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Bankruptcy Tax Guide

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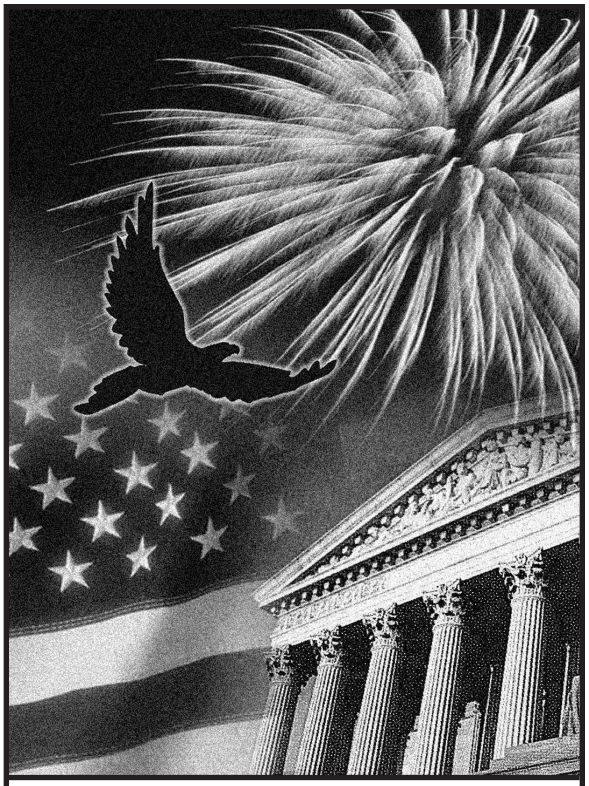

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Future Developments

For the latest information about developments related to Pub. 908, such as legislation enacted after it was published, go to *IRS.gov/Pub908*.

What's New

Bankruptcy estate filing threshold. For tax year 2021, the requirement to file a return for a bankruptcy estate applies only if gross income is at least $12,550. This amount is equal to the standard deduction for married individuals filing a separate return and is generally adjusted annually. See the Instructions for Form 1041 for updates to the filing threshold amount for future years.

Net operating loss (NOL) carryback. Generally, an NOL arising in a tax year beginning in 2021 or later may not be carried back and instead must be carried forward indefinitely. However, farming losses arising in tax years beginning in 2021 or later may be carried back 2 years and carried forward indefinitely.

For special rules for NOLs arising in 2018, 2019, or 2020, see Pub. 536, Net Operating Loss for Individuals, Estates, and Trusts, for more information.

Reminders

Bankruptcy administrative expenses. Bankruptcy administrative expenses are reported on Schedule 1 (Form 1040), as allowable in arriving at adjusted gross income. These expenses were previously reported on Schedule A (Form 1040), as miscellaneous itemized deductions. See Internal Revenue Code section 67(e) and *Final Regulations - TD9918*. For specific reporting instructions, see *Administrative expenses*, later.

Automatic 6-month extension of time to file a bankruptcy estate return. An automatic 6-month extension of time to file a bankruptcy estate income tax return is available for individuals in chapter 7 or chapter 11 bankruptcy proceedings upon filing a required application.

Bankruptcy Code tax filing requirements. Debtors filing under chapters 7, 11, 12, and 13 of the Bankruptcy Code must file all applicable federal, state, and local tax returns that become due after a case commences. Failure to file tax returns timely or obtain an extension can cause a bankruptcy case to be converted to another chapter or dismissed.

In chapter 13 cases, the debtor **must** file all required tax returns for tax periods ending within **4 years** of the filing of the bankruptcy petition.

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

Introduction

CAUTION *This publication isn't intended to cover bankruptcy law in general, or to provide detailed discussions of the tax rules for the more complex corporate bankruptcy reorganizations or other highly technical transactions. Additionally, this publication isn't updated on an annual basis and may not reflect recent developments in bankruptcy or tax law. If you need more guidance on the bankruptcy or tax laws applicable to your case, you should seek professional advice.*

This publication explains the basic federal income tax aspects of bankruptcy.

A fundamental goal of the bankruptcy laws enacted by Congress is to give an honest debtor a financial "fresh start". This is accomplished through the bankruptcy discharge, which is a permanent injunction (court-ordered prohibition) against the collection of certain debts as a personal liability of the debtor.

Bankruptcy proceedings begin with the filing of either a voluntary petition in the United States Bankruptcy Court, or in certain cases an involuntary petition filed by creditors. This filing creates the bankruptcy estate.

- The bankruptcy estate generally consists of all of the assets the individual or entity owns on the date the bankruptcy petition was filed.
- The bankruptcy estate is treated as a separate taxable entity for individuals filing bankruptcy petitions under chapter 7 or 11 of the Bankruptcy Code, discussed later.
- The tax obligations of taxable bankruptcy estates are discussed later under *Individuals in Chapter 7 or 11.*

Generally, when a debt owed to another person or entity is canceled, the amount canceled or forgiven is considered income that is taxed to the person owing the debt. If a debt is canceled under a bankruptcy proceeding, the amount canceled isn't income. However, the canceled debt reduces other tax benefits to which the debtor would otherwise be entitled. See *Debt Cancellation,* later.

Useful Items

You may want to see:

Publication

- ❑ **225** Farmer's Tax Guide
- ❑ **525** Taxable and Nontaxable Income
- ❑ **536** Net Operating Losses (NOLs) for Individuals, Estates, and Trusts
- ❑ **538** Accounting Periods and Methods
- ❑ **544** Sales and Other Dispositions of Assets
- ❑ **551** Basis of Assets
- ❑ **4681** Canceled Debts, Foreclosures, Repossessions, and Abandonments

Form (and Instructions)

- ❑ **SS-4** Application for Employer Identification Number
- ❑ **982** Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)
- ❑ **1040** U.S. Individual Income Tax Return
- ❑ **Schedule SE (Form 1040)** Self-Employment Tax
- ❑ **1040-SR** U.S. Tax Return for Seniors
- ❑ **1040-X** Amended U.S. Individual Income Tax Return
- ❑ **1041** U.S. Income Tax Return for Estates and Trusts
- ❑ **1041-ES** Estimated Income Tax for Estates and Trusts
- ❑ **1041-V** Payment Voucher
- ❑ **4506** Request for Copy of Tax Return
- ❑ **4506-T** Request for Transcript of Tax Return
- ❑ **4852** Substitute for Form W-2, Wage and Tax Statement, or Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
- ❑ **4868** Application for Automatic Extension of Time To File U.S. Individual Income Tax Return
- ❑ **7004** Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns

See *How To Get Tax Help*, later, for information about getting these publications and forms.

Bankruptcy Code Tax Compliance Requirements

Tax Returns Due for Periods Ending Before the Bankruptcy Filing in Chapter 13 Cases

The Bankruptcy Code requires chapter 13 debtors to **file all required tax returns for tax periods ending within 4 years of the debtor's bankruptcy filing**. All such federal tax returns must be filed with the IRS before the date first set for the first meeting of creditors. The debtor may request the trustee to hold the meeting open for an additional 120 days to enable the debtor to file the returns (or until the day the returns are due under an automatic IRS extension, if later). After notice and hearing, the bankruptcy court may extend the period for another 30 days.

CAUTION *Failure to timely file the returns can prevent confirmation of a chapter 13 plan and result in either dismissal of the chapter 13 case or conversion to a chapter 7 case.*

Note. Individual debtors should use their home address when filing Form 1040 or 1040-SR with the IRS. Returns should **not** be filed "in care of" the trustee's address.

Ordering tax transcripts and copies of returns. Trustees may require the debtor to submit copies or transcripts of the debtor's returns as proof of filing. The debtor can request free

transcripts of the debtor's income tax returns by filing Form 4506-T, with the IRS or by going to *IRS.gov/Transcripts*. Click on either "Get Transcript Online" or "Get Transcript by Mail" to order a free copy of the transcript. If preferred, the transcript can be ordered by calling 800-908-9946. If requested through the phone system, the transcript will be mailed to the debtor's most current address according to the IRS's records. Transcripts requested using Form 4506-T may be mailed to any address, including to the attention of the trustee in the debtor's bankruptcy case. Transcripts are normally mailed within 10 to 15 days of receipt of the request by the IRS. A transcript contains most of the information on the debtor's filed return, but it isn't a copy of the return. To request a copy of the debtor's filed return, file Form 4506, Request for Copy of Tax Return, with a $43 fee for each copy of each return requested. It may take up to 75 days for the IRS to provide the copies after receipt of the debtor's request.

Tax Returns Due After the Bankruptcy Filing

For debtors filing bankruptcy under all chapters (chapters 7, 11, 12, and 13), the Bankruptcy Code provides that if the debtor does not file a tax return that becomes due after the commencement of the bankruptcy case, or obtain an extension for filing the return before the due date, the taxing authority may request that the bankruptcy court either dismiss the case or convert the case to a case under another chapter of the Bankruptcy Code. If the debtor does not file the required return or obtain an extension within 90 days after the request is made, the bankruptcy court **must** dismiss or convert the case.

