

Chapter 4: Information Reporting

The Tax Gap..... B153

Form 1098B192

Forms 1099..... B157

CP2000 AUR NoticesB194

Corrections were made to this workbook through January of 2013. No subsequent modifications were made.

4

THE TAX GAP

“The art of taxation consists in so plucking the goose as to obtain the largest possible amounts of feathers with the smallest possible amount of hissing.” — Jean Baptiste Colbert (1619–1683), French economist and Minister of France under King Louis XIV.

The gross tax gap is the annual difference between actual income tax liabilities in any year and the amount of income tax that is paid voluntarily and on time. The actual amount is estimated based on statistical projections. For tax year 2001, the IRS estimated the gross tax gap at \$345 billion, or 16% of income tax liabilities. Of this amount, \$55 billion was eventually recovered through voluntary late payments and enforcement activities, leaving the net tax gap at approximately \$290 billion. For tax year 2006, the IRS estimated the gross tax gap at \$450 billion, or 15% of tax liabilities, with the net tax gap at \$385 billion.¹

	Gross Tax Gap	Late Payments and Enforcement Efforts	Net Tax Gap
2001	\$345 billion	\$55 billion	\$290 billion
2006	450 billion	65 billion	385 billion

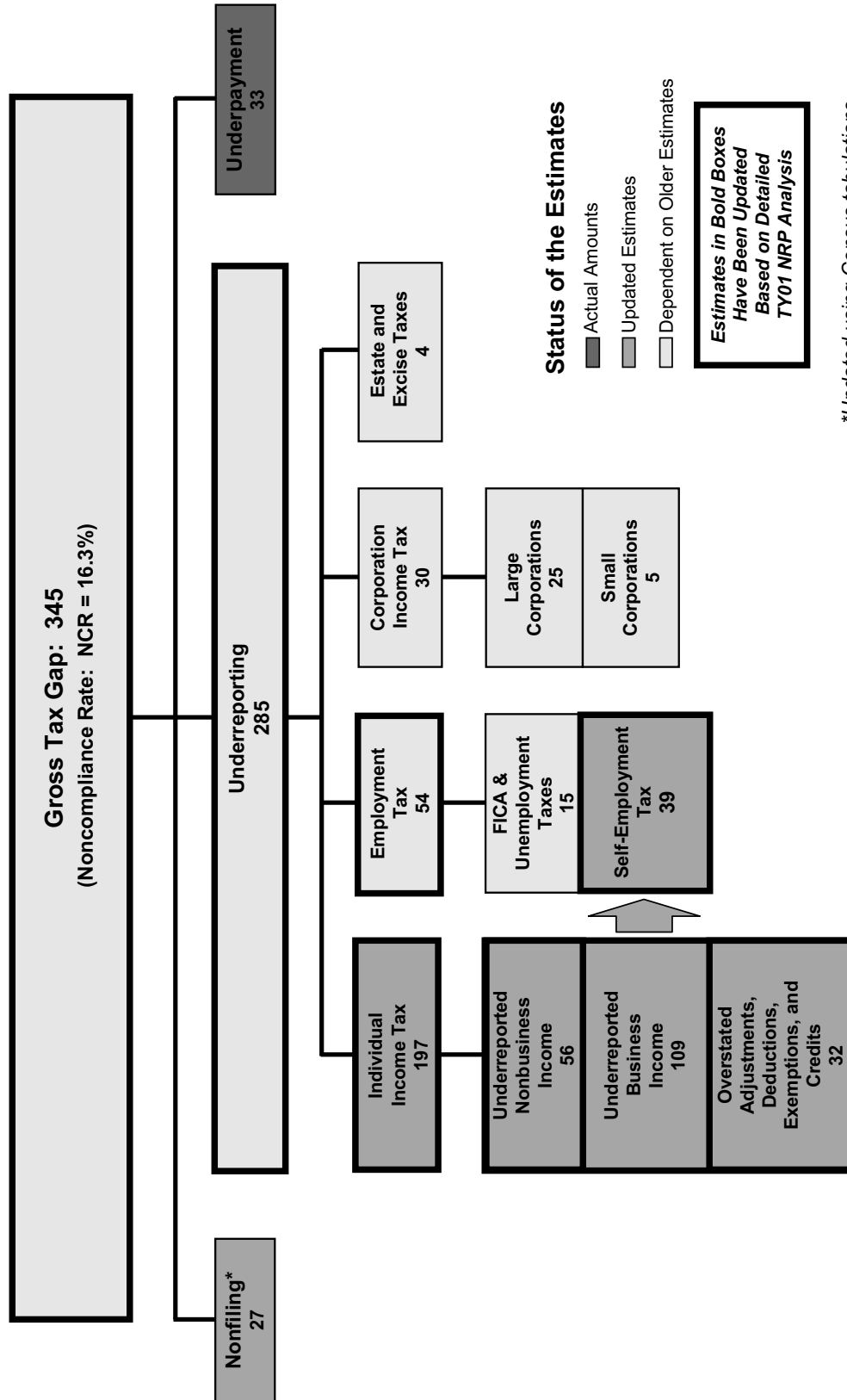
Tax gap “maps” for tax years 2001² and 2006³ follow.

¹. *IRS Releases New Tax Gap Estimates; Compliance Rates Remain Statistically Unchanged From Previous Study*. Jan. 6, 2012. [www.irs.gov/newsroom/article/0,,id=252038,00.html] Accessed on Jun. 7, 2012.

². *Tax Year 2001 Federal Tax Gap*. Feb. 14, 2006. [www.irs.gov/pub/irs-utl/taxgap021406.pdf] Accessed on Jun. 7, 2012.

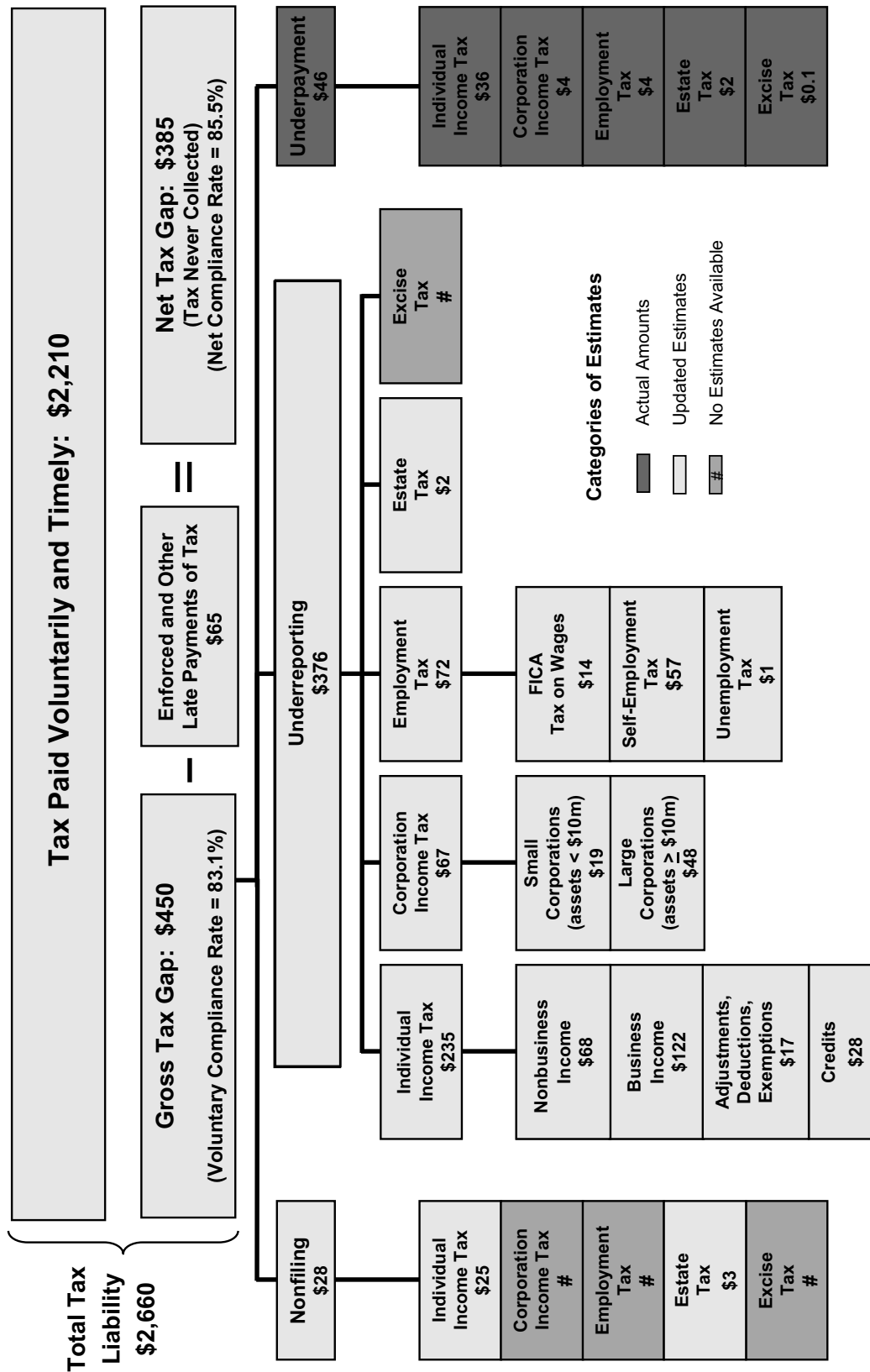
³. *Tax Gap “Map.”* Dec. 2011. [www.irs.gov/pub/newsroom/tax_gap_map_2006.pdf] Accessed on Jun. 7, 2012.

Tax Year 2001 Federal Tax Gap (in Billions of Dollars)



*Updated using Census tabulations

Tax Year 2006 Federal Tax Gap (in Billions of Dollars)



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The **federal deficit** equals the amount by which annual federal budget outlays exceed receipts. Recent federal deficit numbers are shown in the following table.⁴

Fiscal Year	Federal Deficit (billions)
2007	\$ 161
2008	459
2009	1,413
2010	1,293
2011	1,300
2012 (estimate)	1,327

“Alexander Hamilton started the U.S. Treasury with nothing and that was the closest our country has ever been to even.” —Will Rogers

The growing federal deficit contributes to Congress’s concerns about tax reform. Some view the amount represented by the tax gap as a major revenue source that could help close the federal budget deficit without raising taxes. The president’s tax reform task force was asked to propose ways to reduce the deficit by simplifying the Code, reducing evasion, closing loopholes, and reducing corporate tax breaks. The revenue shortfall is composed of two elements: the gap created by **tax evasion** and the gap created by **tax avoidance**. Tax avoidance may only be addressed by Congress through the elimination of special tax preferences to certain taxpayers. Tax evasion is under the purview of the IRS and their enforcement of the laws passed by Congress.

The latest statistics show that the following factors contribute to the gross tax gap.⁵

- 8% from nonfiling of tax returns
- 10% from underpaying taxes by overstating deductions and claiming incorrect credits
- 82% from underreporting income

The IRS believes that compliance among taxpayers is highest with third-party income reporting. Less than 5% of income from easily verified sources such as interest, dividends, and pensions goes unreported. If income is subject to both information returns and tax withholding, as in the case of wages, approximately 1% is unreported.⁶ The major source of the underreporting is attributed to individuals who derive income from sources for which there is no information reporting.⁷

Given that there are over 174 million tax returns of various types filed each year,⁸ the roughly 22,000 IRS enforcement employees cannot close the tax gap on their own. In 2011, the IRS audited more than 48,000 corporate returns and 1.56 million individual returns, including one in eight millionaires.⁹

⁴ *Historical Tables*. Office of Management and Budget. [www.whitehouse.gov/omb/budget/Historicals] Accessed on Jun. 7, 2012.

⁵ *IRS Releases New Tax Gap Estimates; Compliance Rates Remain Statistically Unchanged From Previous Study*. Jan. 6, 2012. [www.irs.gov/newsroom/article/0,,id=252038,00.html] Accessed on Jun. 7, 2012.

⁶ *The Tax Gap: What Is the Tax Gap?* Jan. 3, 2008. Tax Policy Center, Urban Institute and Brookings Institution. [www.taxpolicycenter.org/briefing-book/background/tax-gap/what-is.cfm] Accessed on Jun. 15, 2012.

⁷ Ibid.

⁸ *SOI Tax Stats — Tax Stats at a Glance*. Apr. 30, 2012. [www.irs.gov/taxstats/article/0,,id=102886,00.html] Accessed on Jun. 7, 2012.

⁹ *IRS Data Book*, 2011.

The Government Accounting Office (GAO) conducted a study of third-party reporting for tax year 2006. It found that businesses reported over \$6 trillion in income on Form 1099-MISC, *Miscellaneous Income*. The GAO concluded that even a small increase in information reporting could result in billions of dollars of additional reported income. Based on their findings, the GAO recommended to Congress that they consider increasing the filing requirements for information returns. The GAO also recommended to the IRS that they research the extent of and reasons for payor noncompliance, identify common reporting errors, and provide more guidance to taxpayers about information reporting requirements.¹⁰

Conversely, National Taxpayer Advocate Nina Olson stated that the benefit of increased compliance and revenue has to be balanced against the burden of information reporting and withholding.¹¹ As an example, the Patient Protection and Affordable Care Act (PPACA) included a very controversial provision that would have required businesses, charities, and governmental units to report payments for purchases of **all goods** and services of \$600 or more to every type of vendor including corporations. Congress chose to repeal this provision before it took effect.¹²

FORMS 1099

PAYOR'S RESPONSIBILITIES

Who Must File

An information return is a tax document that businesses are required to file to report certain **business transactions** to the IRS. The requirement to file information returns is mandated by the IRS and associated regulations. Failure to timely file information returns generally results in penalties.

