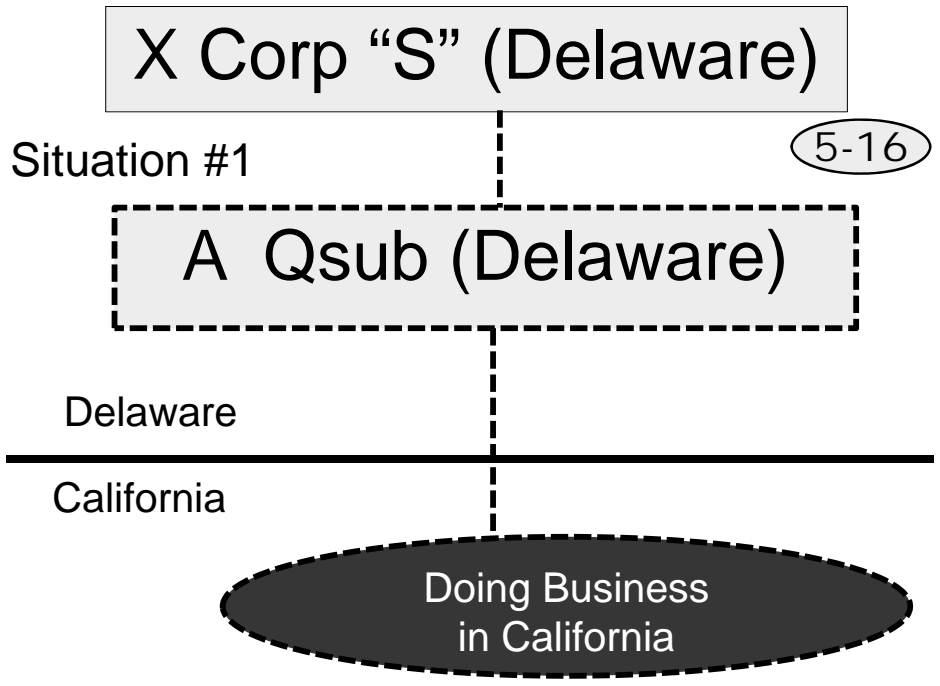
5-15

LPE is doing business in California -- \$800 Min. Tax

FTB Legal Ruling 2011-1
(2/22/2011)

5-16

Entity/Owner Outside of California with Disregarded Entity Inside California



X must file CA Form 100S and pay franchise tax or minimum tax (+ Min Tax For QSUB)

Y Corp (Delaware)

Situation #2 No 568 nor Form 100 Filed

5-17

B SMLLC

Delaware

California

Doing Business
in California

Y Corp (Delaware)

**Y must file
CA
Form 568
And Form 100**

Y Corp (Delaware)

Situation #3: Same as #2 +
568 Filed, but No Y Consent

5-17

B SMLLC

Delaware

California

Doing Business
in California

Y Corp (Delaware)

**If Y does not
consent to
CA tax, then
SMLLC pays.**

5-22

Mandatory Sec. 743(b) Adjustments if a Substantial Built-in Loss

45

A substantial built-in loss exists when the total adjusted basis of partnership assets exceeds the value by more than \$250,000 (section 743(d)(1)).

Example 2-18

5-22

No Sec. 754 Election

	Adjusted Basis	Fair Market Value
Total Assets	\$4.3 Million	\$4 Million

Substantial Built-in Loss

Partner A (O.B. of \$1,075,000) sells A's 25% partnership interest to B for \$1,000,000.

47

A substantial built-in loss exists here because the total adjusted basis of partnership assets exceeds the value by more than \$250,000 (section 743(d)(1)).

Example (2)

Sale With Substantial
Built-In Loss

No Sec 754 Election.

Balance Sheet Following Alice's Sale To Bob For \$1,100,000

Assets	Tax Basis	FMV	Capital	Tax Basis	FMV
Cash	\$300,000	\$300,000	Bob	\$1,200,000	\$1,100,000
Land	\$4,500,000	\$4,100,000	Bill	\$1,200,000	\$1,100,000
			Carol	1,200,000	\$1,100,000
			Dinah	\$1,200,000	\$1,100,000
Total Assets	<u>\$4,800,000</u>	<u>\$4,400,000</u>	Total Capital	<u>\$4,800,000</u>	<u>\$4,400,000</u>

A substantial built-in loss exists here because the total adjusted basis of partnership assets exceeds the value by more than \$250,000 (section 743(d)(1)).

The partnership must make a negative Sec. 743(b) adjustment of \$100,000 for Bob and it is all attributed to the land (matches 754 election)

Example (3)

Bequest With Substantial Built-In Loss

No Sec 754 Election.

The partnership has a “substantial built-in loss” because the total adjusted basis of its assets exceed the total FMV of the assets by more than \$250,000.

Balance Sheet Before Alice Dies

Assets	Tax Basis	FMV	Capital	Tax Basis	FMV
Cash	\$300,000	\$300,000	Alice	\$1,200,000	\$850,000
Real Estate	\$4,500,000	\$3,100,000	Bill	\$1,200,000	\$850,000
			Carol	1,200,000	\$850,000
			Dinah	\$1,200,000	\$850,000
Total Assets	<u>\$4,800,000</u>	<u>\$3,400,000</u>	Total Capital	<u>\$4,800,000</u>	<u>\$3,400,000</u>

Assume that the estate values Alice’s partnership interest at \$510,000—a 40% discount.

- As a result of the 2004 Act, the estate **MUST** make a section 743(b)(2) downward inside basis adjustment of \$690,000 (\$1,200,000 (estate’s share of inside basis) minus \$510,000 (estate’s outside basis)).

Estate's Appraisal May Be Evidence Used by IRS

The estate's appraisal may inadvertently document (ammunition for the IRS) the decline in value of the partnership assets (pre-discount).

The Sec. 743(b) adjustment allocation is based upon a hypothetical sale of each asset at FMV

58

Two Classes of assets:

- (1) Capital gain property**
- (2) Ordinary income property**

59

Allocation to Ordinary Income Property:

Gain or loss on the sale of ordinary income property.

60

Allocation to Capital Gain Property:

The total Sec. 743(b) adjustment minus the portion allocated to ordinary income property.

61

Allocations within Asset Classes:

Generally based upon the hypothetical sale.

62

If the downward Sec. 743(b) adjustment to capital gain assets exceeds the partnership's basis in capital gain assets, then the basis of ordinary income assets is reduced.

63

**Example
With
Investment
Partnership**

64

	Tax Basis	FMV	Outside Basis
Assets:	In Millions		
Stock X (Cap)	\$4.0	\$5.0	
Stock Y (Cap)	\$9.0	\$5.0	
§1245 Recap	\$0	\$2.0	
Total Assets	<u>\$13.0</u>	<u>\$12.0</u>	
Liabilities:	\$0	\$0	
Capital:			
A	\$6.5	\$6.0	\$6.5
B	\$6.5	\$6.0	\$6.5
Debt + Equity	<u>\$13.0</u>	<u>\$12.0</u>	

65

A Dies

No Discount

66

Mandatory Sec. 743(b) Adjustments

67

A substantial built-in loss exists here because the total adjusted basis of partnership assets exceeds the value by more than \$250,000 (section 743(d)(1)).

Estate Sec. 743(b) Adjustment

$$\begin{aligned} & \$6.0 \text{ Mil. O.B. (DOD FMV)} \\ - & \underline{\$6.5 \text{ Mil. I.B.}} \\ = & \langle .5 \rangle \text{ Sec. 743 Adj.} \end{aligned}$$

69

Allocating Between Classes

70

Allocation Between Classes

Ordinary Assets:

\$1.0 Adj. of Ord. Inc. Prop.