Tax returns and payment of taxes in chapter 11 cases. The Bankruptcy Code provides that a chapter 11 debtor's failure to timely file tax returns and pay taxes owed after the date of the "order for relief" (the bankruptcy petition date in voluntary cases) is cause for dismissal of the chapter 11 case, conversion to a chapter 7 case, or appointment of a chapter 11 trustee.

Disclosure of debtor's return information to trustee. In bankruptcy cases filed under chapter 7 or 11 by individuals, the debtor's income tax returns for the year the bankruptcy case begins and for earlier years are, upon written request, open to inspection by or disclosure to the trustee. If the bankruptcy case was not voluntary, disclosure cannot be made before the bankruptcy court has entered an order for relief, unless the court rules that the disclosure is needed for determining whether relief should be ordered.

In bankruptcy cases other than those of individuals filing under chapter 7 or 11, the debtor's income tax returns for the current and prior years are, upon written request, open to inspection by or disclosure to the trustee, but only if the IRS finds that the trustee has a material interest that will be affected by information on the return. Material interest is generally defined as a financial or monetary interest. Material interest isn't limited to the trustee's responsibility to file a return on behalf of the bankruptcy estate.

However, the U.S. Trustee (an officer of the Department of Justice, responsible for maintaining and supervising a panel of private trustees for chapter 7 bankruptcy cases) and the standing chapter 13 trustee (the administrator of chapter 13 cases in a specific geographic region) generally don't have a material interest in the debtor's return or return information.

Disclosure of bankruptcy estate's return information to debtor. The bankruptcy estate's tax return(s) are open, upon written request, to inspection by or disclosure to the individual debtor in a chapter 7 or 11 bankruptcy. Disclosure of the estate's return to the debtor may be necessary to enable the debtor to determine the amount and nature of the tax attributes, if any, that the debtor assumes when the bankruptcy estate terminates.

Individuals in Chapter 12 or 13

Only individuals may file a chapter 13 bankruptcy. Chapter 13 relief isn't available to corporations or partnerships. The bankruptcy estate is **not** treated as a separate entity for tax purposes when an individual files a petition under chapter 12 (Adjustment of Debts of a Family Farmer or Fisherman with Regular Annual Income) or 13 (Adjustment of Debts of an Individual with Regular Income) of the Bankruptcy Code. In these cases, the individual continues to file the same federal income tax returns that were filed prior to the bankruptcy petition, Form 1040 or 1040-SR.

On the debtor's individual tax return, Form 1040 or 1040-SR, report all income received during the entire year and deduct all allowable expenses. Don't include in income the amount from any debt canceled due to the debtor's bankruptcy. To the extent the debtor has any losses, credits, or basis in property that were previously reduced as a result of canceled debt, these reductions must be included on the debtor's return. See *Debt Cancellation*, later.

Interest on trust accounts in chapter 13 cases. In chapter 13 proceedings, do **not** include interest earned on amounts held by the trustee in trust accounts as income on the debtor's return. This interest isn't available to either the debtor or creditors; it is available only to the trustee for use by the U.S. Trustee system. The interest is also not taxable to the trustee as income.

Individuals in Chapter 7 or 11

When an individual debtor files for bankruptcy under chapter 7 or 11 of the Bankruptcy Code, the bankruptcy estate is treated as a new taxable entity, separate from the individual taxpayer.

The bankruptcy estate in a chapter 7 case is represented by a trustee. The trustee is appointed to administer the estate and liquidate any nonexempt assets. In chapter 11 cases, the debtor often remains in control of the assets as a "debtor-in-possession" and acts as the bankruptcy trustee. However, the bankruptcy court, for cause, may appoint a trustee if such appointment is in the best interests of the creditors and the estate.

During the chapter 7 or 11 bankruptcy, the debtor continues to file an individual tax return on Form 1040 or 1040-SR. The bankruptcy trustee files a Form 1041 for the bankruptcy estate. However, when a debtor in a chapter 11 bankruptcy case remains a debtor-in-possession, he or she must file both a Form 1040 or 1040-SR individual return and a Form 1041 estate return for the bankruptcy estate (if return filing requirements are met).

Although a husband and wife may file a joint bankruptcy petition whose bankruptcy estates are jointly administered, the estates are treated as two separate entities for tax purposes. Two *separate* bankruptcy estate income tax returns **must** be filed (if each spouse separately meets the filing requirements).

For information about determining the tax due and paying tax for a chapter 7 or 11 bankruptcy estate, see *Bankruptcy Estate Tax Return Filing Requirements and Payment of Tax Due*, later.

Debtor's Election To End Tax Year—Form 1040 or 1040-SR

Short tax years. An individual debtor in a chapter 7 or 11 case may elect to close the debtor's tax year for the year in which the bankruptcy petition is filed, as of the day before the date on which the bankruptcy case commences. If the debtor makes this election, the debtor's tax year is divided into 2 short tax years of less than 12 months each. The first tax year ends on the day *before* the commencement date and the second tax year begins on the commencement date.

If the election is made, the debtor's federal income tax liability for the first short tax year becomes an allowable claim against the bankruptcy estate arising before the bankruptcy filing. Also, the tax liability for the first short tax year isn't subject to discharge under the Bankruptcy Code.

If the debtor does not make an election to end the tax year, the commencement of the bankruptcy case does not affect the debtor's tax year. Also, no part of the debtor's income tax liability for the year in which the bankruptcy case commences can be collected from the bankruptcy estate.

Note. The debtor cannot make a short tax year election if no assets, other than exempt property, are in the bankruptcy estate.

Making the Election—Filing Requirements

First short tax year. The debtor can elect to end the debtor's tax year by filing a return on Form 1040 or 1040-SR for the first short tax year. The return must be filed on or before the 15th day of the 4th full month after the end of that 1st tax year.

Second short tax year. If the debtor elects to end the tax year on the day before filing the bankruptcy case, the debtor must file the return for the first short tax year in the manner discussed above.

If the debtor makes this election, the debtor must also file a separate Form 1040 or 1040-SR for the second short tax year by the regular due date. To avoid delays in processing the return, write "Second Short Year Return After Section 1398 Election" at the top of the return.

Example. Jane Doe, an individual calendar year taxpayer, filed a bankruptcy petition under chapter 7 or 11 on May 8. If Jane elected to close her tax year at the commencement of her case, Jane's first short year runs from January 1 through May 7. Jane's second short year runs from May 8 through December 31. To have a timely filed election for the first short year, Jane must file Form 1040 or 1040-SR (or an extension of time to file) for the period January 1 through May 7 by September 15.

To avoid delays in processing the return, write "Section 1398 Election" at the top of the return. The debtor may also make the election by attaching a statement to Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return. The statement must state that the debtor elects under Internal Revenue Code section 1398(d)(2) to close the debtor's tax year on the day before filing the bankruptcy case. The debtor must file Form 4868 by the due date of the return for the first short tax year. The debtor's spouse may also elect to close his or her tax year; see *Election by debtor's spouse* below.

Election by debtor's spouse. If the debtor is married, the debtor's spouse may join in the election to end the tax year. If the debtor and spouse make a joint election, the debtor **must** file a joint return for the first short tax year. The debtor must elect by the due date for filing the return for the first short tax year. Once the election is made, it cannot be revoked for the first short tax year. However, the election does not prevent the debtor and the spouse from filing separate returns for the second short tax year.

Later bankruptcy of spouse. If the debtor's spouse files for bankruptcy later in the same year, he or she may also choose to end his or her tax year, regardless of whether he or she joined in the election to end the debtor's tax year.

As each spouse has a separate bankruptcy, one or both of them may have 3 short tax years in the same calendar year. If the debtor's spouse joined the debtor's election or if the debtor had not made the election to end the tax year, the debtor can join in the spouse's election. However, if the debtor made an election and the spouse did not join that election, the debtor cannot then join the spouse's later election. The debtor and the spouse are precluded from this election because they have different tax years. This results because the debtor does not have a tax year ending the day before the spouse's filing for bankruptcy, and the debtor cannot file a joint return for a year ending on the day before the spouse's filing of bankruptcy.

Example 1. Paul and Mary Harris are calendar-year taxpayers. Paul's voluntary chapter 7 bankruptcy case begins on March 4.

If Paul does not make an election, his tax year does not end on March 3. If he makes an election, Paul's first tax year is January 1–March 3, and his second tax year begins on March 4. Mary could join in Paul's election as long as they file a joint return for the tax year January 1–March 3. They must make the election by July 15, the due date for filing the joint return.