Any taxpayer — including a corporation, partnership, individual, estate, or trust — that makes reportable transactions during the calendar year must file information returns to report those transactions to the IRS. Taxpayers required to file information returns with the IRS must also furnish statements to the recipients of the income. Filers who have 250 or more information returns must file the returns electronically.

Nominee/Middleman Reporting. A nominee/middleman is an individual who receives a Form 1099 for income that actually belongs in part to another person or persons. A nominee/middleman must file a Form 1099 with the IRS (on the same type of Form 1099 received) for each of the other owners that shows their respective share of income. The nominee/middleman also must furnish the recipient with a copy of the Form 1099 filed.

On the Forms 1099 issued, the nominee/middleman lists themselves as the “payer” and the owner of the income as the “recipient.”

Example 1. During 2012, Emilio Rate and his sister Amelia cash in their jointly owned certificate of deposit (CD). Emilio’s social security number appears first on the account. He receives a Form 1099-INT, *Interest Income*, in January 2013 that shows \$2,000 in box 1 for interest earned on the CD.

Emilio reports the entire \$2,000 on his Schedule B, *Interest and Ordinary Dividends*, and then subtracts the \$1,000 given to Amelia as a nominee. He also issues a Form 1099-INT to Amelia showing \$1,000 in box 1.

Emilio’s Form 1099-INT, his Schedule B, and the Form 1099-INT that he issues to Amelia follow.

¹⁰ *IRS Could Do More to Promote Compliance by Third Parties with Miscellaneous Income Reporting Requirements*. Jan. 28, 2009. U.S. Government Accountability Office. [www.gao.gov/products/GAO-09-238] Accessed on Jun. 15, 2012.

¹¹ *Tax Compliance and Tax-Fraud Prevention Before the Subcommittee on Government Organization, Efficiency, and Financial Management, Committee on Oversight and Government Reform, U.S. House of Representatives*. Apr. 19, 2012. [www.irs.gov/pub/irs-utl/testimony_house_oversight_comm_4-19-2012.pdf] Accessed on Jun. 15, 2012.

¹² The Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011.

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For Example 1

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone no. First Second Bank		Payer's RTN (optional) 1 Interest income \$ 2000.00 2 Early withdrawal penalty \$	OMB No. 1545-0112 2012 Form 1099-INT Interest Income
PAYER'S federal identification number 36-9999999	RECIPIENT'S identification number 555-11-3333	3 Interest on U.S. Savings Bonds and Treas. obligations \$	
RECIPIENT'S name Emilio Rate Street address (including apt. no.) City, state, and ZIP code		4 Federal income tax withheld \$	5 Investment expenses \$
		6 Foreign tax paid \$	7 Foreign country or U.S. possession
		8 Tax-exempt interest \$	9 Specified private activity bond interest \$
Account number (see instructions)		10 Tax-exempt bond CUSIP no.	11 State 12 State identification no. 13 State tax withheld \$

Form **1099-INT** (keep for your records) Department of the Treasury - Internal Revenue Service

**Copy B
For Recipient**
This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.

SCHEDULE B (Form 1040A or 1040)

Department of the Treasury
Internal Revenue Service (99)

Name(s) shown on return

Emilio Rate

Interest and Ordinary Dividends

▶ Attach to Form 1040A or 1040.

▶ Information about Schedule B (Form 1040A or 1040) and its instructions is at www.irs.gov/form1040.

OMB No. 1545-0074

2012
Attachment
Sequence No. **08**

Your social security number

555-11-3333

Part I

Interest

(See instructions on back and the instructions for Form 1040A, or Form 1040, line 8a.)

Note. If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.

- 1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see instructions on back and list this interest first. Also, show that buyer's social security number and address ▶
First Second Bank
Subtotal
Nominee distribution to Amelia Rate
- 2 Add the amounts on line 1
- 3 Excludable interest on series EE and I U.S. savings bonds issued after 1989. Attach Form 8815
- 4 Subtract line 3 from line 2. Enter the result here and on Form 1040A, or Form 1040, line 8a ▶

Amount

2,000
2,000
(1,000)

1

2

3

4

1,000

Amount

Note. If line 4 is over \$1,500, you must complete Part III.

- 5 List name of payer ▶

2012 Workbook

For Example 1

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone no. Emilio Rate		Payer's RTN (optional) 1 Interest income \$ 1000.00 2 Early withdrawal penalty \$	OMB No. 1545-0112 <div style="font-size: 2em; font-weight: bold;">2012</div> Interest Income Form 1099-INT	
PAYER'S federal identification number 555-11-3333	RECIPIENT'S identification number 444-22-5555	3 Interest on U.S. Savings Bonds and Treas. obligations \$		Copy B For Recipient <small>This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.</small>
RECIPIENT'S name Amelia Rate Street address (including apt. no.) City, state, and ZIP code		4 Federal income tax withheld \$	5 Investment expenses \$	
		6 Foreign tax paid \$	7 Foreign country or U.S. possession	
		8 Tax-exempt interest \$	9 Specified private activity bond interest \$	
Account number (see instructions)		10 Tax-exempt bond CUSIP no.	11 State 12 State identification no. 13 State tax withheld \$	

Form **1099-INT** (keep for your records) Department of the Treasury - Internal Revenue Service

Note. A husband or wife is not required to file a nominee return to show the amounts owned by the other. However, if they are filing MFS, the recipient of the Form 1099 may want to issue a Form 1099 nominee return.

Successor/Predecessor Reporting. A successor business and a predecessor business may agree that the successor will assume all or some of the predecessor's information reporting responsibilities. This allows the successor business to file one information return for each recipient by combining the predecessor's and successor's reportable amounts. If they so agree and certain conditions are met, the predecessor is not required to file information returns for the acquisition year. If the successor and predecessor do not agree or if the conditions listed below are not met, the predecessor and successor must each file separate information returns.

A **combined reporting procedure** is available when all the following conditions are met.¹³

1. The successor acquires from the predecessor substantially all the property:
 - a. Used in the predecessor's trade or business, or
 - b. Used in a separate unit of the predecessor's trade or business.
2. The predecessor is required to report amounts, including withholding, on information returns for the year of acquisition relating to the period before the acquisition.
3. The predecessor is not required to report amounts, including withholding, on information returns for the year of acquisition relating to the period after the acquisition.

A **combined reporting agreement** is used to outline the agreement between the predecessor and the successor on the specific forms to which the combined reporting procedure applies, and states that the successor assumes the predecessor's information reporting obligations. A successor must also file a statement with the IRS indicating the forms that are filed on a combined basis.¹⁴

¹³ General Instructions for Certain Information Returns [www.irs.gov/instructions/i1099gi/ar02.html] Accessed on Aug. 23, 2012.

¹⁴ See Rev. Proc. 99-50, 1999-2 CB 757, for statement requirements.

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Forms and Due Dates

The following chart shows the various types of Forms 1099 and the due dates for each.¹⁵

Guide to Information Returns *(If any date shown falls on a Saturday, Sunday, or legal holiday, the due date is the next business day.)*

Form	Title	What to Report	Amounts to Report	Due Date	
				To IRS	To Recipient (unless indicated otherwise)
1042-S	Foreign Person's U.S. Source Income Subject to Withholding	Income such as interest, dividends, royalties, pensions and annuities, etc., and amounts withheld under Chapter 3. Also, distributions of effectively connected income by publicly traded partnerships or nominees.	See form instructions	March 15	March 15
1097-BTC	Bond Tax Credit	Tax credit bond credits to shareholders.	All amounts	February 28*	On or before the 15th day of the 2nd calendar month after the close of the calendar month in which the credit is allowed
1098	Mortgage Interest Statement	Mortgage interest (including points) and certain mortgage insurance premiums you received in the course of your trade or business from individuals and reimbursements of overpaid interest.	\$600 or more	February 28*	(To Payer/Borrower) January 31
1098-C	Contributions of Motor Vehicles, Boats, and Airplanes	Information regarding a donated motor vehicle, boat, or airplane.	Gross proceeds of more than \$500	February 28*	(To Donor) 30 days from date of sale or contribution
1098-E	Student Loan Interest Statement	Student loan interest received in the course of your trade or business.	\$600 or more	February 28*	January 31
1098-T	Tuition Statement	Qualified tuition and related expenses, reimbursements or refunds, and scholarships or grants (optional).	See instructions	February 28*	January 31
1099-A	Acquisition or Abandonment of Secured Property	Information about the acquisition or abandonment of property that is security for a debt for which you are the lender.	All amounts	February 28*	(To Borrower) January 31
1099-B	Proceeds From Broker and Barter Exchange Transactions	Sales or redemptions of securities, futures transactions, commodities, and barter exchange transactions.	All amounts	February 28*	February 15**
1099-C	Cancellation of Debt	Cancellation of a debt owed to a financial institution, the Federal Government, a credit union, RTC, FDIC, NCUA, a military department, the U.S. Postal Service, the Postal Rate Commission, or any organization having a significant trade or business of lending money.	\$600 or more	February 28*	January 31
1099-CAP	Changes in Corporate Control and Capital Structure	Information about cash, stock, or other property from an acquisition of control or the substantial change in capital structure of a corporation.	Over \$1000	February 28*	(To Shareholders) January 31
1099-DIV	Dividends and Distributions	Distributions, such as dividends, capital gain distributions, or nontaxable distributions, that were paid on stock and liquidation distributions.	\$10 or more, except \$600 or more for liquidations	February 28*	January 31**
1099-G	Certain Government Payments	Unemployment compensation, state and local income tax refunds, agricultural payments, and taxable grants.	\$10 or more for refunds and unemployment	February 28*	January 31
1099-H	Health Coverage Tax Credit (HCTC) Advance Payments	Health insurance premiums paid on behalf of certain individuals.	All amounts	February 28*	January 31
1099-INT	Interest Income	Interest income.	\$10 or more (\$600 or more in some cases)	February 28*	January 31**
1099-K	Merchant Card and Third-Party Network Payments	Merchant card.	All amounts	February 28*	January 31
		Third-party network payments.	\$20,000 or more and 200 or more transactions		
1099-LTC	Long-Term Care and Accelerated Death Benefits	Payments under a long-term care insurance contract and accelerated death benefits paid under a life insurance contract or by a viatical settlement provider.	All amounts	February 28*	January 31

*The due date is March 31 if filed electronically.

**The due date is March 15 for reporting by trustees and middlemen of WHFITs.

¹⁵ General Instructions for Certain Information Returns [www.irs.gov/instructions/i1099gi/ar02.html] Accessed on Aug. 23, 2012.

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Guide to Information Returns (Continued)

Form	Title	What to Report	Amounts to Report	Due Date	
				To IRS	To Recipient (unless indicated otherwise)
1099-MISC	Miscellaneous Income (Also, use to report direct sales of \$5,000 or more of consumer goods for resale.)	Rent or royalty payments; prizes and awards that are not for services, such as winnings on TV or radio shows.	\$600 or more, except \$10 or more for royalties	February 28*	January 31**
		Payments to crew members by owners or operators of fishing boats including payments of proceeds from sale of catch.	All amounts		
		Section 409A income from nonqualified deferred compensation plans (NQDCs).	All amounts		
		Payments to a physician, physicians' corporation, or other supplier of health and medical services. Issued mainly by medical assistance programs or health and accident insurance plans.	\$600 or more		
		Payments for services performed for a trade or business by people not treated as its employees. Examples: fees to subcontractors or directors and golden parachute payments.	\$600 or more		
		Fish purchases paid in cash for resale.	\$600 or more		
		Crop insurance proceeds.	\$600 or more		
		Substitute dividends and tax-exempt interest payments reportable by brokers.	\$10 or more		February 15**
		Gross proceeds paid to attorneys.	\$600 or more		February 15**
1099-OID	Original Issue Discount	Original issue discount.	\$10 or more	February 28*	January 31**
1099-PATR	Taxable Distributions Received From Cooperatives	Distributions from cooperatives passed through to their patrons including any domestic production activities deduction and certain pass-through credits.	\$10 or more	February 28*	January 31
1099-Q	Payments From Qualified Education Programs (Under Sections 529 and 530)	Earnings from qualified tuition programs and Coverdell ESAs.	All amounts	February 28*	January 31
1099-R	Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.	Distributions from retirement or profit-sharing plans, any IRA, insurance contracts, and IRA recharacterizations.	\$10 or more	February 28*	January 31
1099-S	Proceeds From Real Estate Transactions	Gross proceeds from the sale or exchange of real estate and certain royalty payments.	Generally, \$600 or more	February 28*	February 15
1099-SA	Distributions From an HSA, Archer MSA, or Medicare Advantage MSA	Distributions from an HSA, Archer MSA, or Medicare Advantage MSA.	All amounts	February 28*	January 31
3921	Exercise of an Incentive Stock Option Under §422(b)	Transfer of stock pursuant to the exercise of an incentive stock option under §422(b).	All amounts	February 28*	January 31
3922	Transfer of Stock Acquired Through an Employee Stock Purchase Plan Under §423(c)	Transfer of stock acquired through an employee stock purchase plan under §423(c).	All amounts	February 28*	January 31
5498	IRA Contribution Information	Contributions (including rollover contributions) to any individual retirement arrangement (IRA) including a SEP, SIMPLE, or Roth IRA; Roth conversions; IRA recharacterizations; and the fair market value (FMV) of the account.	All amounts	May 31	(To Participant) For FMV/RMD Jan 31; For contributions, May 31
5498-ESA	Coverdell ESA Contribution Information	Contributions (including rollover contributions) to a Coverdell ESA.	All amounts	May 31	April 30
5498-SA	HSA, Archer MSA, or Medicare Advantage MSA Information	Contributions to an HSA (including transfers and rollovers) or Archer MSA and the FMV of an HSA, Archer MSA, or Medicare Advantage MSA.	All amounts	May 31	(To Participant) May 31
W-2G	Certain Gambling Winnings	Gambling winnings from horse racing, dog racing, jai alai, lotteries, keno, bingo, slot machines, sweepstakes, wagering pools, poker tournaments, etc.	Generally, \$600 or more; \$1,200 or more from bingo or slot machines; \$1,500 or more from keno	February 28*	January 31
W-2	Wage and Tax Statement	Wages, tips, other compensation; social security, Medicare, and withheld income taxes. Include bonuses, vacation allowances, severance pay, certain moving expense payments, some kinds of travel allowances, and third-party payments of sick pay.	See separate instructions	To SSA	To Recipient
				Last day of February*	January 31

*The due date is March 31 if filed electronically.