Capital Gain Property:

$$\begin{aligned} & -.5 \text{ Total Sec. 743(b) Adj.} \\ - & \underline{1.0 \text{ Adj. to Ord. Inc. Prop}} \\ = & \underline{\langle \$1.5 \rangle \text{ Adj. to Cap Gain Prop}} \end{aligned}$$

71

Sec. 755 Allocation of $\langle .5 \rangle$ Sec. 743 Adjustment

Asset	Basis	Value	Adj.
Stock X	4.0	5.0	.5
Stock Y	9.0	5.0	-2.0
<u>§1245 Re.</u>	<u>0</u>	<u>2.0</u>	<u>1.0</u>
Total	13.0	12.0	-.5

72

Investment Partnership With Discount

73

A Dies

50% Discount

(but no change in net asset value)

74

Assets:	Tax Basis In Millions	FMV	Outside Basis
Stock X (Cap)	\$4.0	\$5.0	
Stock Y (Cap)	\$9.0	\$5.0	
§1245 Recap	\$0	\$2.0	
Total Assets	<u>\$13.0</u>	<u>\$12.0</u>	
Liabilities:	\$0	\$0	
Capital:			
A	\$6.5	\$6.0	\$6.5
B	\$6.5	\$6.0	\$6.5
Debt + Equity	<u>\$13.0</u>	<u>\$12.0</u>	

75

Estate Sec. 743(b) Adjustment

$$\begin{aligned}
 & \$3.0 \text{ Mil. O.B. (50\% x 6.0)} \\
 - & \underline{\$6.5 \text{ Mil. I.B.}} \\
 = & < 3.5 > \text{ Mil. Sec. 743 Adj.}
 \end{aligned}$$

(compared to <.5> without
the discount)

76

Allocating Between Classes

77

Allocation to Ordinary Income Property:

**Hypothetical Gain or
loss on the sale of
ordinary income
property.**

Pg. 2-25

78

Allocation to Capital Gain Property:

**The total Sec. 743(b)
adjustment minus the
portion allocated to
ordinary income
property.**

Pg. 2-25

79

Allocation Between Classes Ordinary Assets:

\$1.0 Adj. of Ord. Inc. Prop.

Capital Gain Property:

-3.5 Total Sec. 743(b) Adj.

- 1.0 Adj. to Ord. Inc. Prop

= < \$4.5 > Adj. to Cap Gain Prop

The <3 million> reduction is
allocated to Cap. Gain. Prop.

80

Allocating Within the Capital Gain Property Class

81

Sec. 755 Allocation of Php Gains/Losses on Cap Assets Without Discount

Asset	Basis	Value	Gain/ Loss
Stock X	4.0	5.0	.5
Stock Y	9.0	5.0	<u>-2.0</u>
Total			-1.5

82

Additional Reduction Needed

Sec. 743 Adj for Cap. Gain Prop.	-4.5
- Hypothetical Sale Allocation	-1.5
Reduction	-3.0

Reduction allocated per relative FMV

83

Reduction of \$3 Million Allocated Per FMV

Asset	Gain/ Loss	Excess Adj.*	§755 Adj.
Stock X	.5	-1.5*	-1.0
Stock Y	-2.0	-1.5*	-3.5
Total			-4.5

$$*5/10 \times -3 \text{ Mil.} = -1.5$$

Formula on Page 2-27

84

Sec. 755 Allocation With 50% Discount

Asset	Basis	Value	Adj.
Stock X	4.0	5.0	-1.0
Stock Y	9.0	5.0	-3.5
<u>§1245 Re.</u>	<u>0</u>	<u>2.0</u>	<u>1.0</u>
Total			-3.5

If the downward **Sec. 743(b)** adjustment to capital gain assets exceeds the partnership's basis in capital gain assets, then the basis of ordinary income assets is reduced.

New Draft Fed. Form

Form **1065X**
(January 2012)
Department of the Treasury
Internal Revenue Service

Amended Return or Administrative Adjustment Request (AAR)

(For use by filers of Forms 1065, 1065-B, and 1066)

▶ See separate instructions.

Please Type or Print	Name
	Number, street, and room or suite no. (If a P.O. box, see instructions.)
	City or town, state, and ZIP code
Enter name and address used on original return (If same as above, write "Same")	
Internal Revenue Service Center where original return was filed	

New CA Form

TAXABLE YEAR

CALIFORNIA SCHEDULE

2011 Pass-Through Entity Ownership

EO (565)

Name as shown on tax return	FEIN
Secretary of State (SOS) file no.	

Part I - Partial Ownership List the entities in which the taxpayer holds ownership of less than 100%.

Name of Entity	SOS file no.	FEIN	CA Source Income See instrs.	Profit and Loss Sharing Percentage. See instructions.	
				Profit	Loss

Part I - Entities owned < 100%

Part II - Full Ownership List the disregarded entities in which the taxpayer holds full ownership of 100%.

Name of Entity	SOS file no.	FEIN	CA Source Income See instrs.	Full Ownership
----------------	--------------	------	------------------------------	----------------

Part II - DE's owned 100%

Chapter 6:

Trusts
&
Exempt Orgs

Prop. Reg. sec. 1.67-4

6-1

Application of
2% Limit
to
Deductions
of
Estates & Trusts

Rudkin Test:

**Would an
individual taxpayer
who held the same property
outside a trust
customarily or commonly
incur this expense?**

6-1

6-1

Costs associated with the *ownership of nonbusiness property* such as “condominium fees, real estate taxes, insurance premiums, maintenance and lawn services, automobile registration and insurance costs”

Costs of *preparation of gift tax returns*

- Preparation of fiduciary income tax returns, the decedent’s final income tax return, and estate tax returns are *not* subject to the 2% limitation.

Costs of *defending claims* by creditors of the decedent or grantor

- The regulation provides that such costs are deductible in full if they are related to the administration of the estate or trust.

Investment Advisory Fees

6-2

Incremental Costs Only

6-2

Notice 2011-37

Bundled
Fiduciary Fees
Remain
Deductible in Full
Until Final Regs

Notice 2011-43 & 44

6-3

Reinstatement
of
Exempt Status
for
Delinquent Charities

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Individuals | Businesses | Charities & Non-Profits | Government Entities | Tax Professionals | Retirement Plans Community | Tax Exempt Bond Community

Charitable Orgs | Churches and Religious Orgs | Contributors | Other Non-Profits | Political Orgs | Private Foundations

Automatic Revocation of Exemption List

The IRS publishes a list of organizations that have had their federal tax-exempt status automatically revoked for failing to file an annual information return or notice with the IRS for three consecutive years. The Automatic Revocation of Exemption List (Auto-Revocation List) is available in Adobe and Excel formats, and divided into separate lists by jurisdiction. The Auto-Revocation List provides the organization's name, employer identification number (EIN), organization (sub)section code, last known address, effective date of revocation, and the date the organization's name was posted on IRS.gov.

The list will be updated monthly as organizations lose their tax-exempt status for not filing. Additional updates will be made as necessary. The date at the bottom of this web page indicates when this page was last updated.

The chart below categorizes automatically revoked organizations by state. For each state, lists are provided using Adobe Acrobat and Microsoft Excel formats. Below are the steps to view and search the list for Acrobat and Excel.

	Acrobat	Excel
	After clicking the link, an option to save the file or open it immediately will appear.	After clicking the link, an option to save the file or open it immediately will appear.
	Use the search feature (CTRL+F) to locate an organization by name, employer identification number, address, city, state, or zip code.	The list may be sorted by data field or the search feature (CTRL+F) may be used.

State	Adobe	Excel
Alabama	Acrobat	Excel
Alaska	Acrobat	Excel
Arizona	Acrobat	Excel
Arkansas	Acrobat	Excel
	Acrobat	Excel
	A-G	A-G
California	Acrobat	Excel
	H-E	H-E

Arkansas	Acrobat	Excel
	Acrobat A-G	Excel A-G
California	Acrobat H-R	Excel H-R
	Acrobat S-Z	Excel S-Z
Colorado	Acrobat	Excel
Connecticut	Acrobat	Excel
Delaware	Acrobat	Excel
District of Columbia	Acrobat	Excel