Example 2. Fred and Ethel Barnes are calendar-year taxpayers. Fred's voluntary chapter 7 bankruptcy case begins on May 6, and Ethel's bankruptcy case begins on November 1 of the same year.

Ethel could elect to end her tax year on October 31. If Fred did not elect to end his tax year on May 5, or if he elected to do so but Ethel had not joined in his election, Ethel would have 2 tax years in the same calendar year if she decided to close her tax year. Her first tax year is January 1–October 31, and her second year is November 1–December 31.

If Fred did not end his tax year as of May 5, he could join in Ethel's election to close her tax year on October 31, but only if they file a joint return for the tax year January 1–October 31.

If Fred elected to end his tax year on May 5, but Ethel did not join in Fred's election, Fred cannot join in Ethel's election to end her tax year on October 31. Fred and Ethel cannot file a joint return for that short tax year because their tax years preceding October 31 were not the same.

Example 3. Jack and Karen Thomas are calendar-year taxpayers. Karen's voluntary chapter 7 bankruptcy case began on April 10, and Jack's voluntary chapter 7 bankruptcy case began on October 3 of the same year. Karen elected to close her tax year on April 9 and Jack joins in Karen's election.

Under these facts, Jack would have 3 tax years for the same calendar year if he makes the election relating to his own bankruptcy case. The first tax year would be January 1–April 9; the second, April 10–October 2; and the third, October 3–December 31.

Karen may join in Jack's election if they file a joint return for the second short tax year (April 10–October 2). If Karen does join in, she would have the same 3 short tax years as Jack. Also, if Karen joins in Jack's election, they may file a joint return for the third tax year (October 3–December 31), but they aren't required to do so.

Annualizing taxable income. If the debtor elects to close the tax year, the debtor must annualize taxable income for each short tax year in the same manner a change in annual accounting period is calculated. See *Short Tax Year* in Pub. 538 for information on how to annualize the debtor's income and to figure the tax for the short tax year.

Dismissal of bankruptcy case. If the bankruptcy court later dismisses an individual chapter 7 or 11 case, the bankruptcy estate is no longer treated as a separate taxable entity. It is as if no bankruptcy estate was created for tax purposes. In this situation, the debtor must file amended tax returns on Form 1040-X to replace all full or short year individual returns (Form 1040 or 1040-SR) and bankruptcy estate returns (Form 1041) filed as a result of the bankruptcy case. Income, deductions, and credits previously reported by the bankruptcy estate must be reported on the debtor's amended returns. Attach a statement to the amended returns explaining why the debtor is filing an amended return.

Taxes and the Bankruptcy Estate

Property of the bankruptcy estate. At the commencement of a bankruptcy case, a bankruptcy estate is created. Bankruptcy law determines which of the debtor's assets become part of a bankruptcy estate. This estate generally includes all of the debtor's legal and equitable interests in property as of the commencement date. However, there are exceptions and certain property is exempted or excluded from the bankruptcy estate.

Note. Exempt property and abandoned property are initially part of the bankruptcy estate, but are subsequently removed from the estate. Excluded property is never included in the estate.

Transfer of assets between debtor and bankruptcy estate. The transfer (other than by sale or exchange) of an asset from the debtor to the bankruptcy estate isn't treated as a disposition for income tax purposes. The transfer does not result in gain or loss, acceleration of income or deductions, or recapture of deductions or credits. For example, the transfer of an installment obligation to the estate would not accelerate gain under the rules for reporting installment sales. The estate assumes the same basis, holding period, and character of the transferred assets. Also, the estate generally accounts for the transferred assets in the same manner as the debtor.

When the bankruptcy estate is terminated or dissolved, any resulting transfer (other than by sale or exchange) of the estate's assets back to the debtor is also not treated as a disposition for tax purposes. The transfer does not result in gain or loss, acceleration of income or deductions, or recapture of deductions or credits to the estate.

Abandoned property. The abandonment of property by the estate to the debtor is a nontaxable disposition of property. If the debtor received abandoned property from the bankruptcy estate, the debtor assumes the same basis in the property that the bankruptcy estate had.

Separate taxable entity. When an individual files a bankruptcy petition under chapter 7 or 11, the bankruptcy estate is treated as a separate taxable entity from the debtor. The court appointed trustee or the debtor-in-possession is responsible for preparing and filing all of the bankruptcy estate's tax returns, including its income tax return, on Form 1041, and paying its taxes. The debtor remains responsible for filing his or her own returns on Form 1040 or

1040-SR and paying taxes on income that does not belong to the estate.

Employer identification number (EIN). The trustee or debtor-in-possession must obtain an EIN for a bankruptcy estate. The trustee or debtor-in-possession uses this EIN on all tax returns filed for the bankruptcy estate with the IRS, including estimated tax returns. See *Employer identification number* under *Bankruptcy Estate Tax Return Filing Requirements and Payment of Tax Due*, later.

The social security number of the individual debtor cannot be used as the EIN for the bankruptcy estate.

Income, deductions, and credits—Form 1040 or 1040-SR. In an individual chapter 7 or 11 bankruptcy case, don't include the income, deductions, and credits that belong to the bankruptcy estate on the debtor's individual income tax return (Form 1040 or 1040-SR). Also, don't include as income on the debtor's return the amount of any debt canceled by reason of the bankruptcy discharge. The bankruptcy estate must reduce certain losses, credits, and the basis in property (to the extent of these items) by the amount of canceled debt. See *Debt Cancellation*, later.

Note. The debtor may not be able to claim certain deductions available to the bankruptcy estate such as administrative expenses. Additionally, the bankruptcy exclusion cannot be used to exclude income from a cancelled debt if the discharge of indebtedness was not within the bankruptcy case, even though the debtor was under the bankruptcy court's protection at the time. However, other exclusions, such as the insolvency exclusion, may apply.

Bankruptcy Estate—Income, Deductions, and Credits

Bankruptcy Estate Income

Income of the estate in individual chapter 7 cases. The gross income of the bankruptcy estate includes gross income of the debtor to which the estate is entitled under the Bankruptcy Code. Gross income also includes income generated by the bankruptcy estate from property of the estate after the commencement of the case.

Gross income of the bankruptcy estate does not include amounts received or accrued by the debtor *before* the commencement of the case. Additionally, in chapter 7 cases, gross income of the bankruptcy estate does not include any income that the debtor earns *after* the date of the bankruptcy petition.

Income of the estate in individual chapter 11 cases. In chapter 11 cases, under Internal Revenue Code section 1398(e)(1), gross income of the bankruptcy estate includes income that the debtor earns for services performed after the bankruptcy petition date. Also, earnings from services performed by an individual debtor after the commencement of the chapter 11 case are property of the bankruptcy estate under section 1115 of the Bankruptcy Code (11 U.S.C. section 1115).

Note. A debtor-in-possession may be compensated by the estate for managing or operating a trade or business that the debtor conducted before the commencement of the bankruptcy case. Such payments should be reported by the debtor as miscellaneous income on his or her individual income tax return (Form 1040 or 1040-SR).

Amounts paid by the estate to the debtor-in-possession for managing or operating the trade or business may qualify as administrative expenses of the estate. See *Administrative expenses*, later.

Conversion or dismissal of chapter 11 cases. If a chapter 11 case is converted to a chapter 13 case, the chapter 13 estate isn't a separate taxable entity and earnings from post-conversion services and income from property of the estate realized after the conversion to chapter 13 are taxed to the debtor. If the chapter 11 case is converted to a chapter 7 case, 11 U.S.C. section 1115 does not apply after conversion and:

- Earnings from post-conversion services will be taxed to the debtor, rather than the estate; and
- The property of the chapter 11 estate will become property of the chapter 7 estate.

Any income on this property will be taxed to the estate even if the income is realized after the conversion to chapter 7. If a chapter 11 case is dismissed, the debtor is treated as if the bankruptcy case had never been filed and as if no bankruptcy estate had been created.

Bankruptcy Estate Deductions and Credits

A bankruptcy estate deducts expenses incurred in a trade, business, or activity, and uses credits in the same way the debtor would have deducted or credited them had he or she continued operations.

Note. Expenses may be disallowed under other provisions of the Internal Revenue Code (such as the disallowance of certain capital expenditures or expenses relating to tax-exempt interest).

Administrative expenses. Allowable expenses include administrative expenses.

Administrative expenses can only be deducted by the estate, never by the debtor.

The bankruptcy estate is allowed deductions for bankruptcy administrative expenses and fees, including accounting fees, attorney fees, and court costs. These expenses are deductible on Schedule 1 (Form 1040), as allowable in arriving at adjusted gross income because they would not have been incurred if property had not been held by the bankruptcy estate. See Internal Revenue Code section 67(e) and *Final Regulations - TD9918*.

Note. Report this amount as a write-in on Schedule 1 (Form 1040), Part II, line 24z.