**The due date is March 15 for reporting by trustees and middlemen of WHFITs.

Recipient Names and TINs

A recipient's full name and address must be printed in the appropriate section provided on the information return. If payments were made to more than one recipient or the account is in more than one name, the name of the recipient whose taxpayer identification number (TIN) is shown **first** on the return should be entered on the first name line. Names of other recipients may be shown in the area below the first line.

To obtain the correct names, addresses, and TINs of recipients, the IRS suggests that the taxpayer request that the recipient complete Form W-9, *Request for Taxpayer Identification Number and Certification*.

Specific information reported on information returns varies depending on the category of the recipient.¹⁶

- **Sole proprietor.** The individual's name must be shown on the first line. On the second line, the "doing business as" (DBA) name may be entered. Either the individual's social security number (SSN) or the employer identification number (EIN) of the business may be reported in the space provided for the TIN. The IRS prefers the use of the SSN.
- **Limited liability company.** For a single-member LLC that is a disregarded entity, the individual's name should be entered on the first line and the LLC's name should be listed on the second line. The TIN reported for a disregarded entity can be either the individual's SSN or the business's EIN. If the LLC is taxed as a corporation or partnership, only the entity's EIN should be entered.
- **Bankruptcy estate.** If an information return is required for an individual in Chapter 11 bankruptcy and the debtor has notified the business issuing the Form 1099 of the bankruptcy estate's EIN, then the post-petition gross income, gross proceeds, or other reportable payments should be reported on the information return using the estate's name and EIN. After the bankruptcy is closed, any subsequent information returns should use the individual's name and SSN.
- **Corporation or partnership.** The entity's business name and EIN must be reported.
- **Deceased individual.** Income reportable after the death of an individual must reflect the TIN of the payee (i.e., the estate or surviving joint owner).

Note. IRS Notice 2011-38 authorizes filers of certain paper information returns to truncate the 9-digit SSN or individual TIN on specified payee statements by replacing the first five digits with asterisks or Xs. For example, a taxpayer might receive a Form 1099-INT showing their SSN as XXX-XX-1234. However, information returns filed with the IRS must have the full SSN or TIN.

Electronic Filing

Taxpayers that are required to file 250 or more information returns must file them electronically. The 250-return threshold applies separately to each type of form.

Example 2. Rogue Company must file 500 Forms 1099-INT and 100 Forms 1099-MISC for 2012. Rogue is required to file the Forms 1099-INT electronically but is not required to file its Forms 1099-MISC electronically.

The electronic filing requirements apply separately to original information returns and corrected returns. Therefore, if the original returns were required to be filed electronically but fewer than 250 corrected returns are filed, the corrected returns may be filed on paper.

Note. The IRS encourages taxpayers to file electronically even if they are not required to do so.

¹⁶ Ibid.

IRS Pub. 1220, *Specifications for Filing Forms 1097, 1098, 1099, 3921, 3922, 5498, 8935, and W-2G Electronically*, provides the specifications for the electronic filing of information returns. It is updated annually.

Approval for Electronic Filing. A taxpayer must receive authorization from the IRS before filing information returns electronically. To request approval, Form 4419, *Application for Filing Information Returns Electronically (FIRE)*, should be submitted at least 30 days prior to the due date for filing the returns. The IRS will reply to the application within 30 days and provide further instructions with the approval. Once the approval for electronic filing is obtained, the taxpayer need not reapply each year.

Due Date. The due date for Forms 1099 submitted to the IRS electronically is March 31. An automatic 30-day extension of time to file can be obtained by completing Form 8809, *Application for Extension of Time to File Information Returns*. Form 8809 must be submitted by the due date of the returns in order to obtain the 30-day extension. One additional extension of not more than 30 days can be requested by submitting a second Form 8809 before the end of the first extension period. However, requests for an additional extension of time are not automatic and are generally granted only in cases of extreme hardship or a catastrophic event.¹⁷

Paper Filing

Taxpayers that are required to file fewer than 250 information returns may use paper forms.

The following **general guidelines** should be observed when preparing paper information returns.

- Handwritten forms must be completely legible and accurate to avoid processing errors. Block print rather than script characters, must be used.
- Typed forms must use black ink in 12-point Courier font. Copy A of the information return is machine-read and must be typed clearly with no corrections. Data must be printed in the middle of the blocks.
- Dollar entries are made without the dollar sign but must include the decimal point between dollars and cents.
- In money amount boxes when an entry is not required, the boxes are left blank, unless instructions specifically require that a zero be entered.
- Number signs (#) should not be used.
- The entire page of copy A of the Forms 1099, along with Form 1096, *Annual Summary and Transmittal of U.S. Information Returns*, should be sent to the IRS, even if some of the forms are blank or void.
- If a form needs to be voided, place an X in the “void” box. For example, if an error is made in typing or printing a form, void it and go on to the next form. The IRS disregards the voided form in processing. The voided form is not marked “corrected” and is not cut or separated from the sheet of forms.
- If it is discovered that additional Forms 1099 must be filed after the original forms were submitted, these forms are filed with a new Form 1096. Copies or information from previously filed returns are not included in the subsequent filing.
- Forms should not be stapled.

Note. Entries completed by hand, or using script, italic, or proportionally spaced fonts, or in colors other than black, cannot be read correctly by machine. Handwritten forms often result in name and/or TIN mismatches.

¹⁷ See instructions for Form 8809.

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Because paper forms are scanned, all information returns must be prepared in accordance with the following instructions.

- Copy A must be submitted on a full 8 × 11 inch sheet (which usually contains two or three information returns) and should not be cut or separated from the full sheet. There is an exception for Form W-2G, *Certain Gambling Winnings*, which may be separated and submitted on single forms. The forms should be submitted to the IRS in a flat mailing (not folded).
- Photocopies are not acceptable.
- Staples, tearing, or taping is not acceptable.
- Pin-feed strips outside the 8 × 11 inch area must be removed before submission.
- Titles of any box on any form must not be changed. The form should not be used to report information that is not properly reportable on that form.
- Only one entry should be made in each box, unless otherwise indicated in the form's specific instructions.
- Only copy A is submitted to the IRS.
- Current year forms must be used to report current year information.
- Only official IRS forms or substitute forms that meet the specifications in IRS Pub. 1179, *General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, and Certain Other Information Returns*, may be submitted to the IRS.
- Dollar signs, ampersands, asterisks, commas, or other special characters may not be entered in money amount blocks.
- Apostrophes, asterisks, or other special characters may not be entered on the payee name line.

Note. Failure to follow required format instructions may result in a penalty for each incorrectly filed document.

Filing Corrected Forms 1099

If an information return filer discovers an error in reporting the payor's name and/or TIN, they should send a letter to the IRS that contains the following information.

- Name and address of the payor
- Type of error
- Tax year
- Payor's TIN
- Transmitter control code (TCC)
- Type of return
- Number of payees
- Filing method (paper or electronic)
- Whether federal income tax was withheld

The letter should be mailed to the following address.

Internal Revenue Service
Information Returns Branch
230 Murall Drive
Mail Stop 4360
Kearneysville, WV 25430

Paper Forms. The IRS lists the following **common errors** made when filing paper information returns.¹⁸

- The same information is sent to the IRS more than once.
- The filer's name, address, and/or TIN are not the same on the information returns as on the Form 1096.
- A decimal point to indicate dollars and cents is omitted.
- Two or more types of returns are submitted with one Form 1096. A separate Form 1096 must be submitted with each type of information return.

If a payor files a paper information return with the IRS and later discovers that an **error** was made, the following procedures should be followed.

- A corrected Copy A of the Form 1099 and Form 1096 should be filed with the IRS as soon as possible.
- An X should be entered in the "corrected" checkbox on the Form 1099 only when correcting a form previously filed with the IRS or furnished to the recipient. A date may be entered next to the "corrected" checkbox that may help the recipient in the case of multiple corrections.
- The corrected information return must be sent to the recipient.

If errors are discovered that affect state or local information only, corrected returns should not be submitted to the IRS. Taxpayers should contact state or local tax departments for help with this type of correction.

The following chart shows specific procedures to correct erroneous paper information returns.¹⁹

¹⁸ *General Instructions for Certain Information Returns* [www.irs.gov/instructions/i1099gi/ar02.html] Accessed on Aug. 23, 2012.

¹⁹ Ibid.

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Filing Corrected Returns on Paper Forms

Identify the correction needed based on **Error Type 1 or 2**; then follow the steps to make the corrections and file the form(s).

Error Type 1	Correction
<p>Incorrect money amount(s), code, or checkbox, or Incorrect payee name, or</p> <p>A return was filed when one should not have been filed.</p> <p>These errors require only one return to make the correction.</p> <p><i>Caution: If you must correct a TIN and/or a name and address, follow the instructions under Error Type 2.</i></p>	<p>A. Form 1097, 1098, 1099, 3921, 3922, 5498, or W-2G</p> <ol style="list-style-type: none"> 1. Prepare a new information return. 2. Enter an "X" in the "CORRECTED" box (and date (optional)) at the top of the form. 3. Correct any recipient information such as money amounts. Report other information as per the original return. <p>B. Form 1096</p> <ol style="list-style-type: none"> 1. Prepare a new transmittal Form 1096. 2. Provide all requested information on the form as it applies to Part A, 1 and 2. 3. File Form 1096 and Copy A of the return with the appropriate service center. 4. Do not include a copy of the original return that was filed incorrectly.

Error Type 2	Correction
<p>No payee TIN (SSN, EIN, QI-EIN, or ITIN), or Incorrect payee TIN, or Incorrect name and address, or</p> <p>Original return filed using wrong type of return (for example, a Form 1099-DIV was filed when a Form 1099-INT should have been filed).</p> <p>Two separate returns are required to make the correction properly. Follow all instructions for both Steps 1 and 2.</p>	<p>Step 1. Identify incorrect return submitted.</p> <ol style="list-style-type: none"> 1. Prepare a new information return. 2. Enter an "X" in the "CORRECTED" box (and date (optional)) at the top of the form. 3. Enter the payer, recipient, and account number information exactly as it appeared on the original incorrect return; however, enter 0 (zero) for all money amounts. <p>Step 2. Report correct information.</p> <p>A. Form 1097, 1098, 1099, 3921, 3922, 5498, or W-2G</p> <ol style="list-style-type: none"> 1. Prepare a new information return. 2. Do not enter an "X" in the "CORRECTED" box at the top of the form. Prepare the new return as though it is an original. 3. Include all the correct information on the form including the correct TIN, name, and address. <p>B. Form 1096</p> <ol style="list-style-type: none"> 1. Prepare a new transmittal Form 1096. 2. Enter the words "Filed To Correct TIN," "Filed To Correct Name and Address," or "Filed To Correct Return" in the bottom margin of the form. 3. Provide all requested information on the form as it applies to the returns prepared in Steps 1 and 2. 4. File Form 1096 and Copy A of the return with the appropriate service center. 5. Do not include a copy of the original return that was filed incorrectly.

Electronic Forms. If errors are discovered on electronically-filed information returns, corrections may be filed on paper if the number of incorrect returns is under 250. Otherwise, the corrections must be filed electronically. The 250-return threshold applies separately to each type of information return.

Example 3. Fairway Co. discovers that the same payee address was reported on all 500 Forms 1099-DIV and 100 Forms 1099-INT, due to a programming glitch. Fairway Co. must correct the 500 Forms 1099-DIV electronically but may issue paper corrections of the Forms 1099-INT if it chooses to do so.

The following protocol must be observed when submitting corrections electronically.

- Only the information returns being corrected should be submitted, rather than the entire file.
- Information returns omitted from the original file should not be coded as corrections. These returns must be separately submitted as original returns.
- The same payee account number that was used on the original submission must be used on the corrected return.
- Corrections should be filed as soon as possible to mitigate any potential penalties. Corrected recipient statements should also be furnished as soon as possible.
- If a payor realizes that duplicate reporting occurred, the IRS Information Returns Branch (IRS-IRB) should be contacted for instructions on how to proceed. The standard correction process will not resolve duplicate reporting.
- If a payor discovers errors that affect a large number of payees, the IRS-IRB underreporter office should be contacted at 866-455-7438 for requirements in addition to sending corrected returns and notifying the payees.

For specific information on filing corrected information returns electronically, see IRS Pub. 1220, *Specifications for Filing Forms 1097, 1098, 1099, 3921, 3922, 5498, 8935 and W-2G Electronically*.

Backup Withholding

Backup withholding at a 28% tax rate may apply if reportable payments were made (e.g., interest, dividends, rents, royalties, commissions, nonemployee compensation, and certain other payments).²⁰ Backup withholding applies to reportable transactions under the following conditions.²¹

- The payee fails to furnish their TIN to the requester.
- The payee fails to certify that the TIN provided is correct for interest, dividend, and broker and barter exchange accounts opened or instruments acquired after 1983.
- The IRS notifies the taxpayer to impose backup withholding because the payee furnished an incorrect TIN.
- The taxpayer is notified that the payee is subject to backup withholding for interest and dividend accounts or instruments under IRC §3406(a)(1)(C).
- The payee fails to certify that they are not subject to backup withholding for interest and dividend accounts opened or instruments acquired after 1983.