CA_A_G_Revocations

EIN	Taxpayer Name	Sort Name	Address	City	State	Zip Code	Sub Section Code	Date of Revocation	Date Posted
56-0065315	815T WILDCAT DIVISION ASSOCIATION		30215 SANTA FE ST	HEMET	CA	92543-0649	04	05/15/2010	6/9/2011
77-0376424	820 OFARRELL INC.		25 E HEDDING ST	SAN JOSE	CA	95112-4910	03	11/15/2010	7/13/2011
33-0572274	835 CLUB		300 E MT VIEW ST	BARSTOW	CA	92311-0000	04	05/15/2010	6/9/2011
95-6093709	84TH INFANTRY DIVISION		365 WHICHA WAY	HEMET	CA	92544-3291	07	05/15/2010	10/7/2011
51-0266167	855 NEWPORT CORP		444 MARKET ST STE 2100	SAN FRANCISCO	CA	94111-5390	02	05/15/2010	6/9/2011
51-0266168	855 VALLEY FORGE CORP		444 MARKET ST STE 210	SAN FRANCISCO	CA	94111-5325	02	05/15/2010	6/9/2011
55-0865943	86 WHIPS		400 MISSION RANCH BLVD APT 55	CHICO	CA	95926-5122	03	03/15/2011	11/9/2011
37-1171493	9 TH PSPTS MORALE COMMITTEE		15301 MCGREGOR ST	BEALE AFB	CA	95963-0000	19	05/15/2010	6/9/2011
36-0070249	9.11 AMERICANTHUNDER		1103 JOHNSON AVE	SN LUIS OBISP	CA	93401-3303	01	05/15/2010	6/9/2011
77-0543144	902 WING AERO CAMINO RCAFCA		PO BOX 6505	SANTA BARBARA	CA	93160-6505	04	11/15/2010	7/13/2011
33-0533374	90TH FIELD ARTILLERY ASSOCIATION		7514 GIBARD AVE 650	LA JOLLA	CA	92037-5101	19	05/15/2010	6/9/2011
20-1748317	916 RADIO INCORPORATED		5001 FREEPORT BLVD STE 111	SACRAMENTO	CA	95825-2756	05	05/15/2010	6/9/2011
95-2097264	920 BUILDING CORPORATION		1214 PEARL ST	SANTA MONICA	CA	90405-2520	07	11/15/2010	7/13/2011
90-0159557	92109 FOUNDATION		3931 LA JOLLA SCENIC DR S	LA JOLLA	CA	92037-7816	00	05/15/2010	8/3/2011
77-0572004	95TH W M D-CST SOLDIERS ASSOCIATION		816 VERNON CIR APT F	MOUNTAIN VIEW	CA	94043-6506	19	05/15/2010	6/9/2011
95-3351230	98TH STREET COMMUNITY YOUTH		638 W 98TH ST	LOS ANGELES	CA	90044-4620	05	05/15/2010	6/9/2011
94-6092582	99 SPORTSMENS CLUB INC		8 SALA TER	SAN FRANCISCO	CA	94112-3650	07	05/15/2010	6/9/2011
95-4207529	99TH STREET KOVER-OVER HOUSE		326 E 99TH ST	LOS ANGELES	CA	90003-4802	03	05/15/2010	6/9/2011

Arkansas	Acrobat	Excel
	Acrobat A-G	Excel A-G
California	Acrobat H-R	Excel H-R
	Acrobat S-Z	Excel S-Z
Colorado	Acrobat	Excel
Connecticut	Acrobat	Excel
Delaware	Acrobat	Excel
District of Columbia	Acrobat	Excel

EIN	Taxpayer Name	Sort Name	Address	City	State	Zip Code	Sub Section Code	Date of Revocation	Date Posted
55-2568291	1 SERVE YOUTH TENNIS FOUNDATION		29454 ANTHONY RD	VALLEY CENT	CA	92082-4029	3	05/15/2010	10/7/2011
33-0933487	1866 JESUS ORG		42036 MORAGA RD APT 13-B	TEMECULA	CA	92591-4728	3	05/15/2010	6/9/2011
01-0660518	1-AAA WIN WIN OPPORTUNITIES INC		37255 MISSION BLVD	FREMONT	CA	94536-1630	3	08/15/2010	6/9/2011
13-4342297	100 BLACKMEN OF MONTEREY PENINSULA		1855 BROADWAY DR	SALINAS	CA	93905-5115	3	05/15/2010	10/7/2011
23-7389438	100 CLUB SOCCER DEVELOPMENT		2457 W SCOTT AVE	FRESNO	CA	93711-2755	3	11/15/2010	7/13/2011
23-7816630	100 MEN		PO BOX 1121	SN BERNRNO	CA	92402-1121	3	06/15/2010	8/3/2011
68-0051853	100 MILER CLUB		PO BOX 1615	SAN ANDREAS	CA	95249-1615	3	02/15/2011	10/7/2011
95-4728939	100 STRONG MEN OF COMPTON		717 E HARDY ST APT 5	INGLEWOOD	CA	90301-4344	3	05/15/2010	10/7/2011
74-3191706	1000 MOTHERS TO PREVENT VIOLENCE		PO BOX 781	HAYWARD	CA	94543-0781	3	05/15/2010	10/7/2011
95-3815122	1000 OAKS CHARTER CHAPTER OF		2684 LANDER CT	HEWBURY PAR	CA	91326-3220	6	03/15/2011	11/9/2011
95-6086550	102 FOUNDATION		445 S FIGUEROA ST	LOS ANGELES	CA	90071-1601	3	03/15/2011	11/9/2011
94-3321156	1020 MARIPOSA STREET OWNERS		943107-2547	SAN FRANCISCO	CA	94107-2547	0	05/15/2010	6/9/2011
95-4258271	10TH COUNCILMANIC DISTRICT ATHLETIC		2886 RODEO RD	LOS ANGELES	CA	90019-4135	3	05/15/2010	6/9/2011
94-6103244	10TH DISTRICT JUNIOR LIVESTOCK		489 W CENTER ST	YREKA	CA	96097-2809	3	05/15/2010	6/9/2011
95-3985227	10TH DISTRICT WOMENS STERRING		PO BOX 191953	LOS ANGELES	CA	90019-1252	4	05/15/2010	6/9/2011
94-2833622	10TH MUSE PRODUCTIONS INC		852 TREAT SUITE C	SAN FRANCISCO	CA	94110-2703	3	05/15/2010	6/9/2011
95-2999939	117TH STREET COMMUNITY INTERACTION		2015 E 117TH ST	LOS ANGELES	CA	90058-2601	3	05/15/2010	6/9/2011
95-0425662	11TH HOUR DANCE COMPANY		PO BOX 6383	NAPA	CA	94551-1383	3	05/15/2010	10/7/2011
20-956100999	12-30 CLUB		810 N CRESCENT DR	BEVERLY HIL	CA	90210-2918	3	05/15/2010	6/9/2011
94-6198382	129 LAND & CATTLE CO		PO BOX 2021	SANTA CRUZ	CA	95062-2021	7	09/15/2010	8/3/2011
95-4680451	1247 23RD STREET HOMEOWNERS		1247 23RD ST UNIT D	SANTA MONIC	CA	90404-1375	4	05/15/2010	6/9/2011
91-2027432	129TH RESCUE MEMBER FOUNDATION		PO BOX 222	MOFFETT FIE	CA	94035-0222	3	02/15/2011	10/7/2011
62-1322116	12TH CAVALRY REGIMENT ASSOCIATION		4774 MANSFIELD ST APT 4	SAN DIEGO	CA	92116-2457	19	11/15/2010	7/13/2011
94-2638291	12TH CONGRESSIONAL DISTRICT ACTION		PO BOX 7145	MEHLO PARK	CA	94026-7145	4	05/15/2010	6/9/2011
91-2041716	12TH DISTRICT NAVAL RESERVE		2241 WELLESLEY ST	PALO ALTO	CA	94306-1361	3	05/15/2010	6/9/2011

Rev. Proc. 2011-36

6-4

Reduced User Fee
for
Reinstatement
of
Small Charities

The screenshot shows the IRS website's 'Charities & Non-Profits' section. The main heading is 'Automatic Exemption Revocation for Non-Filing: Frequently Asked Questions'. On the right side, there is a list of 15 numbered questions, such as 'What is automatic revocation?' and 'What organizations are subject to automatic revocation?'. On the left side, there are two columns of links: 'Charities & Non-Profits Topics' (including Life Cycle, Search for Charities, A-Z Site Index, etc.) and 'IRS Resources' (including Compliance & Enforcement, Contact My Local Office, etc.).

6-5

Rev. Proc. 2011-33

TAXA


Electronic
Pub 78
&
IRS
Business Master File

The screenshot shows the IRS website's 'SOI Tax Stats - Exempt Organizations: IRS Master File Data' page. A large black box with the white text 'BMF' is overlaid on the right side of the page. The page content includes a 'Background' section with a link to a spreadsheet of 501(c)(3) organizations, a 'Cumulative List of 501(c)(3) Organizations, IRS Publication 78' section, and an 'Exempt Organizations Master Listing' section. At the bottom, there is a table for selecting files by state (Alabama, Louisiana, Oklahoma) and format (ASCII Text File, Excel File).