Administrative expenses of the bankruptcy estate attributable to conducting a trade or business or for the production of estate rents or royalties are deductible in arriving at adjusted gross income on Form 1040 or 1040-SR, Schedules C, E, and F.

Note. The bankruptcy estate uses Form 1041 as a transmittal for the tax return prepared using Form 1040 or 1040-SR and its schedules. See *Transmittal for Form 1040 or 1040-SR* under *Bankruptcy Estate Tax Return Filing Requirements and Payment of Tax*, later.

Administrative expense loss. If the administrative expenses of the bankruptcy estate are more than its gross income for a tax year, the excess amount is an administrative expense loss (AEL). An AEL may be carried back 3 years and forward 7 years. The AEL amounts can only be carried to a tax year of the estate and never to a debtor's tax year. An AEL must first be carried back to the earliest year possible. However, NOL carrybacks (see *Carrybacks from the bankruptcy estate*, later, regarding farm losses) and carryovers must be applied against income of the estate (and are reduced) before administrative loss carrybacks and carryovers. See Internal Revenue Code section 1398(h)(2)(C).

Attribute carryovers. The bankruptcy estate may use its tax attributes the same way that the debtor would have used them. These items are determined as of the first day of the debtor's tax year in which the bankruptcy case begins. The bankruptcy estate assumes the following tax attributes from the debtor:

1. NOL carryovers.
2. Carryovers of excess charitable contributions.
3. Recovery of tax benefit items.
4. Credit carryovers.
5. Capital loss carryovers.
6. Basis, holding period, and character of assets.
7. Method of accounting.
8. Passive activity loss and credit carryovers.
9. Unused at-risk deductions.
10. Other tax attributes provided in the regulations.

Certain tax attributes of the bankruptcy estate must be reduced by the amount of income that was previously excluded as a result of cancellation of debt during the bankruptcy proceeding. See *Debt Cancellation*, later.

When the bankruptcy estate is terminated (for example, when the case ends), the debtor assumes any remaining tax attributes previously taken over by the bankruptcy estate. The debtor also generally assumes any of the tax attributes, listed above, that arose during the administration of the bankruptcy estate.

Note. The debtor does not assume the bankruptcy estate's administrative expense losses because they cannot be used by an individual taxpayer filing Form 1040 or 1040-SR. See *Administrative expense loss*, earlier.

Passive and at-risk activities. For bankruptcy cases beginning after November 8, 1992, passive activity carryover losses and

credits and unused at-risk deductions are treated as tax attributes passing from the debtor to the bankruptcy estate, which the estate then passes back to the debtor when the bankruptcy estate terminates. Additionally, transfers to the debtor (other than by sale or exchange) of interests in passive or at-risk activities are treated as nontaxable exchanges. These transfers include the return of exempt property and abandonment of estate property to the debtor.

Carrybacks from the debtor's activities. The debtor cannot carry back any NOL or credit carryback from a tax year ending after the bankruptcy case has begun to any tax year ending before the case began.

Carrybacks from the bankruptcy estate. The estate may carry back excess credits, such as the general business credit, to the pre-bankruptcy tax years.

Generally, an NOL arising in a tax year beginning in 2021 or later may not be carried back and instead must be carried forward indefinitely. However, farming losses arising in tax years beginning in 2021 or later may be carried back 2 years and carried forward indefinitely. See Pubs. 536 and 225 for more information.

Tax Reporting—Chapter 11 Cases

Allocation of income and credits on information returns and required statement for returns for individual chapter 11 cases. In chapter 11 cases, when an employer issues a Form W-2 reporting all of the debtor's wages, salary, or other compensation for a calendar year, and a portion of the earnings represent post-petition services includible in the estate's gross income, the Form W-2 amounts **must** be allocated between the estate and the debtor. The debtor-in-possession or trustee must allocate the income amount reported in box 1 and the income tax withheld reported in box 2 between the debtor and the estate. These allocations must reflect that the debtor's gross earnings from post-petition services and gross income from post-petition property are, generally, includible in the estate's gross income and not the debtor's gross income. The debtor and trustee may use a simple percentage method to allocate income and income tax withheld. The same method must be used to allocate the income and the withheld tax.

Example. If 20% of the wages reported on Form W-2 for a calendar year were earned after the commencement of the case and are included in the estate's gross income, 20% of the withheld income tax reported on Form W-2 must also be claimed as a credit on the estate's income tax return. Likewise, 80% of wages must be reported by the debtor and 80% of the income tax withheld must be claimed as a credit on the debtor's income tax return. See Internal Revenue Code section 31(a).

If information returns are issued to the debtor for gross income, gross proceeds, or other reportable payments that should have been reported to the bankruptcy estate, the debtor-in-possession or trustee must allocate the improperly reported income in a reasonable manner between the debtor and the estate. In general, the allocation must ensure that any income and income tax withheld attributable to the post-petition period is reported on the estate's return, and any income and income tax withheld attributable to the pre-petition period is reported on the debtor's return.

IRS Notice 2006-83 requires the debtor to attach a statement to his or her individual income tax return (Form 1040 or 1040-SR) stating that the return is filed subject to a chapter 11 bankruptcy case. The statement must also:

- Show the allocations of income and income tax withheld;
- Describe the method used to allocate income and income tax withheld; and
- List the filing date of the bankruptcy case, the bankruptcy court in which the case is pending, the bankruptcy court case number, and the bankruptcy estate's EIN.

Note. The debtor-in-possession or trustee must attach a similar statement to the bankruptcy estate's income tax return (Form 1041).

The model Notice 2006-83 Statement, shown later, may be used by debtors, debtors-in-possession, and trustees to satisfy the reporting requirement.

Self-employment taxes in individual chapter 11 cases. Internal Revenue Code section 1401 imposes a tax upon the self-employment income, that is, the net earnings from self-employment of an individual. Net earnings from self-employment are equal to the gross income derived by an individual from any trade or business carried on by such individual, less deductions attributable to the business.

Neither section 1115 of the Bankruptcy Code nor Internal Revenue Code section 1398 addresses the application of self-employment tax to the post-petition earnings of the individual debtor. Therefore, if the debtor continues to derive gross income from the performance of services as a self-employed individual after the commencement of the bankruptcy case, the debtor must continue to report the debtor's self-employment income on Schedule SE (Form 1040) of the debtor's income tax return. This schedule includes self-employment income earned post-petition and the attributable deductions. The debtor must pay any self-employment tax imposed by Internal Revenue Code section 1401.

Employment taxes and employer's obligation to file Form W-2 in individual chapter 11 cases. In chapter 11 cases, post-petition wages earned by a debtor are generally treated as gross income of the estate. However, section 1115 of the Bankruptcy Code does not affect the determination of what are deemed wages for Federal Insurance Contributions Act (FICA) tax, Federal Unemployment Tax Act (FUTA) tax, or federal income tax withholding purposes. See Notice 2006-83.

The reporting and withholding obligations of a debtor's employer also don't change. An employer should continue to report the wages and tax withholding on a Form W-2 issued under the debtor's name and social security number.

Notice to persons required to file information returns (other than Form W-2, Wage and Tax Statement) in individual chapter 11 cases. Within a reasonable time after the commencement of a chapter 11 bankruptcy case, the trustee or debtor-in-possession should provide notification of the bankruptcy estate's EIN to all persons (or entities) that are required to file information returns for the bankruptcy estate's gross income, gross proceeds, or other types of reportable payments. See Internal Revenue Code section 6109(a)(2). As these payments are the property of the estate under section 1115 of the Bankruptcy Code, the payors should report the gross income, gross proceeds, or other reportable payments on the appropriate information return using the estate's name and EIN, as required under the Internal Revenue Code and regulations (see Internal Revenue Code sections 6041 through 6049).

The trustee or debtor-in-possession should not, however, provide the EIN to a person (or entity) filing Form W-2 reporting the debtor's wages or other compensation, as section 1115 of the Bankruptcy Code does not affect the determination of what constitutes wages for purposes of federal income tax withholding or FICA. See Notice 2006-83. An employer should continue to report all wage income and tax withholding, both pre-petition and post-petition, on a Form W-2 to the debtor under the debtor's social security number.

The debtor in a chapter 11 case isn't required to file a new Form W-4 with an employer solely because the debtor filed a chapter 11 case and the post-petition wages are includible in the estate's income and not the debtor's income. However, a new Form W-4 may be necessary if the debtor is no longer entitled to claim the same number of allowances previously claimed because certain deductions or credits now belong to the estate. See Employment Tax Regulations section 31.3402(f)(2)-1. Additionally, the debtor may wish to file a new Form W-4 to increase the income tax withheld from post-petition wages allocated to the estate to avoid having to make estimated tax payments for the estate. See Internal Revenue Code section 6654(a).