Caution. The payor may be held liable for uncollected tax if they fail to collect and pay the backup withholding.

²⁰ *Backup Withholding “B” Processes*. Feb. 21, 2012. [www.irs.gov/businesses/small/article/0,,id=98151,00.html] Accessed on Jun. 8, 2012.

²¹ *Ibid.*

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Generally, the period for which backup withholding applies is as follows.

- On all payments made to a recipient until a TIN is furnished in the manner required
- On all reportable payments to a recipient that are made more than 30 business days after the IRS provided notice that the payee's TIN was incorrect
- On all reportable payments to a recipient that are made more than 30 business days after the IRS provided notice that the payee was subject to backup withholding due to payee underreporting (The IRS notifies a payor in writing when they should stop backup withholding.)

Backup withholding is reported to the IRS on Form 945, *Annual Return of Withheld Federal Income Tax*. If the total amount of backup withholding for the year is less than \$2,500, the tax may be remitted with a timely filed Form 945. If the amount of backup withholding exceeds \$2,500, the tax must be deposited monthly. The amount withheld from each recipient is also reported on their respective Forms 1099.

Some payees are exempt from backup withholding. They include the following.²²

1. An organization exempt from tax under IRC §501(a), any IRA, or a custodial account under IRC §403(b)(7) if the account satisfies the requirements of §401(f)(2)
2. The United States or any of its agencies or instrumentalities
3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
4. A foreign government or any of its political subdivisions, agencies, or instrumentalities
5. An international organization or any of its agencies or instrumentalities

Other payees that **may be** exempt from backup withholding include the following.

6. A corporation
7. A foreign central bank of issue
8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States
9. A futures commission merchant registered with the Commodity Futures Trading Commission
10. A real estate investment trust
11. An entity registered at all times during the tax year under the Investment Company Act of 1940
12. A common trust fund operated by a bank under IRC §584(a)
13. A financial institution
14. A middleman known in the investment community as a nominee or custodian
15. A trust exempt from tax under IRC §664 or described in IRC §4947

²² See instructions for Form W-9.

Certain payments are exempt from backup withholding. The following chart applies to the exempt payees listed above.²³

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ^a	Generally, exempt payees 1 through 7 ^b
^a See Form 1099-MISC, <i>Miscellaneous Income</i> , and its instructions.	
^b However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and healthcare payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.	

CP2100 or CP2100A Notices. The IRS issues CP2100 or CP2100A notices to payors to inform them that they may be responsible for backup withholding. This may be due to missing or potentially incorrect TINs identified during the processing of information returns. The notice is accompanied by a listing of missing, incorrect, and/or not currently issued payee TINs. Filers of 250 or more erroneous returns receive the CP2100 notice, and all other filers receive the CP2100A notice.²⁴

A TIN is considered incorrect when the TIN is displayed in the proper format but either the name/TIN combination does not match or the TIN cannot be found in the records of the IRS and/or the Social Security Administration.

If a payor receives a CP2100 or CP2100A notice, they are required to send a "B Notice" to the payee within 15 days of the notice and begin backup withholding within 30 days. Backup withholding should stop no later than 30 days after the payee furnishes a correct TIN.²⁵

IRS Pub. 1281, *Backup Withholding for Missing and Incorrect Name/TIN(s)*, is a valuable source of information regarding backup withholding and explains what a payor should do in various situations. Following are flowcharts and a copy of a B Notice from IRS Pub. 1281.

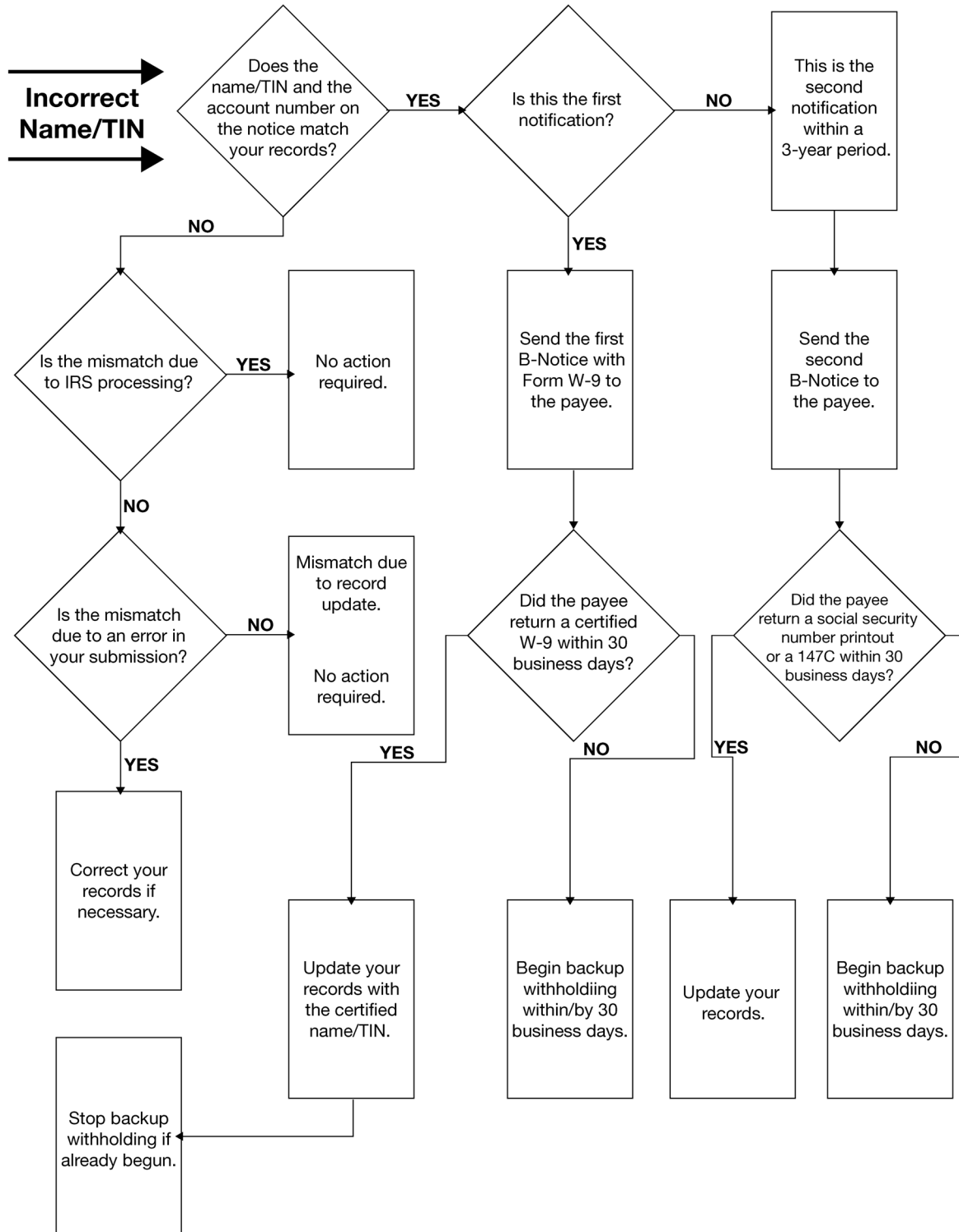
Note. CP2100 notices are sometimes issued as a result of an IRS processing error. Processing errors do not require further action.

²³ Ibid.

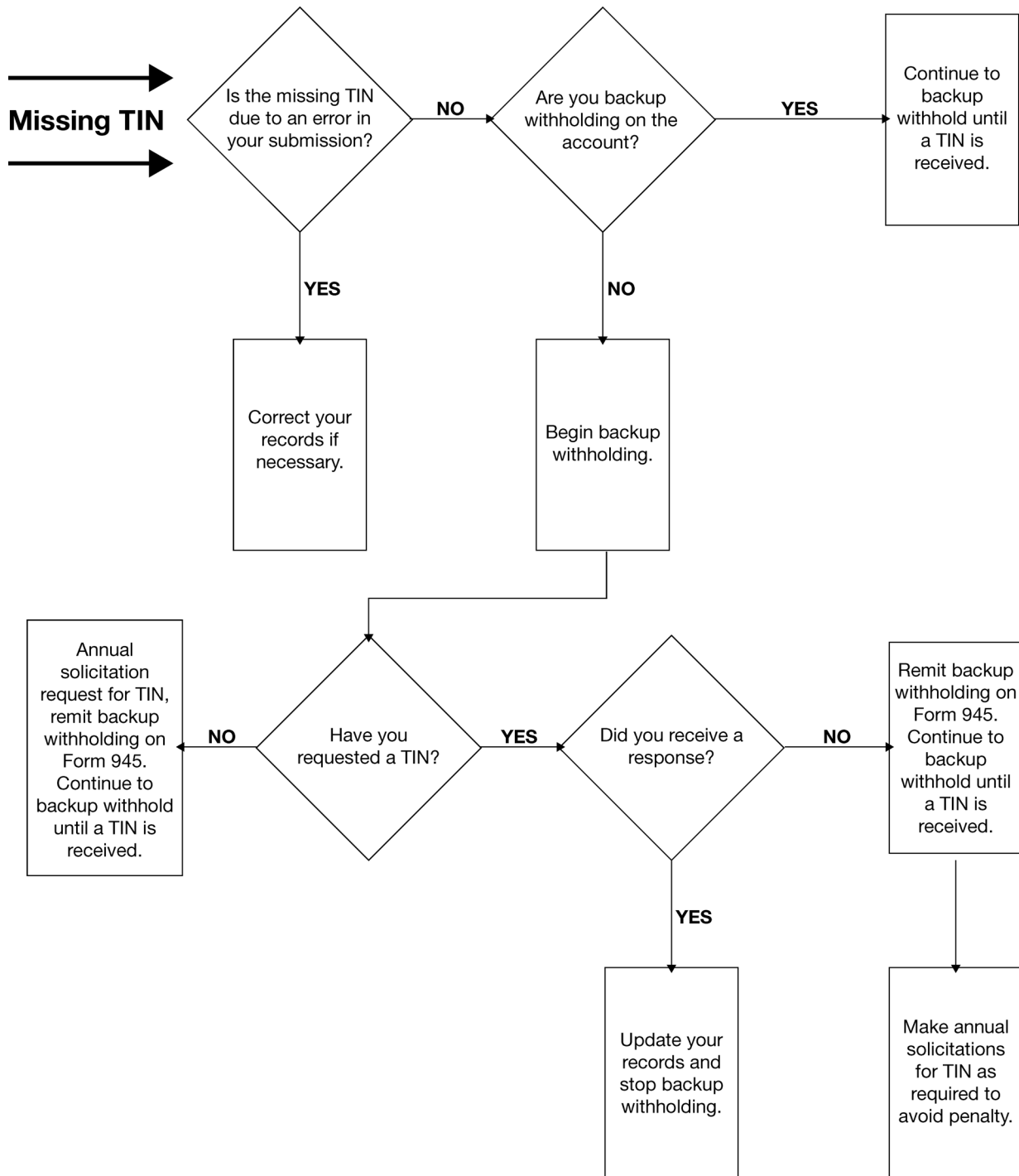
²⁴ *Backup Withholding*. Apr. 5, 2012. [www.irs.gov/govt/fslg/article/0,,id=110339,00.html] Accessed on Jun. 8, 2012.

²⁵ Ibid.

FLOWCHARTING for INCORRECT NAME/TINs



FLOWCHARTING for MISSING TINs



First B Notice

IMPORTANT TAX NOTICE ACTION IS REQUIRED

Backup Withholding Warning!

WE NEED A FORM W-9 FROM YOU BEFORE: _____. Otherwise, backup withholding will begin on

Account Number

Current Name on Account

Current TIN on Account

The Internal Revenue Service (IRS) has notified us that the taxpayer identification number (TIN) on your account with us does not match its records. The IRS considers a TIN as incorrect if either the name or number shown on an account does not match a name and number combination in their files or the files of the Social Security Administration (SSA). If you do not take appropriate action to help us correct this problem before the date shown above, the law requires us to backup withhold on interest, dividends, and certain other payments that we make to your account. The backup withholding rate is: __ [set forth rates/dates]. In addition to backup withholding, you may be subject to a \$50 penalty by the IRS for failing to give us your correct Name/TIN combination. This notice tells you how to help us make your account records accurate and how to avoid backup withholding and the penalty.

Why Your TIN May Be Considered As Incorrect.

An individual's TIN is his or her social security number (SSN). Often a TIN does not match IRS records because a name has changed through marriage, divorce, adoption, etc., and the change has not been reported to SSA, so it has not been recorded in SSA's files. Sometimes an account or transaction may not contain the correct SSN of the actual owner. For example, an account in a child's name may reflect a parent's SSN. (An account should be in the name and SSN of the actual owner.)

What You Need To Do for Individuals

If you have never been assigned a social security number (or if you lost your social security card and do not know your SSN), call your local SSA office and find out how to obtain an original (or a replacement) social security card. Then apply for it. If you already have a social security number: Compare the name and SSN on your account with us (shown at the beginning of this notice) with the name and SSN shown on your social security card. Then use the chart on the next page to decide what action to take.

Penalties

If a payor **fails to file** a correct information return with the IRS by the due date and cannot show reasonable cause, they may be subject to a penalty under IRC §6721. The penalty applies to the following situations.