Alabama	Louisiana	Oklahoma
ASCII Text File (.Zip)	ASCII Text File (.Zip)	ASCII Text File (.Zip)
Excel File (.XLS)	Excel File (.XLS)	Excel File (.XLS)

Arkansas	Massachusetts
ASCII Text File (Zip)	ASCII Text File (Zip)
Excel File A-Z	Excel Files A-K, L-Z
California	Michigan
ASCII Text File (Zip)	ASCII Text File (Zip)
Excel Files A-B, C-E, F-H, I-L, M-P, Q-S, T-Z	Excel Files A-J, K-Z
Colorado	Minnesota
ASCII Text File (Zip)	ASCII Text File (Zip)

6-5


State of California
Franchise Tax Board

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 **Chat**

Exempt Organizations List

Use this list to find a California tax-exempt entity. The list contains the following information:

- Entity ID – Corporation or organization number
- Entity name – No punctuation or symbols displayed
- City – City from entity mailing address
- Exempt section – Law section within California Revenue and Taxation Code Section 23701 under which the entity is organized and operated
- Exempt APE – Account Period Ending – Entity's annual accounting period
- Franchise Tax Board (FTB) status – Active or suspended
- Secretary of State (SOS) status – Active or suspended

Important. Due to the large size of these files, they may take a few minutes to open.

Updated monthly, last updated 11/19/2011

Total number of organizations on this list, 233,363

- [PDF \(16.6 MB\)](#)
- [XLS \(Truncated, 3.08 MB\)](#)

Entity ID	Entity Name	City	Exempt Section	APE	FTB Status	SOS Status
1734966	MONTANA VISTA HOMEOWNERS ASSOCIATION	MONROVIA	T	12/31	SUSPENDED	SUSPENDED
3325243	MONTANA WOODS HOMEOWNERS ASSOCIATION	SANTA MONICA	T	12/31	ACTIVE	ACTIVE
9722491	MONTANA WOODS HOMEOWNERS ASSOCIATION	SANTA MONICA	T	12/31	ACTIVE	N/A
2763103	MONTANALOS ROBLES OAKS HOMEOWNERS ASSOCIATION	SIERRA MADRE	T	12/31	ACTIVE	ACTIVE
0732103	MONTANAS DE LOS GATOS HOMEOWNERS ASSOCIATION	CAMPBELL	T	12/31	ACTIVE	ACTIVE
0795805	MONTANERA SLOPE MAINTENANCE ASSOCIATION	ANAHEIM	T	12/31	ACTIVE	ACTIVE
2747308	MONTARA COMMUNITY ASSOCIATION	CORONA	T	12/31	ACTIVE	ACTIVE
1862246	MONTARA OF SAN LORENZO HOMEOWNERS ASSOCIATION	HAYWARD	T	12/31	ACTIVE	ACTIVE
1506500	MONTARAMOSS BEACH WATER IMPROVEMENT ASSOCIATION INC	MONTARA	D	12/31	SUSPENDED	SUSPENDED
2754337	MONTALBAN OWNERS ASSOCIATION	STOCKTON	T	12/31	ACTIVE	ACTIVE
1061107	MONTBURY HOMEOWNERS ASSOCIATION	EL TORO	T	11/30	ACTIVE	ACTIVE
1566890	MONTCLAIR AT LOMAS DEL LAGO ESTATES ASSOCIATION	VISTA	T	12/31	ACTIVE	ACTIVE
0363914	MONTCLAIR CHAMBER OF COMMERCE	MONTCLAIR	E	06/30	ACTIVE	ACTIVE
2081896	MONTCLAIR CHILDRENS LEARNING CENTER INC	OAKLAND	D	08/31	SUSPENDED	SUSPENDED
0233208	MONTCLAIR COMMUNITY PLAY CENTER	OAKLAND	D	12/31	ACTIVE	ACTIVE
0618331	MONTCLAIR EASTERN LITTLE LEAGUE INC	MONTCLAIR	D	09/30	SUSPENDED	ACTIVE
9589641	MONTCLAIR ELEMENTARY SCHOOL PTA	OAKLAND	D	06/30	ACTIVE	N/A
9775450	MONTCLAIR FIREFIGHTERS ASSN	MONTCLAIR	A	12/31	ACTIVE	N/A
0778170	MONTCLAIR GARDEN HOMEOWNERS ASSOCIATION	CAMERON PARK	T	08/31	ACTIVE	ACTIVE
0556683	MONTCLAIR GRACE BRETHREN CHURCH OF MONTCLAIR CALIFORNIA	RCH CUCAMONGA	D	12/31	SUSPENDED	SUSPENDED
1662739	MONTCLAIR HIGHLANDS NEIGHBORHOOD ASSOCIATION INC	OAKLAND	F	12/31	SUSPENDED	ACTIVE
1958044	MONTCLAIR HOMEOWNERS ASSOCIATION	MORGAN HILL	T	12/31	ACTIVE	ACTIVE
1979643	MONTCLAIR KENMORE HOMEOWNERS ASSOCIATION INC	GLENDALE	T	05/31	ACTIVE	ACTIVE
0843548	MONTCLAIR LANGUAGE LEAGUE	OAKLAND	D	06/30	ACTIVE	SUSPENDED
2670625	MONTCLAIR LIONS CLUB FOUNDATION	OAKLAND	D	12/31	ACTIVE	ACTIVE

Entity ID	Entity Name	City	Exempt Section	APE	FTB Status	SOS Status
42582	3158365 CHILDREN OF THE SUN FOUNDATION	MISSION VIEJO	D	12/31	ACTIVE	ACTIVE
3219733	CHILDREN OF THE TRUENO LIGHT FOUNDATION	SUNNYVALE	D	06/30	ACTIVE	ACTIVE
42583	INTERNATIONAL					
42584	2109948 CHILDREN OF THE WORLD FOUNDATION	MODESTO	D	12/31	ACTIVE	SUSPENDED
42585	1794156 CHILDREN OF THE WORLD MINISTRIES INC	ANNANDALE	D	11/30	SUSPENDED	SUSPENDED
2175962	CHILDREN OF THE WORLD WHICH WILL DO BUSINESS IN CALIFORNIA AS CHILDREN	POWAY	D	06/30	SUSPENDED	ACTIVE
42586	2679446 CHILDREN OF VALOR EL GIBBOR CORPORATION	BUENA PARK	D	12/31	ACTIVE	ACTIVE
42588	2312949 CHILDREN OF ZION MINISTRIES	LITTLEROCK	D	12/31	ACTIVE	ACTIVE
42589	0854105 CHILDREN OUR ULTIMATE INVESTMENT	N HOLLYWOOD	D	09/30	ACTIVE	ACTIVE
42590	2885975 CHILDREN POVERTY RELIEF FOUNDATION	ROSEVILLE	D	06/30	ACTIVE	ACTIVE
2399151	CHILDREN R THE FUTURE COMMUNITY DEVELOPMENT CORPORATION	MORENO VALLEY	D	12/31	ACTIVE	SUSPENDED
42591	2088228 CHILDREN R US CHILD CARE CENTER	PASADENA	D	12/31	SUSPENDED	ACTIVE
42593	1030399 CHILDREN R US CHILD DEVELOPMENT CENTER INC	OXNARD	D	12/31	ACTIVE	ACTIVE
3089278	CHILDREN R US ELITE ACADEMY OF HIGHER LEARNING INC	VENTURA	D	12/31	ACTIVE	ACTIVE
42594	2005097 CHILDREN REQUIRING A CARING KOMMUNITY	CONCORD	D	12/31	ACTIVE	SUSPENDED
42596	2317955 CHILDREN REUNION	CANOGA PARK	D	12/31	SUSPENDED	SUSPENDED
42597	1783066 CHILDREN RIGHTS ABUSE FUNDS TRADES SERVICES AND EDUCATION IN NIGERIA INC	SN BERNRDO	D	12/31	ACTIVE	ACTIVE
42598	2005091 CHILDREN SERVICES OF MONTEREY BAY INC	MARINA	D	06/30	SUSPENDED	ACTIVE
42600	2554811 CHILDREN SKILLS FOR LIFE INC	WOODLAND HLS	D	12/31	ACTIVE	ACTIVE
42601	1734380 CHILDREN TO LOVE INTERNATIONAL	BAKERSFIELD	D	09/30	ACTIVE	ACTIVE
2005962	CHILDREN TODAY A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION	LONG BEACH	F	12/31	ACTIVE	ACTIVE
42602	1815653 CHILDREN TOMMORROW	SACRAMENTO	D	12/31	SUSPENDED	SUSPENDED
42604	2156476 CHILDREN UNITING NATIONS INC	LOS ANGELES	D	01/31	ACTIVE	ACTIVE

6-5

FTB TAM 2011-04

FTB Procedures
for
Revivors
of
Exempt Organization

6-7

TAM 201129050

No Waiver
of
Minimum Distribution
Penalty
for
Private Foundation


Ch. 7

Payroll Tax

California SB 459

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Course Updates




2012 Busy Season Look-Out List

<u>Day 1 Course Updates:</u>	<u>Day 2 Course Updates:</u>
<u>RP 2011-55: Reporting Mortgage Assistance Payments - New Form 1098-MA</u>	<u>PL 112-56: WOTC Expanded for Qualified Veterans</u>
<u>CCA 201144023: Fishing Rights Not Capital Asset</u>	<u>FS 2011-13: IRS Fact Sheet on Foreign Reporting for Expats & Dual Citizens</u>
<u>RP 2011-58: Expansion of Ponzi Safe Harbor</u>	<u>RR 2011-29: Bonus Pool Accruals</u>
<u>TIGTA Report on Erroneous Theft Loss Claims for Investments</u>	<u>CCA 201147025: MACRS Life for CCRC</u>
	<u>Final Regs: Partnership Debt-Equity Exchanges</u>
	<u>Prop Regs: Material Participation by Limited Partners</u>
	<u>SB 459: California Penalties for Willfully Misclassified Employees</u>

Signed by Gov. Brown in October 2011, Senate Bill 459 makes the “willful misclassification” of employees as independent contractors “unlawful” and provides for severe penalties.