Notice required in converted and dismissed cases. When a chapter 11 bankruptcy case is closed, dismissed, or converted to a chapter 12 or 13 case, the bankruptcy estate ends as a separate taxable entity. The debtor should, within a reasonable time, send notice of such event to the persons (or entities) previously notified of the bankruptcy case. This helps to ensure that gross income, proceeds, and other reportable payments realized after the event are reported to the debtor under the correct taxpayer identification number (TIN) rather than to the estate.

When a chapter 11 case is converted to a chapter 7 case, the bankruptcy estate will continue to exist as a separate taxable entity. Gross income (other than post-conversion income from the debtor's services), gross proceeds, or other reportable payments should continue to be reported to the estate if they are property of the chapter 7 estate. However, income from services performed by the debtor after conversion of the case to chapter 7 isn't property of the chapter 7 estate. After the conversion, the debtor should notify payors required to report the debtor's nonemployee compensation that

Notice 2006-83

Notice 2006-83 Statement

Pending Bankruptcy Case

The taxpayer, _____, filed a bankruptcy petition under chapter 11 of the Bankruptcy Code in the bankruptcy court for the District of _____. The bankruptcy court case number is _____. Gross income, and withheld federal income tax, reported on Form W-2, Forms 1099, Schedule K-1, and other information returns received under the taxpayer's name and social security number (or other taxpayer identification number) are allocated between the taxpayer's TIN and the bankruptcy estate's EIN as follows, using [describe allocation method]: _____.

Year		Taxpayer	Estate
1.	Form W-2, Payor: _____	$ _____	$ _____
	Withheld income tax shown on Form W-2	$ _____	$ _____
2.	Form 1099-INT Payor: _____	$ _____	$ _____
	Withheld income tax (if any) shown on Form 1099-INT	$ _____	$ _____
3.	Form 1099-DIV Payor: _____	$ _____	$ _____
	Withheld income tax (if any) shown on Form 1099-DIV	$ _____	$ _____
4.	Form 1099-MISC Payor: _____	$ _____	$ _____
	Withheld income tax (if any) shown on Form 1099-MISC	$ _____	$ _____

compensation earned after the conversion should be reported using the debtor's name and TIN, not the estate's name and EIN.

Employment taxes. The trustee or debtor-in-possession must withhold income and social security taxes and file employment tax returns for any wages paid by the trustee or debtor, including wage claims paid as administrative expenses. See Pub. 15, (Circular E), Employer's Tax Guide, for details on employer tax responsibilities.

The trustee also has the duty to prepare and file Forms W-2 for wage claims paid by the trustee, regardless of whether the claims accrued before or during bankruptcy. For a further discussion of employment taxes, see *Employment Taxes*, later.

Bankruptcy Estate Tax Return Filing Requirements and Payment of Tax Due

Filing Requirements

Filing threshold. If the bankruptcy estate has gross income that meets or exceeds the minimum amount required for filing, the trustee or debtor-in-possession must file an income tax return on Form 1041. This amount is equal to the basic standard deduction for a *married individual filing separately*.

For 2021, the threshold filing amount for a bankruptcy estate is $12,550 (this amount is equal to the $12,550 standard deduction for married individuals filing separately).

This amount is generally adjusted annually. See the Form 1041 instructions at *IRS.gov/Form1041* for the current threshold amount for future years.

Accounting period. A bankruptcy estate may have a fiscal year. However, this period cannot be longer than 12 months.

Change of accounting period. The bankruptcy estate may change its accounting period (tax year) once without IRS approval. This rule allows the bankruptcy trustee to close the estate's tax year early, before the expected termination of the bankruptcy estate. The trustee can then file a return for the first short tax year to get a quick determination of the estate's tax liability.

Employer identification number (EIN). The trustee or debtor-in-possession must obtain an EIN for a bankruptcy estate. The trustee or debtor-in-possession uses this EIN on all tax returns filed for the bankruptcy estate with the IRS, including estimated tax returns.

CAUTION *The social security number of the individual debtor cannot be used as the EIN for the bankruptcy estate.*

Obtain an EIN for a bankruptcy estate by applying in one of the following ways.

- Apply for an EIN online. Go to the IRS website at *IRS.gov/EIN* and click on *Apply for an EIN Online*. The EIN is issued immediately once the application information is validated.
- By mailing or faxing Form SS-4, Application for Employer Identification Number.

If the trustee or debtor-in-possession hasn't received the bankruptcy estate's EIN by the time the return is due, write “Applied for” and the date you applied in the space for the EIN. For more details, see Pub. 583, Starting a Business and Keeping Records.

Trustees representing 10 or more bankruptcy estates (other than estates that will be filing employment or excise tax returns) may request a series or block of EINs.

Figuring tax due. The bankruptcy estate figures its taxable income the same way an individual figures taxable income. However, the estate uses the tax rates for a *married individual filing separately* to calculate the tax on its taxable income. The estate may either itemize deductions or take the basic standard deduction for a married individual filing a separate return. The estate cannot take the higher standard deduction allowed for married persons filing separately who are 65 or older or blind.

CAUTION ***Tax rate schedule.*** *The tax on income for bankruptcy estates is calculated using the tax rate schedule for Married Individuals Filing Separately, **not** the Estates and Trusts tax rate schedule.*

When to file. Calendar year bankruptcy estates must file Form 1041 by April 15. Fiscal year bankruptcy estates must file on or before the 15th day of the 4th month following the close of its tax year. For example, an estate that has a tax year that ends on June 30 must file Form 1041 by October 15 of the tax year. If the due date falls on a Saturday, Sunday, or legal holiday, file on the next business day.

Note. The bankruptcy estate is allowed an automatic 6-month extension of time to file the bankruptcy estate tax return upon filing the required application, Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns.

An estate (other than a bankruptcy estate) and a trust filing Form 1041 are eligible for an automatic 5½-month extension of time to file, which is due September 30. Bankruptcy estate income tax returns are due October 15 (unless a fiscal year) and are eligible for a 6-month extension. See Form 7004.

Transmittal for Form 1040 or 1040-SR. Form 1041 is used as a ***transmittal*** for Form 1040 or 1040-SR. If a return is required, the trustee or debtor-in-possession must complete the identification area at the top of Form 1041 and indicate the chapter under which the bankruptcy estate filed, either chapter 7 or chapter 11.

Prepare the bankruptcy estate's return by completing Form 1040 or 1040-SR. In the top margin of Form 1040 or 1040-SR, write “Attachment to Form 1041—**DO NOT DETACH.**” Then, attach Form 1040 or 1040-SR to the Form 1041 transmittal. Enter the tax and payment amounts on lines 24 through 30 of Form 1041, then sign and date the return. An example of a bankruptcy estate's tax return is shown later.

Note. The filing of the bankruptcy estate's tax return does not relieve a debtor from the requirement to file his or her individual tax return on Form 1040 or 1040-SR.

Payment of Tax Due

Payment methods. Payment of tax due may be made by check or money order or by credit or debit card. For information on how to make payments electronically by credit or debit card, go to *IRS.gov/PayByCard*.

Payments may also be made electronically using the Electronic Federal Tax Payment System (EFTPS), a free tax payment system that allows you to make payments online or by phone. To enroll in EFTPS, go to *EFTPS.gov* or call 800-555-4477. For more information, see Pub. 966, Electronic Federal Tax Payment System: A Guide to Getting Started.

Payment voucher—Form 1041-V. Form 1041-V accompanies payments made by check or money order for Form 1041. The voucher includes information about the bankruptcy estate, including the name of the bankruptcy estate, trustee, EIN, and amount due. Using Form 1041-V assists the IRS in processing the payment more accurately and efficiently. We recommend the use of Form 1041-V; however, there is no penalty if the voucher isn't used.

Estimated tax—Form 1041-ES. In most cases, the trustee or debtor-in-possession **must** pay any required estimated tax due for the bankruptcy estate. See the Form 1041-ES instructions for information on the minimum threshold amount required for filing Form 1041-ES, paying the estimated tax, and exceptions to filing.

Employment Taxes

The trustee or debtor-in-possession must withhold income and social security taxes and file employment tax returns for any wages paid by the trustee or debtor, including wage claims paid as administrative expenses. Until these employment taxes are deposited, as required by the Internal Revenue Code, they should be set aside in a separate bank account to ensure that funds are available to satisfy the liability. If the employment taxes aren't paid as required, the trustee may be held personally liable for payment of the taxes. See Pub. 15, (Circular E), Employer's Tax Guide, for details on employer tax responsibilities. Also see Notice 931, Deposit Requirements for Employment Taxes, for details on the deposit rules, including the requirement that federal employment tax deposits be made by electronic funds transfer.

The trustee also has a duty to prepare and file Forms W-2, for wage claims paid by the trustee, regardless of whether the claims accrued before or during bankruptcy. If the debtor fails to prepare and file Forms W-2 for wages paid before bankruptcy, the trustee should instruct the employees to file a Form 4852, Substitute for Form W-2, Wage and Tax Statement, or Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., with their individual income tax returns.