- Failure to timely file
- Failure to include all required information
- Incorrect information reported
- Filed on paper when electronic filing was required
- Filed paper forms that are not machine readable

The penalty amount depends on when a correct information return is filed. Penalty amounts are listed next.²⁶

- \$30 per information return if correctly filed within 30 days (by March 30 if the due date is February 28), with a maximum penalty of \$250,000 per year (\$75,000 for small businesses²⁷)
- \$60 per information return if correctly filed more than 30 days after the due date but by August 1, with a maximum penalty of \$500,000 per year (\$200,000 for small businesses)
- \$100 per information return if filed after August 1 or if not filed at all, with a maximum penalty of \$1.5 million per year (\$500,000 for small businesses)
- The greater of \$250 per information return or the statutory percentage, if applicable, when the failure is due to intentional disregard of the filing requirements, with no maximum amount²⁸

There are limited exceptions to the penalty for the failure to file a correct information return. The exceptions are as follows.

- The failure was due to reasonable cause and not willful neglect.
- An inconsequential error or omission is not considered a failure to provide correct information. This includes errors or omissions that do not prevent or hinder the IRS from processing the return, from correlating the information required to be shown with the information on a payee's income tax return, or from otherwise putting the return to its intended use.

Note. Errors related to a TIN, payee's name, or money amount are **not** considered inconsequential.

Under the de minimis rule, the penalty for failure to file correct information returns does not apply if the taxpayer:

- Filed the information returns,
- Failed to include all the information required on a return or included incorrect information, and
- Filed corrected returns by August 1.

If a payor **fails to furnish** correct information returns to payees and cannot show reasonable cause, the payor may be subject to a penalty under IRC §6722. The penalty applies to the following situations.

- Failure to provide statements to payees by January 31 (February 15 for Forms 1099-B, 1099-S, and 1099-MISC (boxes 8 and 14 only))
- Failure to include all required information
- Information return contains incorrect information

The amount of the penalty varies, depending on when a correct payee statement is furnished to the recipient. The penalty amounts are the same as listed above for failure to file information returns with the IRS.

Note. If the business both fails to file information returns with the IRS and fails to furnish payee statements, it is subject to penalties under both §§6721 and 6722.

²⁶ *General Instructions for Certain Information Returns* [www.irs.gov/instructions/i1099gi/ar02.html] Accessed on Aug. 23, 2012.

²⁷ A small business is defined in IRC §6721(d) as one that has average annual gross receipts for the three most recent tax years that do not exceed \$5 million..

²⁸ Treas. Reg. §301.6721-1.

Payments to Corporations

Generally, payments to corporations are not reportable on Forms 1099. However, the taxpayer must report the following payments to corporations.

- Medical and healthcare payments
- Withheld federal income tax or foreign tax
- Barter exchange transactions
- Substitute payments in lieu of dividends and tax-exempt interest
- Acquisitions or abandonments of secured property
- Cancellation of debt
- Payment of attorneys' fees and gross proceeds paid to attorneys
- Fish purchases for cash
- Credits for qualified tax credit bonds treated as interest
- Merchant card and third-party network payments
- Federal executive agency payments for services

RECIPIENT'S RESPONSIBILITIES

Income reporting

Most taxpayers are aware that they must report wages, interest, dividends, tips, and commissions as taxable income, but some are unaware that income must also be reported from other sources, such as the following.

- **Cash earned from side jobs.** It is a common misconception that income is not taxable if a taxpayer receives cash from side jobs, does not receive an information return, or if the income is under \$600 per payor. However, there is no minimum amount that a taxpayer may exclude from income.
- **Barter exchanges of goods and services.** Bartering is an exchange of property or services. The fair market value (FMV) of goods and services exchanged is fully taxable.
- **Awards, prizes, and contest winnings.** The cash value of prizes or awards is taxable. This includes amounts won in a drawing, quiz show program, beauty contest, or other event. The FMV of merchandise or products won as a prize or award is also taxable.
- **Gambling.** Gambling winnings are fully taxable. Gambling includes winnings from lotteries, raffles, horse races, poker tournaments, and casinos. It includes cash winnings as well as the FMV of prizes. Losses from gambling may be deducted (to the extent of winnings) as a miscellaneous itemized deduction, not subject to the 2% floor.

Taxpayers must report all income from any source and any country unless it is explicitly exempt under the Code. Generally, the IRS considers all income received in the form of money, property, or services to be taxable income, unless the tax laws provide an exemption.²⁹ IRS Pub. 525, *Taxable and Nontaxable Income*, is a good reference tool.

Note. Bartering exchanges are required to issue Form 1099-B, *Proceeds from Broker and Barter Exchange Transactions*, showing the value of cash, property, services, etc. that the taxpayer received during the tax year. If the taxpayer's records include bartering receivables as income, the amount reported as taxable income should be adjusted to reflect only the amounts used during the tax year.

²⁹ Treas. Reg. §1.61-1.

Incorrect Information Return

Unfortunately, the IRS does not provide procedures for dealing with missing or incorrect Forms 1099, other than Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*, which is discussed in the next section. A taxpayer's best course of action is to contact the payor and inform them of the error. If the payor issues a corrected Form 1099, the problem is solved.

If a payor refuses or otherwise does not issue a corrected Form 1099, the recipient should report the amount listed on the Form 1099 on their tax return and then make an adjustment to arrive at the correct amount. A statement of explanation can also be attached to the income tax return.

Missing Form W-2 or 1099-R³⁰

Taxpayers who do not receive Form W-2 or Form 1099-R by January 31 should contact the employer or payor that is responsible for issuing the form. The taxpayer should also contact the employer or payor if the information on a form is incorrect.

If a missing or corrected form is not received by February 14, the taxpayer should contact the IRS at 800-829-1040 for assistance. A taxpayer will be asked to provide their name, address, phone number, social security number, dates of employment, and the employer's/payor's name, address, and phone number. The IRS will contact the employer/payor and request the missing or incorrect form. The IRS will also send the taxpayer a Form 4852, *Substitute for Form W-2 or Form 1099-R*, along with a letter containing instructions.

If the missing or corrected form is not received in sufficient time to timely file a tax return, Form 4852 may be used to complete the income tax return.

SELECTED INFORMATION RETURNS

Form 1099-K

For 2011 transactions, the Housing Assistance Tax Act of 2008 added a new information reporting requirement. A payment settlement entity (PSE) must file Form 1099-K, *Merchant Card and Third Party Network Payments*, for payments made in settlement of reportable payment transactions for each calendar year. A PSE makes a payment in settlement of a reportable payment transaction (i.e., any payment card or third-party network transaction) if the PSE submits instructions to transfer funds to the account of the participating payee to settle the reportable payment transaction.³¹

A PSE is one of the following.³²

- A **merchant acquiring entity** for payment card transactions (A merchant acquiring entity is the bank or other organization with the contractual obligation to make payments to participating payees in settlement of payment card transactions. Merchant acquiring entities include organizations that process credit card transactions.³³)
- A **third-party settlement organization (TPSO)** for third-party network transactions (A TPSO is the central organization that has the contractual obligation to make payments to participating payees of third-party network transactions.³⁴ TPSOs include PayPal and Google Wallet.)

Note. Automated clearing houses, healthcare networks, and accounts payable departments do not qualify as TPSOs.

³⁰ *Topic 154 – Form W-2 and Form 1099-R (What to Do if Incorrect or Not Received)*. Mar. 12, 2012. [www.irs.gov/taxtopics/tc154.html] Accessed on Jun. 18, 2012.

³¹ *Form 1099-K, Merchant Card and Third Party Network Payments*. Dec. 15, 2011. [www.irs.gov/formspubs/article/0,,id=239833,00.html] Accessed on Jun. 18, 2012.

³² See instructions for Form 1099-K.

³³ IRC §6050W(b)(2).

³⁴ IRC §6050W(b)(3).

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The following transactions must be reported on Form 1099-K.³⁵

- Payments made in settlement of payment card transactions (e.g., credit and debit cards)
- Payments in settlement of third-party network transactions (e.g., PayPal or Google Wallet) if **both** the following de minimis thresholds are met
 - ♦ Gross payments to a participating payee exceed \$20,000.
 - ♦ There are more than 200 transactions with the participating payee.

Note. The de minimis exception only applies to third-party network transactions. There is no de minimis exception for payment card transactions.

Example 4. Dan sells a variety of electronic merchandise on eBay. He only accepts payments made through PayPal. PayPal remits a total of \$8,000 to Dan in 2012 for 497 separate transactions. PayPal is not required to issue a Form 1099-K to Dan for the 2012 tax year because his gross payments were less than \$20,000.

Example 5. Richie Richards falls on hard times and sells three solid gold chamber pots on eBay for \$9,000 each, accepting three \$9,000 payments through PayPal, for a total of \$27,000. These are the only payments he receives via PayPal in 2012. PayPal is not required to issue Richie a Form 1099-K because he had fewer than 200 transactions in 2012.

The following transactions are nonreportable merchant card/third-party network payment transactions.

- A withdrawal of funds at an automated teller machine via payment card, or a cash advance or loan against the cardholder's account
- A check issued in connection with a payment card that is accepted by a merchant or other payee
- Transactions in which a payment card is accepted as payment by a merchant or other payee who is related to the issuer of the payment card

Form 1099-K is due to merchants by January 31. Electronically filed Forms 1099-K must be sent to the IRS by March 31, while paper filed Forms 1099-K are due by February 28.

To avoid duplicate reporting, the initial payors must separate their disbursement records by payment method. Trades and businesses should continue to report payments made by cash or check to nonemployees on Forms 1099-MISC. However, if the trade or business pays a nonemployee using a credit or debit card, the transaction is subject to the PSE's Form 1099-K reporting requirements and should not be included on Form 1099-MISC.

Example 6. Sole proprietor Myles Long bills Energy Center, Inc., \$1,500 for service repairs. Energy Center uses a company credit card to pay Myles on January 4, 2012. Previously, Energy Center would have reported this payment to Myles as nonemployee compensation on Form 1099-MISC. However, under the new reporting rules, Energy Center does not report this payment to Myles. Instead, the PSE reports the payment on a 2012 Form 1099-K.

The amount reported by the PSE is the gross amount of reportable merchant card/third-party network payment transactions for the calendar year. The **gross amount** includes the total dollar amount of reportable transactions without regard to any adjustment for credits, cash equivalents, discounts, fees, or refunded amounts.

Total yearly gross payments must be shown in box 1 of Form 1099-K and payments by month are reported in boxes 5a to 5l.

³⁵ *New 1099-K Reporting Requirements for Payment Settlement Entities*. Mar. 2, 2012. [www.irs.gov/businesses/article/0,,id=251489,00.html] Accessed on Jun. 8, 2012.

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Example 7. Myles, from **Example 6**, receives \$1,470 from the PSE in January 2012 after it processes the \$1,500 credit card transaction. This is Myles' only transaction with the PSE in 2012. The PSE issues the following Form 1099-K to Myles.

☐ CORRECTED

FILER'S name, street address, city, state, ZIP code, and telephone no. PSE 9900 Busy St. Chicago, IL 60608 (312) 555-1234		FILER'S federal identification no. 99-1234567	OMB No. 1545-2205 <div style="font-size: 2em; font-weight: bold; text-align: center;">2012</div>	Payment Card and Third Party Network Transactions
PAYEE'S taxpayer identification no. 141-14-1414		Form 1099-K		
1 Gross amount of payment card/ third party network transactions <div style="text-align: right; font-weight: bold;">\$ 1500.00</div>		2 Merchant category code 		Copy B For Payee This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if taxable income results from this transaction and the IRS determines that it has not been reported.
Check to indicate if FILER is a (an): Payment settlement entity (PSE) <input checked="" type="checkbox"/> Electronic Payment Facilitator (EPF)/Other third party <input type="checkbox"/>		Check to indicate transactions reported are: Payment card <input checked="" type="checkbox"/> Third party network <input type="checkbox"/>		
3 Number of purchase transactions (optional) 		4		
PAYEE'S name Myles Long Street address (including apt. no.) 1400 Poplar City, state, and ZIP code Peoria, IL 61601		5a January <div style="text-align: right; font-weight: bold;">\$ 1500.00</div>	5b February <div style="text-align: right; font-weight: bold;">\$</div>	
PSE'S name and telephone number 		5c March <div style="text-align: right; font-weight: bold;">\$</div>	5d April <div style="text-align: right; font-weight: bold;">\$</div>	
Account number (see instructions) 		5e May <div style="text-align: right; font-weight: bold;">\$</div>	5f June <div style="text-align: right; font-weight: bold;">\$</div>	
		5g July <div style="text-align: right; font-weight: bold;">\$</div>	5h August <div style="text-align: right; font-weight: bold;">\$</div>	
		5i September <div style="text-align: right; font-weight: bold;">\$</div>	5j October <div style="text-align: right; font-weight: bold;">\$</div>	
		5k November <div style="text-align: right; font-weight: bold;">\$</div>	5l December <div style="text-align: right; font-weight: bold;">\$</div>	
		6	7	

Form **1099-K** (keep for your records) IRS.gov/form1099k Department of the Treasury - Internal Revenue Service

Note. The IRS delayed for one year the effective date of the backup withholding requirements for transactions subject to reporting under IRC §6050W. Payments made **after December 31, 2012**, which are required to be reported on Form 1099-K, will be subject to backup withholding obligations.³⁶

Note. Lines were added to the gross income section of various 2011 business tax schedules and forms that would have required taxpayers to separately enter amounts reported on Forms 1099-K. Later, the IRS reversed its course on the required reconciliation of gross receipts with 1099-K forms.³⁷ This decision makes the forms less useful in uncovering underreported income and may provide a reason for Congress to repeal the reporting requirements altogether.