The penalties apply to the employer and the employer's paid accountant, enrolled agent, CPA, or any paid person who advised the employer.

If the Labor Commissioner, or a court, determines there is a "pattern and practice" of these violations, a civil penalty of \$10,000 to \$25,000 for each violation may be imposed.



CAMICO
→→→ 25 YEARS ←←←

e-Alert
CPA Professional Liability Insurance

e-Alert

New CA Law — Senate Bill 459 Independent Contractor Status

In October 2011, California Senate Bill 459 (Ch. 11-706) was signed into law, effective January 1, 2012, making the "willful misclassification" of employees as independent contractors "unlawful" and providing for severe penalties on employers and any "paid person" who inappropriately advises them regarding this issue. (The law exempts only attorneys and employees of the business from being penalized.) The broad nature of this new law may expose CPAs to penalties if they are deemed to have misadvised clients about independent contractor status.

Since the impact of this new law may be significant to some of your business clients and pose some risks to your firm, CAMICO is encouraging you to make your business clients aware of the new law as soon as possible and to clarify the steps they should take to determine the appropriateness of their independent contractor classifications. This awareness campaign will help minimize your risk of allegations stating, "my trusted advisor failed to warn me." To help you in your client awareness efforts, CAMICO has developed a sample [Client Notification Letter—SB 459 Independent Contractor Status](#), which is available to download from the Members-Only Site.

CAMICO Suggested Engagement Letter Language:

We will not be responsible for advising you with respect to independent contractor status as part of our services. If you have any questions regarding the classification of employees versus independent contractors, we strongly encourage you to consult with legal counsel experienced in employment practice matters.

7-1

Background

7-1

Employee
(v. Independent Contractor) status is determined by common law factors.

Sec. 3509 Reduced Rates

- **10.68% 2010**
- **10.28% 2011**
- **3.24% comp. above the Soc. Security base.**

7-5

7-1

530 Relief (during audit)

- 1) **Reasonable basis for not treating workers as employees, such as a court case, industry practice, a no-change prior audit, or professional advice.**

7-1

2) Substantive Consistency:
The company has consistently treated the workers (and any similar workers) as independent contractors.

7-1

3) Reporting Consistency: The company has filed all required 1099s for the workers with the IRS.

7-1

530 Relief results in Employees being treated as Independent Contractors Indefinitely

Not applicable to the employees before 1997

Existing CSP Program
Taxpayers Under Audit

7-1

- **Tied to 530 Relief**
- **25% of the Sec. 3509 (reduced rate) ET liability for audit year.**

7-5

**New
Voluntary
Classification
Settlement
Program
(VCSP)**

Eligibility (voluntary)

- 1) Consistently treated workers as nonemployees,**
- 2) Filed all required 1099s for 3 prior years,**
- 3) Not currently under audit by the IRS.**

- 4) Not currently under audit by the DOL or a state agency.**
- 5) In compliance with prior IRS or DOL worker classification audit.**

The VCSP Deal

- Taxpayer will owe 10% of the Sec. 3509 reduced rates for the most recent tax year.**

A bit more than 1% of the worker's income.

- **Taxpayer will not be liable for any interest and penalties on the amount owed**
- **Taxpayer will not be subject to an employment tax audit with respect to the worker classification of the workers for prior years.**

Downsides to VCSP

- **Cheap up front, but full employee payroll tax beginning next year.**
- **Indirect concession for state purposes (CA EDD) would include prior open years.**

- **Pension plan disqualification?**
- **Tort liability
Respondeat superior (Latin)
“Let the Master Answer”**
- **Other employee rights and benefits (fringes).**

New Q & A
Q22 (Nov. 11). By signing the VCSP closing agreement am I admitting any liability or wrong doing for past periods?

- **A22. No, the VCSP concerns future years only. The IRS is not making any determination with regard to prior years and you are not making any representation as to the workers' proper status for prior years for federal employment tax purposes**

**VCSP
Does Not Make
Sense if 530
Relief is a
Certainty**

7-11

PMTA 2011-15 (/2011)

**Use of Sec. 530 Relief
Requires Taxpayer
Reliance on Safe Harbor**

EDD:

- **Personal income tax (PIT) withholding at a 6% rate;**
- **State Disability Insurance;**
- **Unemployment Insurance;**
- **Employment Training Tax; and**
- **Penalties and interest.**

EDD Relief:

EDD grants relief if 1099s were filed or the worker reports the income for income tax purposes.

Donald Cave, Prof. Law Corp. v. Comm'r, TC Memo 2011-48 (2/28/2011)

7-12

Associate Attorneys are Employees

If a tax professional wrote a letter giving reasons for I.C. status that Cave could rely upon, then 530 Relief may have been possibility.

7-13

If Worker Would Rather Be an Employee

Form 8919	Uncollected Social Security and Medicare Tax on Wages	OMB No. 1545-0074
Department of the Treasury Internal Revenue Service	▶ See instructions on back. ▶ Attach to your tax return.	2011 Attachment Sequence No. 72
Name of person who must file this form. If married, complete a separate Form 8919 for each spouse who must file this form.		Social security number

- Who must file.** You must file Form 8919 if all of the following apply.
- You performed services for a firm.
 - The firm did not withhold your share of social security and Medicare taxes from your pay.
 - Your pay from the firm was not for services as an independent contractor.
 - One or more of the reasons listed below under *Reason codes* apply to you.

New Reason Code H (no need for SS-8):

H I received a Form W-2 and a Form 1099-MISC from this firm for 2011. The amount on Form 1099-MISC should have been included as wages on Form W-2.

Shramm v. Comm'r, TC
Memo 2011-212 (8/30/2011)

**Adjunct College Professor⁽⁷⁻¹²⁾
is Employee so No Sch C**

6 Factors

Robinson v. Comm'r, TC
Memo 2011-99 (5/5/2011)

(7-14)

**Adjunct College Faculty
Independent Contractor**

Sch C OK

CCA 201120021 (3/18/2011)

(7-16)

**IRS Still Attacking Tool
Reimbursement Plan**

***Custom Stairs & Trim, Ltd.
v. Comm'r TC Memo 2011-
155 (6/5/2011)***

(7-18)

**Delinquent Payroll Taxes
Tax Penalties
Excused Due to Financial
Hardship**

Chapter 8:
Estate & Gift Tax

Page

Fractional Interests: Sec. 2036

- *Estate of Adler v Comm'r* - Estate Denied Fractional Interest Discount..... 8-1
- *Estate of Riese v Comm'r* - Residence Used After Termination of QPRT Escapes Gross Estate 8-2
- *Estate of Van v Comm'r* - Home Purchased with Children's Funds in Gross Estate of Parent 8-3
- *Estate of Turner v Comm'r* - Sec 2036 Pulls FLP Assets into Gross Estate: No Discount Allowed..... 8-4
- *Estate of Jorgensen v Comm'r* - Ninth Circuit Affirms Tax Court-No FLP Discount..... 8-7

Ch. 8

Estate & Gift Tax

Estate of Adler v. Comm'r,
TC Memo 2011-28 (Jan. 31,
2011)

**Estate Denied Fractional
Interest Discount**

**Fractional Interests:
Sec. 2036**

Estate of Riese v. Comm'r,

TC Memo 2011-60 (8-2)

(3/15/2011)

**Residence Used Following
Termination of QPRT
Escapes Gross Estate**

Estate of Van v. Comm'r,

TC Memo 2011-22

(Jan. 27, 2011) (8-3)

**Home Purchased with
Children's Funds in Gross
Estate of Parent**

Estate of Turner v. Comm'r,

TC Memo 2011-209 (Aug. 30,
2011)

(8-4)

**Sec. 2036 Pulls FLP Assets
into Gross Estate: No
Discount Allowed**

***Estate of Jorgensen v.
Comm'r*** (9th Cir. 5/4 /2011)

(8-8)

**Ninth Circuit Affirms Tax
Court – No FLP Discount**

8-8

Valuation Issues

Estate of Petter v. Comm’r,
(9th Cir. 8/4/2011) 8-8

Ninth Circuit Upholds Use of Formula Clause to Limit Gift Tax

8-9

If the IRS bumped up the valuation of the LLC units, the effect was to reduce the number of units going to the children’s trusts and increase the number going to charity, keeping the taxable gift unchanged.