Tax Return Example—Form 1041

This publication isn't revised annually. Future changes to the forms and their instructions may not be reflected in this example.

Note. The following return was prepared for tax year 2021. In 2021, the threshold filing amount for a bankruptcy estate was $12,550 (this amount is equal to the $12,550 standard deduction for married individuals filing separately).

Facts and circumstances. On December 15, 2020, Thomas Smith filed a bankruptcy petition under chapter 7. Joan Black was appointed trustee to administer the bankruptcy estate and to distribute the assets.

The estate received the following assets from Mr. Smith.

1. A $100,000 certificate of deposit.
2. Commercial rental real estate with a fair market value (FMV) of $280,000.
3. His personal residence with an FMV of $200,000.

Also, the estate received a $251,500 capital loss carryover.

Mr. Smith's bankruptcy case was closed on December 31, 2021. During 2021, Mr. Smith was relieved of $70,000 of debt by the bankruptcy court. The estate chose a calendar year as its tax year. Joan, the trustee, reviews the estate's transactions and reports the taxable events on the estate's final return.

Schedule B (Form 1040). The certificate of deposit earned $5,500 of interest during 2021. Joan reports this interest on Schedule B. She completes this schedule and enters the result on Form 1040 or 1040-SR.

Form 4562. Joan enters the depreciation allowed on Form 4562. She completes the form and enters the result on Schedule E (Form 1040).

Form 4797. The commercial real estate was sold on July 1, 2021, for $280,000. The property was purchased in 2002 at a cost of $250,000. Assume the total depreciation allowable as of the date of sale was $121,800. Additionally, $25,000 of selling expenses were incurred. Joan reports the gain or loss from the sale on Form 4797. She completes the form and enters the gain on Schedule D (Form 1040).

Mr. Smith's former residence was sold on September 30, 2021. The sale price was $200,000, the selling expenses were $20,000, and his adjusted basis was $130,000. This sale is excluded from gross income under Internal Revenue Code section 121.

Note. Gains from the sale of personal residences are excluded from gross income up to $250,000 under Internal Revenue Code section 121 ($500,000 for married couples filing a joint return). Bankruptcy estates succeed to this exclusion at the commencement of the case. See Regulations section 1.1398-3.

Schedule E (Form 1040). The commercial real estate was rented through the date of sale. Joan reports the income and expenses on Schedule E. She enters the net income on Form 1040 or 1040-SR. This is a net lease and the rental was not a trade or business under section 162. Thus, it doesn't qualify for the section 199A deduction.

Schedule D (Form 1040). Joan completes Schedule D, taking into account the $250,000 capital loss carryover from 2020 ($251,500 transferred to the estate minus $1,500 used on the estate's 2020 return). She enters the results on Form 1040 or 1040-SR.

Schedule 1 (Form 1040). Joan reports the bankruptcy estate's administrative expenses as an adjustment to income on Schedule 1 (Form 1040), Part II, line 24z. She completes this schedule and enters the result on Form 1040 or 1040-SR.

Schedule A (Form 1040). During 2021, the estate paid mortgage interest and real property tax on Mr. Smith's former residence. It also paid income tax to the state. Joan enters the mortgage interest, real estate tax, and income tax on Schedule A. She completes Schedule A and enters the result on Form 1040 or 1040-SR.

Form 1040 or 1040-SR. Joan determines the estate's taxable income and figures its tax using the tax rate schedule for married filing separately. She then enters the estate's estimated tax payments and figures the amount the estate still owes.

Form 982. Joan completes the Schedule D Tax Worksheet to figure the capital loss carryover. Because $70,000 of debt was canceled, Joan must reduce the tax attributes of the estate by the amount of the canceled debt. See *Debt Cancellation,* later. After the bankruptcy case ends, Mr. Smith will assume the estate's tax attributes. Mr. Smith will assume a capital loss carryover of $51,700 ($121,700 carryover minus the $70,000 attribute reduction) for use in preparation of his individual tax return (Form 1040 or 1040-SR).

Note. If the bankruptcy estate had continued, the capital loss carryover would be available to the bankruptcy estate for the 2022 tax year.

Form 1041. Joan enters the total tax, estimated tax payments, and tax due from Form 1040 or 1040-SR on Form 1041. She completes the identification area at the top of Form 1041, then signs and dates the return as the trustee on behalf of the bankruptcy estate.

Form **1041**

Department of the Treasury—Internal Revenue Service

U.S. Income Tax Return for Estates and Trusts

▶ Go to *www.irs.gov/Form1041* for instructions and the latest information.

2021

OMB No. 1545-0092

A Check all that apply:
- ☐ Decedent's estate
- ☐ Simple trust
- ☐ Complex trust
- ☐ Qualified disability trust
- ☐ ESBT (S portion only)
- ☐ Grantor type trust
- ☑ Bankruptcy estate—Ch. 7
- ☐ Bankruptcy estate—Ch. 11
- ☐ Pooled income fund

For calendar year 2021 or fiscal year beginning , 2021, and ending , 20

Name of estate or trust (If a grantor type trust, see the instructions.)
Thomas Smith Bankruptcy Estate

C Employer identification number
22-0000000

Name and title of fiduciary
Joan Black, Trustee

D Date entity created
12-15-2020

Number, street, and room or suite no. (If a P.O. box, see the instructions.)
111 State Street

E Nonexempt charitable and split-interest trusts, check applicable box(es). See instructions.
- ☐ Described in sec. 4947(a)(1). Check here if not a private foundation . . ▶ ☐
- ☐ Described in sec. 4947(a)(2)

City or town, state or province, country, and ZIP or foreign postal code
Anywhere, Anystate 00000

B Number of Schedules K-1 attached (see instructions) ▶

F Check applicable boxes: ☐ Initial return ☑ Final return ☐ Amended return ☐ Net operating loss carryback ☐ Change in trust's name ☐ Change in fiduciary ☐ Change in fiduciary's name ☐ Change in fiduciary's address

G Check here if the estate or filing trust made a section 645 election . . . . . ▶ ☐ Trust TIN ▶

Income	1	Interest income	1	
	2a	Total ordinary dividends	2a	
	b	Qualified dividends allocable to: **(1)** Beneficiaries _____ **(2)** Estate or trust _____		
	3	Business income or (loss). Attach Schedule C (Form 1040)	3	
	4	Capital gain or (loss). Attach Schedule D (Form 1041)	4	
	5	Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040)	5	
	6	Farm income or (loss). Attach Schedule F (Form 1040)	6	
	7	Ordinary gain or (loss). Attach Form 4797	7	
	8	Other income. List type and amount _____	8	
	9	**Total income.** Combine lines 1, 2a, and 3 through 8 ▶	9	
Deductions	10	Interest. Check if Form 4952 is attached ▶ ☐	10	
	11	Taxes	11	
	12	Fiduciary fees. If only a portion is deductible under section 67(e), see instructions	12	
	13	Charitable deduction (from Schedule A, line 7)	13	
	14	Attorney, accountant, and return preparer fees. If only a portion is deductible under section 67(e), see instructions	14	
	15a	Other deductions (attach schedule). See instructions for deductions allowable under section 67(e)	15a	
	b	Net operating loss deduction. See instructions	15b	
	16	Add lines 10 through 15b ▶	16	
	17	Adjusted total income or (loss). Subtract line 16 from line 9 **17**		
	18	Income distribution deduction (from Schedule B, line 15). Attach Schedules K-1 (Form 1041)	18	
	19	Estate tax deduction including certain generation-skipping taxes (attach computation)	19	
	20	Qualified business income deduction. Attach Form 8995 or 8995-A	20	
	21	Exemption	21	
	22	Add lines 18 through 21 ▶	22	
Tax and Payments	23	Taxable income. Subtract line 22 from line 17. If a loss, see instructions	23	
	24	**Total tax** (from Schedule G, Part I, line 9)	24	2,264
	25	Current year net 965 tax liability paid from Form 965-A, Part II, column (k) (see instructions)	25	
	26	**Total payments** (from Schedule G, Part II, line 19)	26	2,400
	27	Estimated tax penalty. See instructions	27	
	28	**Tax due.** If line 26 is smaller than the total of lines 24, 25, and 27, enter amount owed	28	
	29	**Overpayment.** If line 26 is larger than the total of lines 24, 25, and 27, enter amount overpaid	29	136
	30	Amount of line 29 to be: **a Credited to 2022** ▶ ; **b Refunded** ▶	30	136

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Joan Black, Trustee — 2/15/22 ▶

Signature of fiduciary or officer representing fiduciary — Date — EIN of fiduciary if a financial institution

May the IRS discuss this return with the preparer shown below? See instructions. ☐ Yes ☐ No

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN

Firm's name ▶ | Firm's EIN ▶

Firm's address ▶ | Phone no.