³⁶ IRS Notice 2011-88, 2011-46 IRB 748.

³⁷ *General FAQs on New Payment Card Reporting Requirements*. May 22, 2012. [www.irs.gov/newsroom/article/0,,id=253979,00.html#q20] Accessed on Jun. 25, 2012.

Form 1099-B

The Energy Improvement and Extension Act of 2008 (EIEA) added IRC §§6045(g), 6045A, and 6045B to the Code. IRC §6045(g) provides that every broker required to report the gross proceeds from the sale of a **covered security** must also report the customer's adjusted basis in the security and whether any gain or loss on the security is long-term or short-term. This reporting is generally accomplished using Form 1099-B, *Proceeds from Broker and Barter Exchange Transactions*.

The EIEA did not change the definition of a broker. A **broker** is any person who, in the ordinary course of a trade or business, stands ready to effect sales to be made by others. A broker may include a U.S. or foreign person or a governmental unit and any subsidiary agency.

The EIEA gives brokers until February 15 to furnish Forms 1099-B to customers. Brokers must file paper Forms 1099-B with the IRS by February 28, and electronically filed Forms 1099-B by March 31.

The following types of securities covered by the EIEA are referred to as **specified securities**.

- Stock in a corporation
- Notes
- Bonds
- Debentures and other evidences of indebtedness
- Commodities
- Commodity contracts or derivatives
- Any other financial instrument for which the Treasury Secretary determines basis reporting is appropriate

The above securities are **covered securities** and therefore subject to basis reporting **if they are acquired after the corresponding applicable date**. For stock in a corporation, the applicable date is January 1, 2011, unless the stock is in a mutual fund or is acquired in connection with a dividend reinvestment plan (DRP), in which case the applicable date is January 1, 2012. For debt instruments and options, the applicable date is January 1, 2014.³⁸ For any other security listed above, the applicable date is January 1, 2013.³⁹ Therefore, brokers are not required to report basis for any security acquired before 2011.

If a customer sells less than their entire position in a security, a broker must report a customer's adjusted basis in a covered security (other than a mutual fund or DRP stock) using the **first-in, first-out** method, unless the customer provides the broker with an adequate and timely identification of the shares or units the customer wants to sell. A broker must report the adjusted basis of mutual fund or DRP stock in accordance with the broker's default method, unless the customer notifies the broker in writing that they elect a different permitted method.

Securities that are not covered securities are called **noncovered** securities. Examples of noncovered securities include the following.

- All securities purchased before January 1, 2011
- Securities deposited into a brokerage account without accompanying basis information
- Options, rights, warrants, and debt instruments purchased prior to January 1, 2013

Basis reporting is not required on noncovered securities sold.

³⁸ IRS Notice 2012-34, 2012-21 IRB 937.

³⁹ *Cost Basis Reporting Overview and FAQs*. Jan. 27, 2012. [www.irs.gov/taxpros/article/0,,id=237099,00.html] Accessed on Jun. 20, 2012.

Other broker reporting provisions include the following.⁴⁰

- **Wash sales.** The EIEA requires brokers to report wash sales only if the acquired securities have the same CUSIP number as the securities sold. Further, brokers are only required to report wash sales when the purchase and sale transactions occur in the same account. Taxpayers must still comply with the wash sale rules whether the transactions occur in the same or different accounts and must continue to comply with IRC §1091 regarding wash sales.
- **Corporations.** The EIEA requires brokers to report the basis for sales of covered securities acquired on or after January 1, 2012, by S corporations. They are **not** required to report any basis in connection with sales by C corporations.
- **Short sales.** The EIEA requires brokers to report gross proceeds from short sales for the year in which the short sale is closed. Previously, brokers reported the short-sale transaction in the year in which it was opened.

Transfer Statements. When a broker **transfers** a covered security to another broker, the transferring broker must furnish a written statement with all the information necessary for the receiving broker to comply with the EIEA's basis reporting requirements. The written statement is generally due no later than 15 days following the transfer of the covered security.

The transferring broker must furnish a separate written statement for each security transferred, except for the following.⁴¹

- Noncovered securities
- Securities acquired more than five years before the transfer for which the basis is determined using an average basis method

Each transfer statement must include the following information.⁴²

- Date the statement is furnished
- Name, address, and phone number of the person furnishing the statement
- Name of the customer
- Account number of the transferring account
- CUSIP number of the transferred security
- Number of shares or units
- Type of security
- Date the transfer was initiated
- Settlement date of the transfer (if known)
- The security's total adjusted basis, original acquisition date, and the holding period adjustment under §1091 (if applicable)

Revised Reporting Forms. New boxes were added to the 2012 Form 1099-B as follows.

- Box 1d — The stock or other symbol
- Box 1e — The quantity sold
- Box 6b — Whether basis is reported to the IRS
- Boxes 13–15 — State information

Other boxes on the form were moved or renumbered.

⁴⁰ Ibid.

⁴¹ See instructions for Form 1099-B.

⁴² Ibid.

2012 Workbook

Example 8. Emily sells stock in Fast Food Co. in 2012. She receives the following Form 1099-B from her brokerage company, Berrill Finch.

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, ZIP code, and telephone no. Berrill Finch 1000 Mack St. Metropolis, IN 46000		1a Date of sale or exchange 08/03/12		OMB No. 1545-0715 <div style="font-size: 2em; font-weight: bold;">2012</div> Form 1099-B	Proceeds From Broker and Barter Exchange Transactions
		1b Date of acquisition 05/25/12			
		1c Type of gain or loss Short-term <input checked="" type="checkbox"/> Long-term <input type="checkbox"/>			
PAYER'S federal identification number 12-4567890		RECIPIENT'S identification number 444-11-9999		1d Stock or other symbol Meyer Co.	1e Quantity sold 100 sh.
				2a Stocks, bonds, etc. Reported to IRS <input checked="" type="checkbox"/> Sales price <input type="checkbox"/> Sales price less commissions and option premiums	
RECIPIENT'S name Ellen Lake		3 Cost or other basis \$ 1200.00		4 Federal income tax withheld \$	
		5 Wash sale loss disallowed \$		6 Checked if: a <input type="checkbox"/> Noncovered security b <input checked="" type="checkbox"/> Basis reported to IRS	
Street address (including apt. no.) 123 River Lane		7 Bartering \$		Copy B For Recipient This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.	
		8 Description			
City, state, and ZIP code River City, IA 50400		9 Profit or (loss) realized in 2012 on closed contracts \$		10 Unrealized profit or (loss) on open contracts—12/31/2011 \$	
Account number (see instructions) _____		2nd TIN not. <input type="checkbox"/>	11 Unrealized profit or (loss) on open contracts—12/31/2012 \$		13 State _____
CUSIP number _____		12 Aggregate profit or (loss) on contracts \$		14 State identification no. _____	
				15 State tax withheld \$	

Form **1099-B** (keep for your records) Department of the Treasury - Internal Revenue Service

Due to the reporting changes brought about by the EIEA, the IRS created Form 8949, *Sales and Other Dispositions of Capital Assets for Form 1040*. All sales and exchanges of capital assets, including stocks, bonds, and real estate, are reported on this form (unless they are required to be reported on Forms 4684, 4797, 6252, 6781, or 8824). The totals from Form 8949 are then transferred to a revised Schedule D, *Capital Gains and Losses*. Therefore, Schedule D is now a summary schedule of capital gains and losses.

A **separate** Form 8949, Part I, should be completed for each of the following types of transactions.

- 1. Short-term transactions with basis reported to the taxpayer on Form 1099-B.** Box A at the top of Part I should be checked. However, if the Form 1099-B indicates the basis for the transaction was not reported to the IRS, the transaction should be reported on page 1 of Form 8949 with box B, rather than box A, checked. (See 2 below.)
- 2. Short-term transactions without a basis reported on Form 1099-B.** Box B at the top of Part I should be checked. As stated under item 1, if the Form 1099-B shows a basis for the transaction but indicates it was not reported to the IRS, the transaction should be reported in this category.
- 3. Short-term transactions for which the taxpayer did not receive a Form 1099-B.** Box C at the top of page 1 of Form 8949 should be checked.

A separate Form 8949, Part II, should be completed for each of the following types of transactions.

1. **Long-term transactions with basis reported to the taxpayer on Form 1099-B.** Box A at the top of Part II should be checked. However, if the Form 1099-B indicates the basis for the transaction was not reported to the IRS, the transaction should be reported on page 2 of a Form 8949 with box B, rather than box A, checked. (See 2 below.)
2. **Long-term transactions without a basis reported on Form 1099-B.** Box B at the top of Part II should be checked. As stated under item 1, if the Form 1099-B shows a basis for the transaction but indicates it was not reported to the IRS, the transaction should be reported in this category.
3. **Long-term transactions for which the taxpayer did not receive a Form 1099-B.** Box C at the top of page 2 of Form 8949 should be checked.

Instead of reporting each transaction on a separate line of Form 8949, the taxpayer can report them on an attached statement that contains all the same information as Form 8949 and in a similar format. The total from the attached statement is then entered on a Form 8949 with the appropriate box checked. If the taxpayer has statements from more than one broker, the totals from each broker should be entered on a separate line.

Example 9. In 2011, Emily Waters sells stock in two companies that she held for less than a year. Emily receives Forms 1099-B for each of these transactions that report her adjusted basis in the stock. Emily enters these short-term transactions in Part I of Form 8949 and checks box A. The details on these transactions follow.

Description	No. Shares	Purchase Date	Adjusted Basis	Sale Date	Sale Price
Fast Food Co.	100	May 25, 2011	\$1,200	Aug. 3, 2011	\$ 800
FacePlace Co.	25	Jun. 1, 2011	2,000	Sep. 1, 2011	2,500

Emily also sells stock in two companies that she held for more than a year. She receives Forms 1099-B for each of these transactions that report her adjusted basis in the stock to both her and the IRS. Emily enters these long-term transactions in Part II of Form 8949 and checks box A.

Description	No. Shares	Purchase Date	Adjusted Basis	Sale Date	Sale Price
Fast Car Co.	50	Apr. 2, 2009	\$ 800	Jul. 3, 2011	\$ 700
FriendlySpace Co.	75	Mar. 1, 2010	1,000	Oct. 1, 2011	1,500

Emily's Form 8949 and Schedule D follow.

Note. Most brokerage firms only report the basis to the IRS if the investment is a **covered** security. In **Example 9**, if the brokerage firm had chosen not to report the basis of Fast Car Co. to the IRS, that sale would be reported on a third Form 8949 with box B checked. The totals from that Form 8949 would be listed in Part II of Schedule D on line 9.

2012 Workbook

For Example 9

SCHEDULE D (Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Name(s) shown on return

Capital Gains and Losses

► Attach to Form 1040 or Form 1040NR. ► See Instructions for Schedule D (Form 1040).
► Use Form 8949 to list your transactions for lines 1, 2, 3, 8, 9, and 10.

OMB No. 1545-0074

2011
Attachment
Sequence No. **12**

Emily Waters

Your social security number

333-11-9999

Part I Short-Term Capital Gains and Losses—Assets Held One Year or Less

Complete Form 8949 before completing line 1, 2, or 3. This form may be easier to complete if you round off cents to whole dollars.	(e) Sales price from Form(s) 8949, line 2, column (e)	(f) Cost or other basis from Form(s) 8949, line 2, column (f)	(g) Adjustments to gain or loss from Form(s) 8949, line 2, column (g)	(h) Gain or (loss) Combine columns (e), (f), and (g)
1 Short-term totals from all Forms 8949 with box A checked in Part I	3,300	(3,200)		100
2 Short-term totals from all Forms 8949 with box B checked in Part I		()		
3 Short-term totals from all Forms 8949 with box C checked in Part I		()		
4 Short-term gain from Form 6252 and short-term gain or (loss) from Forms 4684, 6781, and 8824			4	
5 Net short-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1			5	
6 Short-term capital loss carryover. Enter the amount, if any, from line 8 of your Capital Loss Carryover Worksheet in the instructions			6	()
7 Net short-term capital gain or (loss). Combine lines 1 through 6 in column (h). If you have any long-term capital gains or losses, go to Part II below. Otherwise, go to Part III on the back			7	100

Part II Long-Term Capital Gains and Losses—Assets Held More Than One Year

Complete Form 8949 before completing line 8, 9, or 10. This form may be easier to complete if you round off cents to whole dollars.	(e) Sales price from Form(s) 8949, line 4, column (e)	(f) Cost or other basis from Form(s) 8949, line 4, column (f)	(g) Adjustments to gain or loss from Form(s) 8949, line 4, column (g)	(h) Gain or (loss) Combine columns (e), (f), and (g)
8 Long-term totals from all Forms 8949 with box A checked in Part II	2,200	(1,800)		400
9 Long-term totals from all Forms 8949 with box B checked in Part II		()		
10 Long-term totals from all Forms 8949 with box C checked in Part II		()		
11 Gain from Form 4797, Part I; long-term gain from Forms 2439 and 6252; and long-term gain or (loss) from Forms 4684, 6781, and 8824			11	
12 Net long-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1			12	
13 Capital gain distributions. See the instructions			13	
14 Long-term capital loss carryover. Enter the amount, if any, from line 13 of your Capital Loss Carryover Worksheet in the instructions			14	()
15 Net long-term capital gain or (loss). Combine lines 8 through 14 in column (h). Then go to Part III on the back			15	400

For Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 11338H

Schedule D (Form 1040) 2011

2012 Workbook

For Example 9

Schedule D (Form 1040) 2011

Page **2**

Part III Summary

<p>16 Combine lines 7 and 15 and enter the result</p> <ul style="list-style-type: none"> • If line 16 is a gain, enter the amount from line 16 on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 17 below. • If line 16 is a loss, skip lines 17 through 20 below. Then go to line 21. Also be sure to complete line 22. • If line 16 is zero, skip lines 17 through 21 below and enter -0- on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 22. <p>17 Are lines 15 and 16 both gains? <input checked="" type="checkbox"/> Yes. Go to line 18. <input type="checkbox"/> No. Skip lines 18 through 21, and go to line 22.</p> <p>18 Enter the amount, if any, from line 7 of the 28% Rate Gain Worksheet in the instructions . . . ▶</p> <p>19 Enter the amount, if any, from line 18 of the Unrecaptured Section 1250 Gain Worksheet in the instructions . . . ▶</p> <p>20 Are lines 18 and 19 both zero or blank? <input checked="" type="checkbox"/> Yes. Complete Form 1040 through line 43, or Form 1040NR through line 41. Then complete the Qualified Dividends and Capital Gain Tax Worksheet in the instructions for Form 1040, line 44 (or in the instructions for Form 1040NR, line 42). Do not complete lines 21 and 22 below. <input type="checkbox"/> No. Complete Form 1040 through line 43, or Form 1040NR through line 41. Then complete the Schedule D Tax Worksheet in the instructions. Do not complete lines 21 and 22 below.</p> <p>21 If line 16 is a loss, enter here and on Form 1040, line 13, or Form 1040NR, line 14, the smaller of:</p> <div style="display: flex; align-items: center;"> <ul style="list-style-type: none"> • The loss on line 16 or • (\$3,000), or if married filing separately, (\$1,500) <div style="font-size: 3em; margin: 0 10px;">}</div> <div style="border-bottom: 1px solid black; width: 150px; text-align: center;"> <p>21 ()</p> </div> </div> <p>Note. When figuring which amount is smaller, treat both amounts as positive numbers.</p> <p>22 Do you have qualified dividends on Form 1040, line 9b, or Form 1040NR, line 10b? <input type="checkbox"/> Yes. Complete Form 1040 through line 43, or Form 1040NR through line 41. Then complete the Qualified Dividends and Capital Gain Tax Worksheet in the instructions for Form 1040, line 44 (or in the instructions for Form 1040NR, line 42). <input type="checkbox"/> No. Complete the rest of Form 1040 or Form 1040NR.</p>	<p>16</p> <p>18</p> <p>19</p> <p>21</p>	<p>500</p>
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Schedule D (Form 1040) 2011

4

2012 Workbook

Basis information reported by brokerage firms may be incorrect or may be calculated using a different method than the one the taxpayer wants to use. Situations that might create differences in the basis reported on Form 1099-B and the taxpayer's calculation of basis include the following.

1. Brokerage firms neglect to adjust their basis records for inherited values, especially inheritances from spouses.
2. The brokers report the basis on the first-in, first-out method, but the taxpayer wants to use the specific identification method.
3. Each brokerage firm is permitted to determine which default method it will use to calculate the adjusted basis of mutual fund shares and stocks held in dividend reinvestment plans.⁴³ The taxpayer may want to use a different method.
4. The gross sales price is reported, which includes selling costs, but the selling costs have not been added to the basis.
5. The brokerage company does not adjust the basis information for formally disallowed wash sales.

The IRS anticipated these problems and included a mechanism to use with Form 8949 to make adjustments to the basis amounts reported by the brokerage companies. The instructions for Form 8949 include a list of situations and letter codes to use to identify the reason that the taxpayer's basis is different from the reported basis. The applicable code(s) is entered in column (b) of Form 8949. The net amount of all adjustments for each sale is reported in column (g).

⁴³ *Cost Basis Reporting Overview and FAQs*. Jan. 27, 2012. [www.irs.gov/taxpros/article/0,,id=237099,00.html] Accessed Aug. 10, 2012.

2012 Workbook

How To Complete Form 8949, Columns (b) and (g)

For most transactions, you do not need to complete columns (b) and (g) and can leave them blank. You may need to complete columns (b) and (g) if you got a Form 1099-B or 1099-S that is incorrect, if you are excluding or postponing a capital gain, if you have a disallowed loss, or in certain other situations. Details are in the table below.

IF . . .	THEN enter this code in column (b) . . .	AND. . .
You received a Form 1099-B (or substitute statement) and the basis shown in box 3 is incorrect. . . .	B	Enter the basis shown on Form 1099-B (or substitute statement) in column (f). If the correct basis is higher than the basis shown on Form 1099-B (or substitute statement), enter the difference between the two amounts as a negative number (in parentheses) in column (g). If the correct basis is lower than the basis shown on Form 1099-B (or substitute statement), enter the difference between the two amounts as a positive number in column (g).
You received a Form 1099-B (or substitute statement) and the type of gain or loss (short term or long term) shown in box 8 is incorrect. . . .	T	Enter -0- in column (g) unless an adjustment is required because of another code. Report the gain or loss in the correct Part of Form 8949.
You received a Form 1099-B or 1099-S as a nominee for the actual owner of the property. . . .	N	Report the transaction on Form 8949 as you would if you were the actual owner, but enter any resulting gain as a negative adjustment (in parentheses) in column (g) or any resulting loss as a positive adjustment in column (g). However, if you received capital gain distributions as a nominee, report them instead as described under <i>Capital Gain Distributions</i> , earlier.
You sold or exchanged your main home at a gain, must report the sale or exchange on Form 8949, and can exclude some or all of the gain. . . .	H	Report the sale or exchange on Form 8949 as you would if you were not taking the exclusion. Then enter the amount of excluded (nontaxable) gain as a negative number (in parentheses) in column (g). See the example in the instructions for Form 8949, column (g).
You sold or exchanged qualified small business stock and can exclude part of the gain. . . .	S	Report the sale or exchange on Form 8949 as you would if you were not taking the exclusion. Then enter the amount of the exclusion as a negative number (in parentheses) in column (g).
You can exclude all or part of your gain under the rules explained earlier in these instructions for DC Zone assets or qualified community assets. . . .	X	Report the sale or exchange on Form 8949 as you would if you were not taking the exclusion. Then enter the amount of the exclusion as a negative number (in parentheses) in column (g).
You are electing to postpone all or part of your gain under the rules explained earlier in these instructions for rollover of gain from QSB stock, empowerment zone assets, publicly traded securities, or stock sold to ESOPs or certain cooperatives. . . .	R	Report the sale or exchange on Form 8949 as you would if you were not making the election. Then enter the amount of postponed gain as a negative number (in parentheses) in column (g).
You have a nondeductible loss from a wash sale. . . .	W	Enter the amount of the nondeductible loss as a positive number in column (g). See <i>Wash Sales</i> , earlier, for details.
You have a nondeductible loss other than a loss indicated by code W. . . .	L	Enter the amount of the nondeductible loss as a positive number in column (g). See the example under <i>Nondeductible Losses</i> , earlier.
You include any expense of sale or certain option premiums in column (g) or you have an adjustment not explained above in this column. . . .	O	Enter your expenses of sale or the appropriate adjustment amount in column (g). Enter any expenses of sale as a negative number (in parentheses). See the instructions for Form 8949, column (g). If you sold a call option and it was exercised, see <i>Gain or Loss From Options</i> , earlier, for information about reporting certain option premiums.
None of the other statements in this column apply. . .		Leave columns (b) and (g) blank.

Example 10. Use the same facts as **Example 9**, except Emily's husband, Shorty, died on December 15, 2009. On his date of death, Fast Car Co. shares were selling for \$20 per share. The shares were held in Shorty's name only.

The brokerage company did not adjust its records to reflect Emily's step-up in basis when it transferred the shares to her name. It reports the original basis to the IRS on Form 1099-B, even though it was not technically required to report basis for this sale.

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Emily's tax basis in the shares is \$1,000 (50 shares \times \$20 per share). The brokerage company reports a basis of \$800. Her loss on the sale is \$200 greater than the brokerage company reports.

To properly report this sale, Emily enters code B in column (b) and the additional \$200 loss as a negative amount in column (g) of Form 8949 as shown below.

[illegible]

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For Example 10

SCHEDULE D (Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Name(s) shown on return

Emily Waters

Capital Gains and Losses

► Attach to Form 1040 or Form 1040NR. ► See Instructions for Schedule D (Form 1040).
► Use Form 8949 to list your transactions for lines 1, 2, 3, 8, 9, and 10.

OMB No. 1545-0074

2011

Attachment
Sequence No. **12**

Your social security number

333-11-9999

Part I Short-Term Capital Gains and Losses—Assets Held One Year or Less

Complete Form 8949 before completing line 1, 2, or 3.

This form may be easier to complete if you round off cents to whole dollars.

	(e) Sales price from Form(s) 8949, line 2, column (e)	(f) Cost or other basis from Form(s) 8949, line 2, column (f)	(g) Adjustments to gain or loss from Form(s) 8949, line 2, column (g)	(h) Gain or (loss) Combine columns (e), (f), and (g)
1 Short-term totals from all Forms 8949 with box A checked in Part I	3,300	(3,200)		100
2 Short-term totals from all Forms 8949 with box B checked in Part I		()		
3 Short-term totals from all Forms 8949 with box C checked in Part I		()		
4 Short-term gain from Form 6252 and short-term gain or (loss) from Forms 4684, 6781, and 8824			4	
5 Net short-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1			5	
6 Short-term capital loss carryover. Enter the amount, if any, from line 8 of your Capital Loss Carryover Worksheet in the instructions			6	()
7 Net short-term capital gain or (loss). Combine lines 1 through 6 in column (h). If you have any long-term capital gains or losses, go to Part II below. Otherwise, go to Part III on the back			7	100

Part II Long-Term Capital Gains and Losses—Assets Held More Than One Year

Complete Form 8949 before completing line 8, 9, or 10.

This form may be easier to complete if you round off cents to whole dollars.

	(e) Sales price from Form(s) 8949, line 4, column (e)	(f) Cost or other basis from Form(s) 8949, line 4, column (f)	(g) Adjustments to gain or loss from Form(s) 8949, line 4, column (g)	(h) Gain or (loss) Combine columns (e), (f), and (g)
8 Long-term totals from all Forms 8949 with box A checked in Part II	2,200	(1,800)	(200)	200
9 Long-term totals from all Forms 8949 with box B checked in Part II		()		
10 Long-term totals from all Forms 8949 with box C checked in Part II		()		
11 Gain from Form 4797, Part I; long-term gain from Forms 2439 and 6252; and long-term gain or (loss) from Forms 4684, 6781, and 8824			11	
12 Net long-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1			12	
13 Capital gain distributions. See the instructions			13	
14 Long-term capital loss carryover. Enter the amount, if any, from line 13 of your Capital Loss Carryover Worksheet in the instructions			14	()
15 Net long-term capital gain or (loss). Combine lines 8 through 14 in column (h). Then go to Part III on the back			15	200

For Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 11338H

Schedule D (Form 1040) 2011

Form 1099-MISC

Form 1099-MISC should be filed for each person to whom the following types of payments were made during the year.

- At least \$10 in:
 - ♦ Royalties
 - ♦ Brokers payments in lieu of dividends
 - ♦ Tax-exempt interest

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- At least \$600 in:
 - ♦ Rents
 - ♦ Commissions
 - ♦ Services
 - ♦ Other forms of compensation to persons not treated as employees
 - ♦ Prizes and awards
 - ♦ Medical and healthcare payments
 - ♦ Crop insurance proceeds
 - ♦ Purchase of fish from anyone engaged in the trade or business of catching fish
 - ♦ Cash paid from a notional principal contract to an individual, partnership, or estate
 - ♦ Attorney fees
- Any amount of fishing boat proceeds
- At least \$5,000 in direct sales of consumer products to a buyer for resale anywhere other than at a permanent retail establishment

Example 11. Freddy's Appliance World hires Sol Attude, a sole proprietor, to repair its furnace. Freddy's pays Sol \$850 in 2012 for the service and issues the following Form 1099-MISC to him.

<input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED					
PAYER's name, street address, city, state, ZIP code, and telephone no. Freddy's Appliance World 19 Francesa Blvd Majestic, OH 12345		1 Rents	OMB No. 1545-0115 <div style="font-size: 2em; font-weight: bold;">2012</div>		
		\$			
		2 Royalties	Form 1099-MISC		
\$					
		3 Other income	4 Federal income tax withheld	<div style="text-align: center; font-weight: bold;">Copy 1</div> <div style="text-align: center; font-weight: bold;">For State Tax Department</div>	
		\$	\$		
PAYER's federal identification number	RECIPIENT's identification number	5 Fishing boat proceeds	6 Medical and health care payments		
45-1234567	348-11-1111	\$	\$		
RECIPIENT's name Sol Attude dba Sol's Plumbing Service Street address (including apt. no.) 1 Cobb Lane City, state, and ZIP code Rock Falls, IL 61111		7 Nonemployee compensation	8 Substitute payments in lieu of dividends or interest		
		\$ 850.00	\$		
		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	10 Crop insurance proceeds		
		11	12		
Account number (see instructions)		13 Excess golden parachute payments	14 Gross proceeds paid to an attorney		
		\$	\$		
15a Section 409A deferrals	15b Section 409A income	16 State tax withheld	17 State/Payer's state no.	18 State income	
\$	\$	\$	\$	\$	
		\$	\$	\$	

Form **1099-MISC**

Department of the Treasury - Internal Revenue Service

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Form 1099-MISC is also filed for each person from whom federal income tax was withheld under the backup withholding rules, regardless of the amount of the payment.

Note. Form 1099-MISC should only report payments made in the course of a trade or business. Personal payments are not reportable.

Payments Exempt from Form 1099-MISC Reporting. Some payments are taxable to the recipient but are not required to be reported on Form 1099-MISC. These payments include the following.