	<u>Form 709</u>	<u>IRS Value</u>
FMV	\$5,000,000	\$10,000,000
To Daught.	5,000 Shs.	2,500
Per Share	\$1,000	\$2,000
To Charity	0 Shs.	2,500
Charity Deduction		<u><\$5,000,000></u>
Taxable Gift	<u>\$5,000,000</u>	<u>\$5,000,000</u>

Estate of Mitchell, TC (8-13)

Memo 2011-94 (4/28/2011)

**Tax Court Agrees with
Taxpayer's Valuation of
Real Property and
Paintings**

(value of leased-fee interests)

(8-14)

**Estate Tax
Deductions**

Estate of Saunders v.

Comm'r, 136 TC No. 18

(5/5/2011)

(8-18)

**\$30 Million Deduction Not
Allowed for Pending Legal
Malpractice Claim**

\$250,000 Allowed

(8-16)

**The estate produced
four experts with four
conflicting amounts.**

**Showed the judge that
the claim was not
reasonably
ascertainable.**

Rev. Proc. 2011-48

8-14

(7/11/2011)

Protective Claim for Refund Based Upon Sec. 2053 Deduction

8-15

Example

Amount Of Claim Not Ascertainable and Contested

Form 843 | **Claim for Refund and Request for Abatement** | 8-17

(Rev. August 2011)
Department of the Treasury
Internal Revenue Service

▶ See separate instructions.

Use Form 843 if your claim or request involves:

- (a) a refund of one of the taxes (other than income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding) or a fee, shown on line 3,
- (b) an abatement of FUTA tax or certain excise taxes, or
- (c) a refund or abatement of interest, penalties, or additions to tax for one of the reasons shown on line 5a.

Do not use Form 843 if your claim or request involves:

- (a) an overpayment of income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding (use the appropriate amended tax return),
- (b) a refund of excise taxes based on the nontaxable use or sale of fuels, or
- (c) an overpayment of excise taxes reported on Form(s) 11-C, 720, 730, or 2290.

Name(s)	Your social security number
Address (number, street, and room or suite no.)	Spouse's social security number
City or town, state, and ZIP code	Employer identification number (EIN)
Name and address shown on return if different from above	Daytime telephone number

1 **Period.** Prepare a separate Form 843 for each tax period or fee year.
From _____ to _____

2 **Amount** to be refunded or abated:
\$ _____

3 **Type of tax or fee.** Indicate the type of tax or fee to be refunded or abated or to which the interest, penalty, or addition to tax is related.

Employment Estate Gift Excise Income Fee

Form 843 | **Claim for Refund and Request for Abatement** | 8-17

(Rev. August 2011)
Department of the Treasury
Internal Revenue Service

▶ See separate instructions.

Use Form 843 if your claim or request involves:

- (a) a refund of one of the taxes (other than income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding) or a fee, shown on line 3,
- (b) an abatement of FUTA tax or certain excise taxes, or
- (c) a refund or abatement of interest, penalties, or additions to tax for one of the reasons shown on line 5a.

Do not use Form 843 if your claim or request involves:

- (a) an overpayment of income taxes or an employer's claim for FICA tax, RRTA tax, or income tax withholding (use the appropriate amended tax return),
- (b) a refund of excise taxes based on the nontaxable use or sale of fuels, or
- (c) an overpayment of excise taxes reported on Form(s) 11-C, 720, 730, or 2290.

1 **Period.** Prepare a separate Form 843 for each tax period or fee year.
From _____ to _____

2 **Amount** to be refunded or abated:
\$ _____

3 **Type of tax or fee.** Indicate the type of tax or fee to be refunded or abated or to which the interest, penalty, or addition to tax is related.

Employment Estate Gift Excise Income Fee

**Use Form 843 if
DOD After
10/19/2009
Before
1/1/2012**

8-16

Protective refund claims must identify and describe in detail the claim or expense for which a deduction may be claimed under Sec. 2053.

8-15

**DOD After
12/31/2011
Use
Schedule PC
Or Form 843**

8-18

Estate of Shapiro v. U.S.
(9th Cir. 2/22/2011)

**Palimony Suit Can Qualify
for Sec. 2053 Deduction**

8-20

Estate of Olivo v. Comm'r,
TC Memo 2011-163
(7/11/2011)

**No Deduction for Claim
Related to Son/Care
Provider (testimony only)**

8-21

The final regulations issued in 2009 provide specific guidelines for evaluating claims of this type.

Estate of Palumbo v. U.S.
(Dist. Ct. PA 3/09/2011)

8-21

Settlement Paid under Botched Will Yields Charity Deduction

8-22

Other Issues

Linton v. U.S. (9th Cir.
1/21/2011)

8-22

Ninth Circuit Reverses and Remands Indirect Gift (Of Assets) Holding

Lesson:

8-23

Transfer property to the FLLC or FLP before other family members are given any interests in the FLLC.

If other family members are already in the FLLC or FLP, make sure that the partnership agreement does not allocate the contributed capital to the other partner/LLC members.

8-23

***Estate of Chancellor v. Comm’r*, TC Memo 2011-172 (7/14/2011)**

8-23

**Gross Estate Does Not Include Trust Assets:
Bypass Trust Succeeds**

***Estate of Dickow v. U.S.*
(1st. Cir. 8/19/2011)**

8-24

**First Circuit Limits
Executor to One Six-Month
Filing Extension**

***Pucci 2004 Revocable
Trust v. U.S.*** (9th Cir.
2/16/2011) (8-26)

**Flawed Extension Request
Results in Penalties**

***In the Matter of the Tax
Liabilities of John Does***
(E. Dist. Cal. 5/23/2011)

(8-28)

**John Doe Summons on
California BOE Reveals
IRS Gift Tax Initiative**

**Summons Granted
on 12/15/2011**

**Jan. 2005 – Dec. 2010
Gifts**

**The IRS estimates that
60% to 90% of
taxpayers who
transfer real estate to
a relative do not file a
gift tax return.**

Estate of Haggar v. U.S.
(Dist. Ct. SD 2/23/2011)

8-28

**Negligence Penalty
Possible for Estate's
Failure to Disclose Gifts**

TAM 201126030 (7/1/2011)

8-29

**Will Construction Reduces
Marital Deduction**

PLR 201125009 (6/24/2011)

8-30

**IRS Approves Post-Death
Disclaimer of Retirement
Benefits**

PLR 201118007 (5/6/2011)

8-31

**Favorable Rulings on
Marital Trust Severance
and Disclaimer**

8-32

To qualify for a marital deduction, a marital deduction trust must give the spouse a qualifying income interest for life.

8-32

Under Sec. 2519, if a spouse makes a gift of any portion of her qualifying income interest in the QTIP trust, she is deemed to make a transfer of the entire value of the remainder (+ the gifted income interest).

PLR 201119003 (5/13/2011)

8-33

No Gift on Transfer by Marital Trust to Resolve Family Discord

(bona fide exchange for full consideration)

**Estate of Liftin v. U.S.,
Ct Fed Cl
(11/08/2011)**

Late Filed Return Supports Marital Deduction for Non-Citizen

Reg. § 20.2056A-1(b) allows a marital deduction to be achieved for a resident alien spouse who becomes a U.S. citizen before a late estate tax return is filed.

Timely filing would have negated the relief.

The Court denied summary judgment on the sole issue in the case--the late filing penalty (reasonable cause is possible).

Chapter 9:
Tax Practice
&
Procedure

9-1

Reg. § 301.7502-1

Proving
Timely Filing
of
Lost
Tax Returns

9-2

O'Bryant v. Comm'r

Reasonable Cause
for
Late Filing
of
Tax Returns

9-2

SBSE-05-0711-062

**Hardship Extensions
for
Time to Pay Tax**

2011 Tax Update & Planning Conference

Application for Extension of Time for Payment of Tax Due to Undue Hardship

9-4

Form **1127**
(Rev. February 2010)
 Department of the Treasury
 Internal Revenue Service

OMB No. 1545-0111

Before you begin: Use the chart on page 3 to see if you should file this form.