For Paperwork Reduction Act Notice, see the separate instructions. Cat. No. 11370H Form **1041** (2021)

Attachment to Form 1041— **DO NOT DETACH**

Form **1040** Department of the Treasury—Internal Revenue Service (99) **U.S. Individual Income Tax Return** 2021 OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

Filing Status Check only one box. ☐ Single ☐ Married filing jointly ☑ Married filing separately (MFS) ☐ Head of household (HOH) ☐ Qualifying widow(er) (QW)

If you checked the MFS box, enter the name of your spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent ►

Your first name and middle initial	Last name	Your social security number
Thomas	Smith Bankruptcy Estate	220 00 0000
If joint return, spouse's first name and middle initial	Last name	Spouse's social security number
Joan	Black, Trustee	

Home address (number and street). If you have a P.O. box, see instructions. 111 State Street — Apt. no.

City, town, or post office. If you have a foreign address, also complete spaces below. Anywhere, Anystate 00000 — State — ZIP code

Foreign country name — Foreign province/state/county — Foreign postal code

Presidential Election Campaign Check here if you, or your spouse if filing jointly, want $3 to go to this fund. Checking a box below will not change your tax or refund. ☐ You ☐ Spouse

At any time during 2021, did you receive, sell, exchange, or otherwise dispose of any financial interest in any virtual currency? ☐ Yes ☐ No

Standard Deduction **Someone can claim:** ☐ You as a dependent ☐ Your spouse as a dependent ☐ Spouse itemizes on a separate return or you were a dual-status alien

Age/Blindness **You:** ☐ Were born before January 2, 1957 ☐ Are blind **Spouse:** ☐ Was born before January 2, 1957 ☐ Is blind

Dependents (see instructions): If more than four dependents, see instructions and check here ► ☐

(1) First name Last name	(2) Social security number	(3) Relationship to you	(4) ✔ if qualifies for (see instructions): Child tax credit	Credit for other dependents
			☐	☐
			☐	☐
			☐	☐
			☐	☐

Attach Sch. B if required.

1	Wages, salaries, tips, etc. Attach Form(s) W-2				1	
2a	Tax-exempt interest	2a		b Taxable interest	2b	5,500
3a	Qualified dividends	3a		b Ordinary dividends	3b	
4a	IRA distributions	4a		b Taxable amount	4b	
5a	Pensions and annuities	5a		b Taxable amount	5b	
6a	Social security benefits	6a		b Taxable amount	6b	
7	Capital gain or (loss). Attach Schedule D if required. If not required, check here ► ☐				7	(1,500)
8	Other income from Schedule 1, line 10				8	41,522
9	Add lines 1, 2b, 3b, 4b, 5b, 6b, 7, and 8. This is your **total income** ►				9	45,522
10	Adjustments to income from Schedule 1, line 26				10	10,000
11	Subtract line 10 from line 9. This is your **adjusted gross income** ►				11	35,522
12a	**Standard deduction or itemized deductions** (from Schedule A)		12a	15,000		
b	Charitable contributions if you take the standard deduction (see instructions)		12b			
c	Add lines 12a and 12b				12c	15,000
13	Qualified business income deduction from Form 8995 or Form 8995-A				13	
14	Add lines 12c and 13				14	15,000
15	**Taxable income.** Subtract line 14 from line 11. If zero or less, enter -0-				15	20,522

Standard Deduction for—
- Single or Married filing separately, $12,550
- Married filing jointly or Qualifying widow(er), $25,100
- Head of household, $18,800
- If you checked any box under *Standard Deduction,* see instructions.

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 11320B Form **1040** (2021)

	16	**Tax** (see instructions). Check if any from Form(s): **1** ☐ 8814 **2** ☐ 4972 **3** ☐		16	2,264
	17	Amount from Schedule 2, line 3		17	
	18	Add lines 16 and 17		18	2,264
	19	Nonrefundable child tax credit or credit for other dependents from Schedule 8812		19	
	20	Amount from Schedule 3, line 8		20	
	21	Add lines 19 and 20		21	
	22	Subtract line 21 from line 18. If zero or less, enter -0-		22	2,264
	23	Other taxes, including self-employment tax, from Schedule 2, line 21		23	
	24	Add lines 22 and 23. This is your **total tax** ▶		24	2,264
	25	Federal income tax withheld from:			
	a	Form(s) W-2	25a		
	b	Form(s) 1099	25b		
	c	Other forms (see instructions)	25c		
	d	Add lines 25a through 25c		25d	
If you have a qualifying child, attach Sch. EIC.	26	2021 estimated tax payments and amount applied from 2020 return		26	2,400
	27a	Earned income credit (EIC)	27a		
		Check here if you were born after January 1, 1998, and before January 2, 2004, and you satisfy all the other requirements for taxpayers who are at least age 18, to claim the EIC. See instructions ▶ ☐			
	b	Nontaxable combat pay election	27b		
	c	Prior year (2019) earned income	27c		
	28	Refundable child tax credit or additional child tax credit from Schedule 8812	28		
	29	American opportunity credit from Form 8863, line 8	29		
	30	Recovery rebate credit. See instructions	30		
	31	Amount from Schedule 3, line 15	31		
	32	Add lines 27a and 28 through 31. These are your **total other payments and refundable credits** ▶		32	
	33	Add lines 25d, 26, and 32. These are your **total payments** ▶		33	2,400
Refund	34	If line 33 is more than line 24, subtract line 24 from line 33. This is the amount you **overpaid**		34	136
	35a	Amount of line 34 you want **refunded to you.** If Form 8888 is attached, check here ▶ ☐		35a	136
Direct deposit? See instructions.	▶ b	Routing number ▶ c Type: ☐ Checking ☐ Savings			
	▶ d	Account number			
	36	Amount of line 34 you want **applied to your 2022 estimated tax** ▶	36		
Amount You Owe	37	**Amount you owe.** Subtract line 33 from line 24. For details on how to pay, see instructions ▶		37	
	38	Estimated tax penalty (see instructions) ▶	38		

Third Party Designee

Do you want to allow another person to discuss this return with the IRS? See instructions ▶ ☐ **Yes.** Complete below. ☐ **No**

Designee's name ▶ | Phone no. ▶ | Personal identification number (PIN) ▶

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation	If the IRS sent you an Identity Protection PIN, enter it here (see inst.) ▶
Spouse's signature. If a joint return, **both** must sign.	Date	Spouse's occupation	If the IRS sent your spouse an Identity Protection PIN, enter it here (see inst.) ▶
Phone no.	Email address		

Joint return? See instructions. Keep a copy for your records.

Paid Preparer Use Only

Preparer's name	Preparer's signature	Date	PTIN	Check if: ☐ Self-employed
Firm's name ▶				Phone no.
Firm's address ▶				Firm's EIN ▶

Go to *www.irs.gov/Form1040* for instructions and the latest information. Form **1040** (2021)

SCHEDULE 1 (Form 1040)

Department of the Treasury
Internal Revenue Service

Additional Income and Adjustments to Income

▶ **Attach to Form 1040, 1040-SR, or 1040-NR.**
▶ **Go to *www.irs.gov/Form1040* for instructions and the latest information.**

OMB No. 1545-0074

2021

Attachment Sequence No. **01**

Name(s) shown on Form 1040, 1040-SR, or 1040-NR
Thomas Smith Bankruptcy Estate

Your social security number
22-0000000

Part I Additional Income

1	Taxable refunds, credits, or offsets of state and local income taxes			**1**	
2a	Alimony received			**2a**	
b	Date of original divorce or separation agreement (see instructions) ▶				
3	Business income or (loss). Attach Schedule C			**3**	
4	Other gains or (losses). Attach Form 4797			**4**	
5	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E			**5**	41,522
6	Farm income or (loss). Attach Schedule F			**6**	
7	Unemployment compensation			**7**	
8	Other income:				
a	Net operating loss	**8a**	( )		
b	Gambling income	**8b**			
c	Cancellation of debt	**8c**			
d	Foreign earned income exclusion from Form 2555	**8d**	( )		
e	Taxable Health Savings Account distribution	**8e**			
f	Alaska Permanent Fund dividends	**8f**			
g	Jury duty pay	**8g**			
h	Prizes and awards	**8h**			
i	Activity not engaged in for profit income	**8i**			
j	Stock options	**8j**			
k	Income from the rental of personal property if you engaged in the rental for profit but were not in the business of renting such property	**8k**			
l	Olympic and Paralympic medals and USOC prize money (see instructions)	**8l**			
m	Section 951(a) inclusion (see instructions)	**8m**			
n	Section 951A(a) inclusion (see instructions)	**8n**			
o	Section 461(l) excess business loss adjustment	**8o**			
p	Taxable distributions from an ABLE account (see instructions)	**8p**			
z	Other income. List type and amount ▶	**8z**			
9	Total other income. Add lines 8a through 8z			**9**	
10	Combine lines 1 through 7 and 9. Enter here and on Form 1040, 1040-SR, or 1040-NR, line 8			**10**	41,522