- Generally, payments to a corporation (but see “Payments to Corporations” earlier in this chapter)
- Payments for merchandise, telegrams, telephone, freight, storage, and similar items
- Payments of rent to real estate agents
- Wages paid to employees (report on Form W-2, *Wage and Tax Statement*)
- Military differential wage payments made to employees while they are on active duty in the Armed Forces or other uniformed services (report on Form W-2)
- Business travel allowances paid to employees (may be reportable on Form W-2)
- Cost of current life insurance protection (report on Form W-2 or Form 1099-R)
- Payments to a tax-exempt organization including tax-exempt trusts (IRAs, HSAs, Archer MSAs, and Coverdell ESAs), the United States, a state, the District of Columbia, a U.S. possession, or a foreign government
- Payments made to or for homeowners from the HFA Hardest Hit Fund or the Emergency Homeowners’ Loan Program or similar state program
- Certain payment card transactions if a payment card organization has assigned a merchant/payee a Merchant Category Code indicating that reporting is not required

Landlords. For 2011 returns, Schedule E, *Supplemental Income and Loss*, was revised to include questions about filing Form(s) 1099.

SCHEDULE E (Form 1040)	Supplemental Income and Loss (From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)	OMB No. 1545-0074
Department of the Treasury Internal Revenue Service (99)	► Attach to Form 1040, 1040NR, or Form 1041. ► See separate instructions.	2011 Attachment Sequence No. 13
Name(s) shown on return	Your social security number	
A Did you make any payments in 2011 that would require you to file Form(s) 1099? (see instructions)		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
B If “Yes,” did you or will you file all required Forms 1099?		<input type="checkbox"/> Yes <input type="checkbox"/> No
Part I Income or Loss From Rental Real Estate and Royalties Note. If you are in the business of renting personal property, use Schedule C or C-EZ (see instructions). If you are an individual, report farm rental income or loss from Form 4835 on page 2, line 40.		

However, most individual taxpayers are not required to file 1099 forms related to rental real estate. The requirement for landlords to report payments related to rental property expenses on Form 1099-MISC was repealed by Congress.⁴⁴ Unless the landlord is in the trade/business of renting property, these expenses are considered personal and do not fall under the Form(s) 1099 reporting requirements.

⁴⁴ 2012 Instructions for Form 1099-MISC.

2012 Workbook

FORM 1098

WHAT'S NEW

Mortgage **insurance premiums** paid or accrued after December 31, 2011, are no longer treated as interest paid by the borrower. Box 4 on IRS Form 1098, *Mortgage Interest Statement*, formerly used for reporting these premiums, has been reconfigured for providing other information.

WHO MUST FILE

Taxpayers are required to file Form 1098 if they are engaged in a trade or business and, in the course of that trade or business, receive from an individual (including a sole proprietor) \$600 or more of mortgage interest on any one mortgage during the calendar year. The \$600 threshold applies separately to each mortgage. Therefore, a separate Form 1098 must be issued for each mortgage that meets the threshold.

A taxpayer is **not** required to file Form 1098 for mortgage interest that is **not** received in the course of a trade or business. **For example, a taxpayer holding a mortgage on a former personal residence for which a buyer makes mortgage payments is not required to file Form 1098.**

Example 12. Ophelia sells her personal residence in Illinois to her daughter Jasmine and moves to Florida. Jasmine makes monthly mortgage payments to Ophelia. Ophelia is not required to file a Form 1098 for the interest she receives on the mortgage.

A taxpayer is required to file Form 1098 for mortgage interest if they receive \$600 or more in the course of their trade or business, even though they are not in the business of lending money. For example, if a real estate developer provides financing to an individual to buy a home, and that home is the security for the financing, the developer is subject to mortgage interest reporting.

Example 13. Home Builders, Inc., builds and finances a home for Ima Homeowner. The home is security for the loan. In 2012, Ima pays \$8,500 of home mortgage interest to Home Builders. Home Builders reports mortgage interest received from Ima on Form 1098, as illustrated.

<input type="checkbox"/> CORRECTED (if checked)		OMB No. 1545-0901	
RECIPIENT'S/LENDER'S name, address, and telephone number Home Builders, Inc. 1400 Builders Way Frankfort, IL 60423		* Caution: The amount shown may not be fully deductible by you. Limits based on the loan amount and the cost and value of the secured property may apply. Also, you may only deduct interest to the extent it was incurred by you, actually paid by you, and not reimbursed by another person. <div style="font-size: 2em; font-weight: bold; text-align: center;">2012</div> <div style="text-align: center;">Form 1098</div>	
RECIPIENT'S federal identification no. 39-9876543	PAYER'S social security number 111-22-3333	1 Mortgage interest received from payer(s)/borrower(s)* <div style="text-align: right;">\$ 8500.00</div>	<div style="text-align: center;">Copy B</div> <div style="text-align: center;">For Payer/Borrower</div> <p>The information in boxes 1, 2, and 3 is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if the IRS determines that an underpayment of tax results because you overstated a deduction for this mortgage interest or for these points or because you did not report this refund of interest on your return.</p>
PAYER'S/BORROWER'S name Ima Homeowner Street address (including apt. no.) 999 Ferry Rd City, state, and ZIP code Fishers, IN 46037		2 Points paid on purchase of principal residence <div style="text-align: right;">\$</div>	
Account number (see instructions)		3 Refund of overpaid interest <div style="text-align: right;">\$</div>	
		4	
Form 1098		(keep for your records) Department of the Treasury - Internal Revenue Service	

Exceptions to Filing

Form 1098 is not required for interest received from a corporation, partnership, trust, estate, association, or company (other than a sole proprietorship) even if an individual is a co-borrower and all the trustees, beneficiaries, partners, members, or shareholders of the payor of record are individuals.

Form 1098 is not required if the property that secures the loan is not real property.

POINTS

Points paid on the purchase of a payor's principal residence of \$600 or more during the calendar year are reported in box 2 of Form 1098. Points paid on the following types of loans are **not** reportable on Form 1098.

- Loans to improve a principal residence
- Loans to purchase or improve a residence that is not the payor's principal residence
- Home equity or line-of-credit loans, even if secured by a principal residence
- Refinancing loans
- Loans to acquire a principal residence, to the extent the points are allocable to a principal amount in excess of \$1 million

REIMBURSEMENT OF OVERPAID INTEREST

Reimbursements of overpaid interest totaling \$600 or more are reported in box 3 of Form 1098. Reimbursements totaling less than \$600 are not required to be reported on Form 1098 unless the taxpayer is otherwise required to file Form 1098.

The reimbursement must be reported for the year in which the reimbursement is made. No change should be made to the prior year Form 1098 because of this reimbursement. The total reimbursement should be reported even if it is for overpayments made in more than one year.

To be reportable, the reimbursement must be a refund or credit of mortgage interest received in a prior year that was required to be reported by the interest recipient on Form 1098. Only the taxpayer that makes the reimbursement is required to report it on Form 1098.

Example 14. In 2010, CHC Bank received \$5,000 of mortgage interest from Colton and reported that amount on Form 1098 for 2010. In 2012, CHC determines that the interest due on the mortgage for 2010 was actually \$4,500 and refunds the \$500 overpayment to Colton. CHC also receives \$4,000 of mortgage interest from Colton in 2012. It issues the following Form 1098.

☐ CORRECTED (if checked)

RECIPIENT'S/LENDER'S name, address, and telephone number CHC Bank 123 Penny Lane Bourbonnais, IL 60914		<i>* Caution: The amount shown may not be fully deductible by you. Limits based on the loan amount and the cost and value of the secured property may apply. Also, you may only deduct interest to the extent it was incurred by you, actually paid by you, and not reimbursed by another person.</i>	OMB No. 1545-0901 <div style="font-size: 2em; font-weight: bold;">2012</div> Form 1098	Mortgage Interest Statement
RECIPIENT'S federal identification no. 55-1234567	PAYER'S social security number 999-88-7777	1 Mortgage interest received from payer(s)/borrower(s)* <div style="display: flex; justify-content: space-between;"> \$ 4000.00 </div>		Copy B For Payer/Borrower <small>The information in boxes 1, 2, and 3 is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if the IRS determines that an underpayment of tax results because you overstated a deduction for this mortgage interest or for these points or because you did not report this refund of interest on your return.</small>
PAYER'S/BORROWER'S name Colton James Street address (including apt. no.) 1000 Francine Dr. City, state, and ZIP code Watseka, IL 60970		2 Points paid on purchase of principal residence <div style="display: flex; justify-content: space-between;"> \$ </div>		
Account number (see instructions)		3 Refund of overpaid interest <div style="display: flex; justify-content: space-between;"> \$ 500.00 </div>		
		4		

Form 1098
(keep for your records)
Department of the Treasury - Internal Revenue Service

CP2000 AUR NOTICES

The IRS automated underreporter unit (AUR) compares information returns filed by third parties with income and deductions reported on a recipient's individual tax return. The IRS must match nearly 2 billion information returns to over 140 million individual income tax returns.⁴⁵ If the IRS is unable to match the amounts, a taxpayer may receive the CP2000 notice, which informs the taxpayer about underreported income. The notices are essentially computer-generated mismatch notices.

The AUR has issued an increasing number of CP2000 notices in an attempt to close the tax gap. In 2011, the IRS closed 4.7 million cases under the AUR program and assessed an additional \$6.4 billion in taxes. This is a significant increase from 2009 when it closed 3.6 million cases and assessed \$6.3 billion in taxes.⁴⁶

The CP2000 notice proposes additional tax, penalties, and interest based on the reported discrepancies. The notice shows the amounts reported to the IRS, the amounts reported on the individual's income tax return, and the differences.

The CP2000 notice contains only **proposed adjustments**; therefore, tax liability is not assessed. The IRS corrects the tax return information as warranted when the taxpayer's response is received. The notice includes a response page on which a taxpayer indicates agreement or disagreement with the proposed changes.

- If a taxpayer agrees with all the proposed changes, the box in Step A on the response page is checked and it is returned to the IRS with payment. The taxpayer should not file an amended return.
- If a taxpayer disagrees with some or all of the proposed changes, the notice should **not** be signed. Instead, option 2 or 3 on the response page should be checked. Explanations and supporting documents on the proposed changes with which the taxpayers do not agree should be provided.

⁴⁵ *IRS Data Book*, 2011.

⁴⁶ *Ibid.*



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Response Form

1. Review the Explanation Section to decide whether you agree or do not agree with IRS's proposed changes.
2. Complete and return the Response Form by **{due date}**.
3. If you need additional time, call us at **{toll-free #}**.

STEP A

Check only one of the three options. Then, go to Step B.

If you agree with the changes IRS is proposing, return this form with your FULL or PARTIAL payment along with the completed Installment Agreement Request for the remaining balance (if applicable).

☐ **OPTION 1 | I Agree with All Changes**

I agree with the changes to my **{tax year}** tax return.

I understand that I owe **{ \$ amount }** in additional tax, penalties, and interest.

I understand that the law requires IRS to charge interest on taxes that are not paid in full by **{due date}**. In addition, I understand that the IRS will charge interest until I have paid the tax in full. Certain penalties may also apply.

I understand that I can challenge these changes in the U.S. Tax Court only if IRS determines after the date I sign this form that I owe additional taxes for **{tax year}**.

I understand that I can file for a refund at a later date.

Signature

Date

If you do not agree with the changes IRS is proposing, return this form. When you return this form, include a signed statement that explains what you do not agree with. Also include copies of any documents, such as a corrected W-2, 1099, or missing forms, that support your statement.

☐ **OPTION 2 | I Do Not Agree with Some of the Changes**

I've enclosed documentation to support the entries on my original return.

☐ **OPTION 3 | I Do Not Agree with Any of the Changes**

I've enclosed documentation to support the entries on my original return.

STEP B

Check the applicable payment options, Then, go to Step C.

*Tip! Pay as much as you can now to keep penalty and interest charges low. Make your check or money order payable to "United States Treasury." Write "Tax Year **{tax year}** CP2000," this Social Security Number **{SSN #}** and your phone number on your check or money order.*

☐ **OPTION 1 | I'm paying the proposed balance due of **{ \$ amount }****

Balance may not include all applicable penalties - refer to the Explanation Section..

☐ **OPTION 2 | I'm making a payment of \$_____ because either:**

☐ I'm paying the amount I agree with **or**

☐ I'm making a partial payment at this time

☐ **OPTION 3 | I'd like to request a payment plan to pay the tax I owe.**

Complete the Installment Agreement Request (Form 9465) and mail it along with this form. Please refer to Form 9465 instructions for applicable fees.

CP2000 (Rev.11/2004)

2012 Workbook

A response to a CP2000 notice must be made within **30 days** of the date of the notice. The IRS will grant an automatic 30-day extension upon request if made within the 30-day window. Additional time may be granted based on the taxpayer's circumstances. If the IRS receives no response from a taxpayer, it issues a statutory notice of deficiency. Once the IRS issues a notice of deficiency, a new timetable and set of procedural deadlines begin. At that point, the taxpayer still has time and procedures available to dispute the changes made by the IRS.

Caution. The proposed adjustments on the CP2000 are often incorrect or based on incomplete information. Even if the income included on the notice was omitted from the original return, the IRS may have used incorrect tax rates for capital gains and/or qualified dividends.

Therefore, practitioners are advised to thoroughly review the potentially unreported income, the changes related to AGI adjustments, the effect of the change on credits, and the calculation of the change in tax.

After all the information is considered, many CP2000 notices result in no change to the tax due for the year in question. The end result may be that the IRS owes the taxpayer a refund, especially in situations involving unreported stock sales.

Note. Further information on CP2000 notices and the AUR program can be found in 2012 Volume C, Chapter 1: Communications with the IRS.