Name(s) shown on return: _____ Identifying number: _____

Number, street, and apt., room, or suite no. If you have a P.O. box, see instructions: _____

City, town, or post office, state, and ZIP code. If you have a foreign address, see instructions: _____

Part I Request for Extension

I request an extension from _____, 20_____ to _____, 20_____ to pay tax of \$_____.

This request is for (check only one box):

The tax shown or required to be shown on Form _____.

An amount determined as a deficiency on Form _____.

This request is for calendar year 20_____, or fiscal year ending _____, 20_____.

Part II Reason for Extension

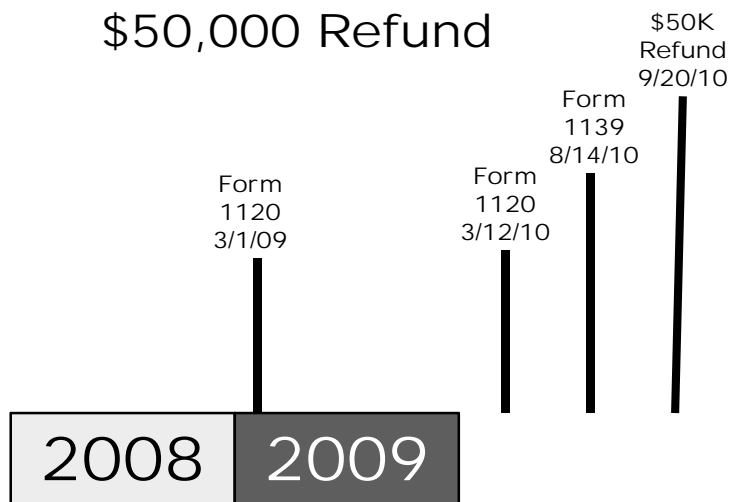
Undue hardship. Enter below a detailed explanation of the undue hardship that will result if your application is denied. (If more space is required, please attach a separate sheet.) To establish undue hardship, you must show that you would sustain a substantial financial loss if forced to pay a tax or deficiency on the due date. For a complete definition of "undue hardship," see the instructions on page 3 under *Who Should File*.

9-6

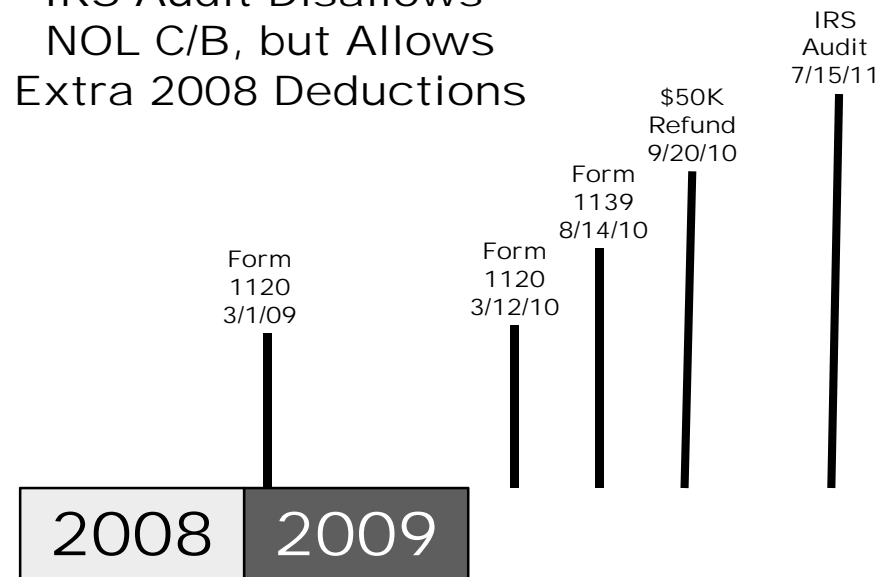
TAM 201123029

IRS
Explains
Interest Calculation
Rule

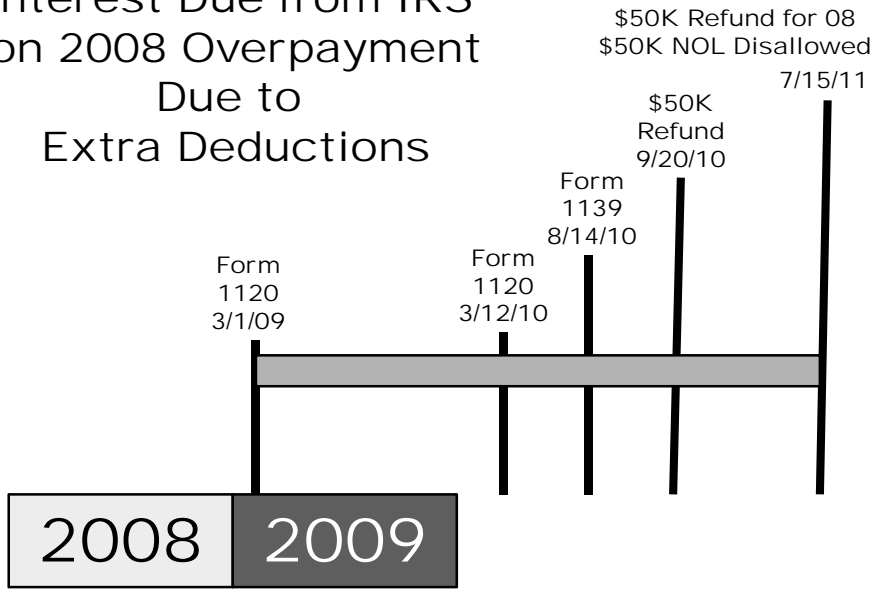
2009 NOL Carryback
Generates
\$50,000 Refund



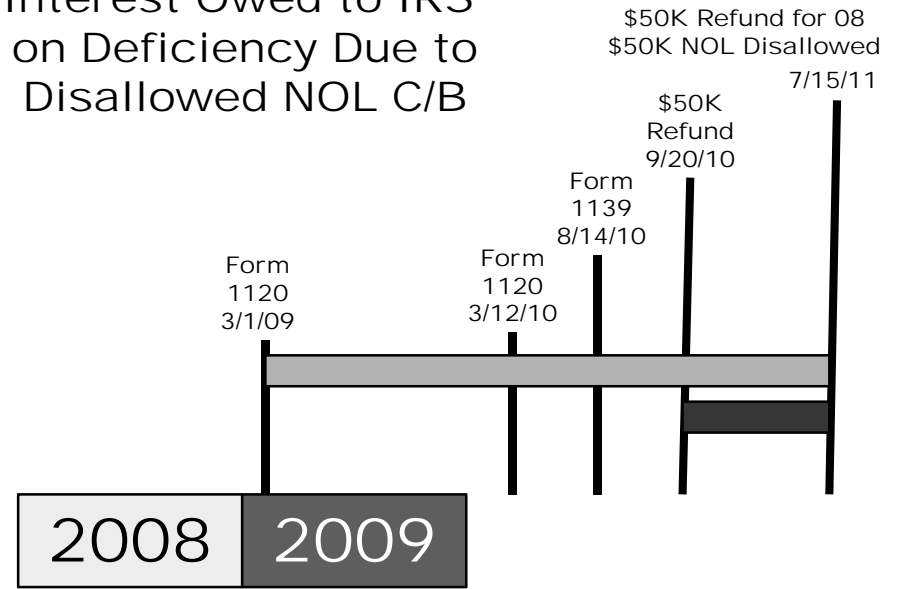
IRS Audit Disallows
NOL C/B, but Allows
Extra 2008 Deductions



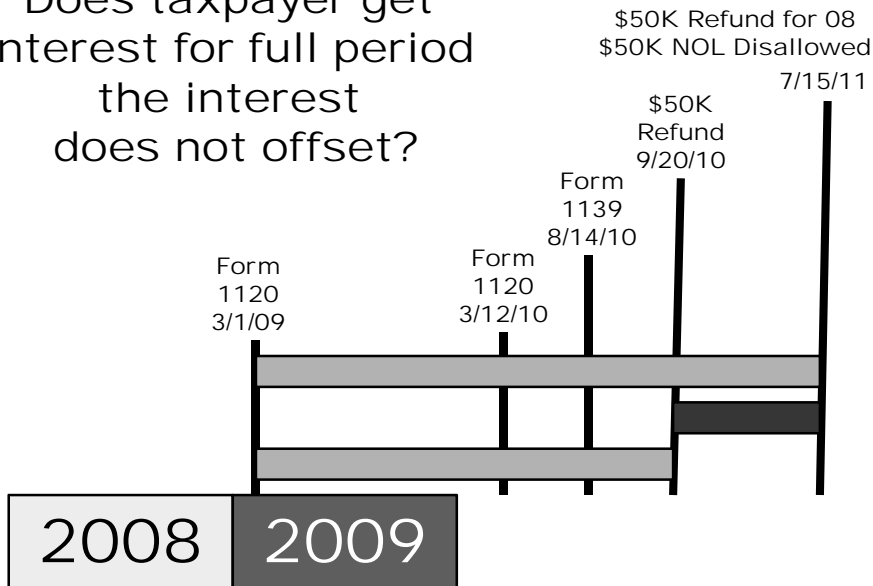
Interest Due from IRS
on 2008 Overpayment
Due to
Extra Deductions



Interest Owed to IRS
on Deficiency Due to
Disallowed NOL C/B

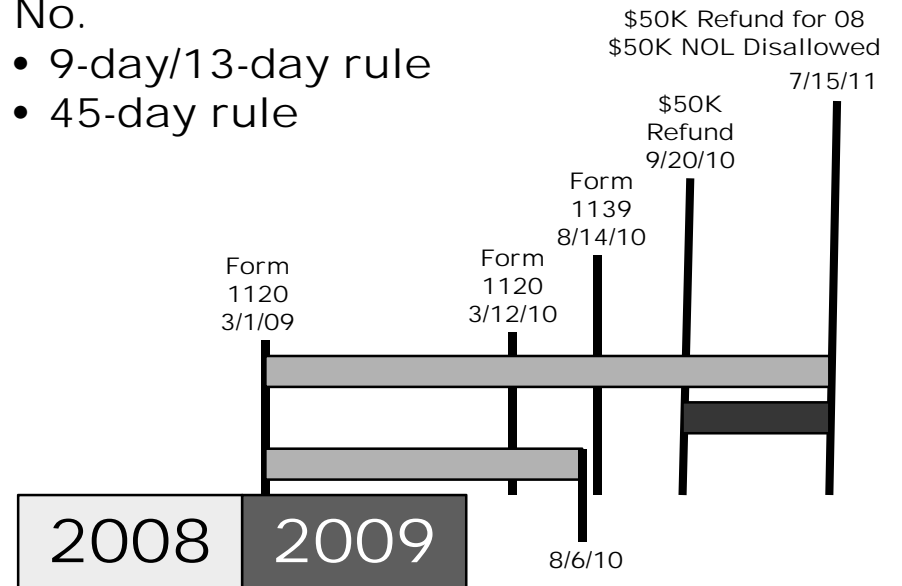


Does taxpayer get
interest for full period
the interest
does not offset?



No.

- 9-day/13-day rule
- 45-day rule



1010 VOID CORRECTED

FILER'S name, street address, city, state, ZIP code, and telephone no.

FILER'S federal identification no.

OMB No. 1545-2205

2011

PAYEE'S taxpayer identification no.

Form 1099-K

Merchant Card and Third Party Network Payments

1 Gross amount of merchant card/third party network payments \$

2 Merchant category code

3

4

Copy A For Internal Revenue Service Center

File with Form 1096.

For Privacy Act and Paperwork Reduction Act Notice, see the 2011 General Instructions for Certain Information Returns.

5a January \$

5b February \$

5c March \$

5d April \$

5e May \$

5f June \$

5g July \$

5h August \$

5i September \$

5j October \$

5k November \$

5l December \$

Street address (including apt. no.)

City, state, and ZIP code

PSE's name and telephone number

Account number (see instructions)

Form 1099-K Cat. No. 54119B Department of the Treasury - Internal Revenue Service

Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page

Form 1120 U.S. Corporation Income Tax Return

For calendar year 2011 or tax year beginning 2011, ending 2011, ending 2011

OMB No. 1545-0047

2011

See separate instructions.

A Check if:

1a Consolidated return (attach Form 851)

b Life/short-term consolidated return

2 Personal holding co. (attach Sch. PH)

3 Personal service corp. (see instructions)

4 Schedule M-3 attached

E Check if: (1) Initial return (2) Final return (3) Name change (4) Address change

TYPE OR PRINT

Name

Number, street, and room or suite no. If a P.O. box, see instructions.

City or town, state, and ZIP code.

B Employer identification

C Date incorporated

D Total assets (see instructions) \$

Address change

1a Merchant card and third-party payments. For 2011, enter -0-

1b Gross receipts or sales not reported on line 1a (see instructions)

1c Total. Add lines 1a and 1b

1d Returns and allowances plus any other adjustments (see instructions)

1e Subtract line 1d from line 1c

Form 1065 U.S. Return of Partnership Income

For calendar year 2011, or tax year beginning 2011, ending 2011

OMB No. 1545-0068

2011

See separate instructions.

A Principal business activity

Name of partnership

D Employer identification

B Principal product or service

Number, street, and room or suite no. If a P.O. box, see the instructions.

E Date business starts

C Business code number

City or town, state, and ZIP code

F Total assets (see the instructions) \$

G Check applicable boxes: (1) Initial return (2) Final return (3) Name change (4) Address change (5) Amended return (6) Technical termination - also check (1) or (2)

H Check accounting method: (1) Cash (2) Accrual (3) Other (specify)

I Number of Schedules K-1. Attach one for each person who was a partner at any time during the tax year

J Check if Schedules C and M-3 are attached

Caution. Include only trade or business income and expenses on lines 1a through 22 below. See the instructions for more information.

Income

1a Merchant card and third-party payments (including amounts reported on Form(s) 1099-K). For 2011, enter -0-

1b Gross receipts or sales not reported on line 1a (see instructions)

1c Total. Add lines 1a and 1b

1d Returns and allowances plus any other adjustments to line 1a (see instructions)

1e Subtract line 1d from line 1c

2 Cost of goods sold (attach Form 1125-A)

3 Gross profit. Subtract line 2 from line 1c

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9-10

IRS

Individuals | Businesses | Charities & Non-Profits | Government Entities | Tax Professionals | Retirement Plans Community | Tax Exempt Bond Community

e-file Providers | Enrolled Actuaries | Enrolled Agents

Tax Professionals Topics

- PTIN Requirements
- Basic Tools for Tax Pros
- News & Events
- Circular 230 Tax Pros
- Code, Regs & Guidance
- e-Services for Tax Pros
- Appeals
- More Topics

Third Party Reporting Information Center

Recognizing the importance of compliance with the Internal Revenue Code for revenue collections, Congress has enacted a number of provisions to enhance tax filing accuracy. The legislation requires new information reporting to the IRS and taxpayers for issues contributing to the Federal tax gap.

Check this page for proposed and final regulations, draft and final form changes, and other information you need to stay current with changes in information reporting.

Information Reporting on Merchant Payment Cards

- Form 1099-K
- Form 1099-K Instructions
- Final Regulations Text (12/13/2010)
- Final Regulations Explanation
- Announcement 2009-5: Taxpayer Identification Number (TIN) Matching Program is Available to Persons Required to Make Returns Under New Section 6050W of the Internal Revenue Code
- Online Taxpayer Identification Number (TIN) Matching Program Publication 2109a
- Frequently Asked Questions (July 23, 2011)
- Frequently Asked Questions (October 29, 2011)
- Notice 2011-42 provides interim guidance to third party settlement organizations (TPSO), this notice establishes that a payment made by a TPSO is a reportable payment potentially subject to section 3406 backup withholding only if the payee has received payment from that TPSO in more than 200 transactions within a calendar year
- Notice 2011-11 provides guidance under section 6050W of the Internal Revenue Code regarding the documentation and reporting obligations of payment settlement entities that are United States payors making payment outside the United States to an offshore account
- Notice 2011-78 Nonapplication of Section 6050W to Insurance Companies that Administer Certain Insurance Arrangements
- Notice 2011-38 postpones the effective date for potential backup withholding obligations imposed under section 3406 for payments made in settlement of payment card and third party network transactions (section 6050W payments)
- Notice 2011-53 provides transitional relief from penalties for a section 6050W filer reporting incorrect information on information returns (Form 1099-K) and payee statements filed under section 6050W of the Internal Revenue Code.

IRS Resources

- Compliance & Enforcement
- Contact My Local Office
- e-file
- Forms and Publications
- Newsroom
- Frequently Asked Questions
- Taxpayer Advocate Service
- Where To File