Part II Adjustments to Income

11	Educator expenses			11	
12	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106			12	
13	Health savings account deduction. Attach Form 8889			13	
14	Moving expenses for members of the Armed Forces. Attach Form 3903			14	
15	Deductible part of self-employment tax. Attach Schedule SE			15	
16	Self-employed SEP, SIMPLE, and qualified plans			16	
17	Self-employed health insurance deduction			17	
18	Penalty on early withdrawal of savings			18	
19a	Alimony paid			19a	
b	Recipient's SSN ▶				
c	Date of original divorce or separation agreement (see instructions) ▶				
20	IRA deduction			20	
21	Student loan interest deduction			21	
22	Reserved for future use			22	
23	Archer MSA deduction			23	
24	Other adjustments:				
a	Jury duty pay (see instructions)	24a			
b	Deductible expenses related to income reported on line 8k from the rental of personal property engaged in for profit	24b			
c	Nontaxable amount of the value of Olympic and Paralympic medals and USOC prize money reported on line 8l	24c			
d	Reforestation amortization and expenses	24d			
e	Repayment of supplemental unemployment benefits under the Trade Act of 1974	24e			
f	Contributions to section 501(c)(18)(D) pension plans	24f			
g	Contributions by certain chaplains to section 403(b) plans	24g			
h	Attorney fees and court costs for actions involving certain unlawful discrimination claims (see instructions)	24h			
i	Attorney fees and court costs you paid in connection with an award from the IRS for information you provided that helped the IRS detect tax law violations	24i			
j	Housing deduction from Form 2555	24j			
k	Excess deductions of section 67(e) expenses from Schedule K-1 (Form 1041)	24k			
z	Other adjustments. List type and amount ▶ Bankruptcy Administrative Expenses	24z	10,000		
25	Total other adjustments. Add lines 24a through 24z			25	10,000
26	Add lines 11 through 23 and 25. These are your **adjustments to income.** Enter here and on Form 1040 or 1040-SR, line 10, or Form 1040-NR, line 10a			26	10,000

SCHEDULE A (Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Itemized Deductions

▶ **Go to *www.irs.gov/ScheduleA* for instructions and the latest information.**
▶ **Attach to Form 1040 or 1040-SR.**
Caution: If you are claiming a net qualified disaster loss on Form 4684, see the instructions for line 16.

OMB No. 1545-0074

2021

Attachment Sequence No. **07**

Name(s) shown on Form 1040 or 1040-SR: Thomas Smith Bankruptcy Estate

Your social security number: 22-0000000

Medical and Dental Expenses		**Caution:** Do not include expenses reimbursed or paid by others.				
	1	Medical and dental expenses (see instructions)	1			
	2	Enter amount from Form 1040 or 1040-SR, line 11	2			
	3	Multiply line 2 by 7.5% (0.075)	3			
	4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-			4	
Taxes You Paid	5	State and local taxes.				
	a	State and local income taxes or general sales taxes. You may include either income taxes or general sales taxes on line 5a, but not both. If you elect to include general sales taxes instead of income taxes, check this box ▶ ☐	5a	1,000		
	b	State and local real estate taxes (see instructions)	5b	4,000		
	c	State and local personal property taxes	5c			
	d	Add lines 5a through 5c	5d	5,000		
	e	Enter the smaller of line 5d or $10,000 ($5,000 if married filing separately)	5e	5,000		
	6	Other taxes. List type and amount ▶	6			
	7	Add lines 5e and 6			7	5,000
Interest You Paid **Caution:** Your mortgage interest deduction may be limited (see instructions).	8	Home mortgage interest and points. If you didn't use all of your home mortgage loan(s) to buy, build, or improve your home, see instructions and check this box ▶ ☐				
	a	Home mortgage interest and points reported to you on Form 1098. See instructions if limited	8a	10,000		
	b	Home mortgage interest not reported to you on Form 1098. See instructions if limited. If paid to the person from whom you bought the home, see instructions and show that person's name, identifying no., and address ▶	8b			
	c	Points not reported to you on Form 1098. See instructions for special rules	8c			
	d	Mortgage insurance premiums (see instructions)	8d			
	e	Add lines 8a through 8d	8e	10,000		
	9	Investment interest. Attach Form 4952 if required. See instructions	9			
	10	Add lines 8e and 9			10	10,000
Gifts to Charity **Caution:** If you made a gift and got a benefit for it, see instructions.	11	Gifts by cash or check. If you made any gift of $250 or more, see instructions	11			
	12	Other than by cash or check. If you made any gift of $250 or more, see instructions. You **must** attach Form 8283 if over $500	12			
	13	Carryover from prior year	13			
	14	Add lines 11 through 13			14	
Casualty and Theft Losses	15	Casualty and theft loss(es) from a federally declared disaster (other than net qualified disaster losses). Attach Form 4684 and enter the amount from line 18 of that form. See instructions			15	
Other Itemized Deductions	16	Other—from list in instructions. List type and amount ▶			16	
Total Itemized Deductions	17	Add the amounts in the far right column for lines 4 through 16. Also, enter this amount on Form 1040 or 1040-SR, line 12a			17	15,000
	18	If you elect to itemize deductions even though they are less than your standard deduction, check this box ▶ ☐				

For Paperwork Reduction Act Notice, see the Instructions for Forms 1040 and 1040-SR. Cat. No. 17145C **Schedule A (Form 1040) 2021**

SCHEDULE B (Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Interest and Ordinary Dividends

► Go to *www.irs.gov/ScheduleB* for instructions and the latest information.
► Attach to Form 1040 or 1040-SR.

OMB No. 1545-0074

2021

Attachment Sequence No. 08

Name(s) shown on return: Thomas Smith Bankruptcy Estate

Your social security number: 22-0000000

Part I Interest

(See instructions and the Instructions for Form 1040, line 2b.)

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.

			Amount
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 the instructions and list this interest first. Also, show that buyer's social security number and address ► Certificate of Deposit, XYZ Bank	1	5,500
2	Add the amounts on line 1	2	5,500
3	Excludable interest on series EE and I U.S. savings bonds issued after 1989. Attach Form 8815	3	
4	Subtract line 3 from line 2. Enter the result here and on Form 1040 or 1040-SR, line 2b ►	4	5,500

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

Part II Ordinary Dividends

(See instructions and the Instructions for Form 1040, line 3b.)

Note: If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.

			Amount
5	List name of payer ►	5	
6	Add the amounts on line 5. Enter the total here and on Form 1040 or 1040-SR, line 3b ►	6	

Note: If line 6 is over $1,500, you must complete Part III.

Part III Foreign Accounts and Trusts

Caution: If required, failure to file FinCEN Form 114 may result in substantial penalties. See instructions.

You must complete this part if you **(a)** had over $1,500 of taxable interest or ordinary dividends; **(b)** had a foreign account; or **(c)** received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

		Yes	No
7a	At any time during 2021, did you have a financial interest in or signature authority over a financial account (such as a bank account, securities account, or brokerage account) located in a foreign country? See instructions		✓
	If "Yes," are you required to file FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), to report that financial interest or signature authority? See FinCEN Form 114 and its instructions for filing requirements and exceptions to those requirements		
b	If you are required to file FinCEN Form 114, enter the name of the foreign country where the financial account is located ►		
8	During 2021, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520. See instructions		✓

SCHEDULE D
(Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Capital Gains and Losses

► **Attach to Form 1040, 1040-SR, or 1040-NR.**
► **Go to *www.irs.gov/ScheduleD* for instructions and the latest information.**
► **Use Form 8949 to list your transactions for lines 1b, 2, 3, 8b, 9, and 10.**

OMB No. 1545-0074

2021

Attachment Sequence No. **12**

Name(s) shown on return	**Your social security number**
Thomas Smith Bankruptcy Estate	22-0000000

Did you dispose of any investment(s) in a qualified opportunity fund during the tax year? ☐ **Yes** ☐ **No**
If "Yes," attach Form 8949 and see its instructions for additional requirements for reporting your gain or loss.

Part I Short-Term Capital Gains and Losses—Generally Assets Held One Year or Less (see instructions)

See instructions for how to figure the amounts to enter on the lines below. This form may be easier to complete if you round off cents to whole dollars.	(d) Proceeds (sales price)	(e) Cost (or other basis)	(g) Adjustments to gain or loss from Form(s) 8949, Part I, line 2, column (g)	(h) Gain or (loss) Subtract column (e) from column (d) and combine the result with column (g)
1a Totals for all short-term transactions reported on Form 1099-B for which basis was reported to the IRS and for which you have no adjustments (see instructions). However, if you choose to report all these transactions on Form 8949, leave this line blank and go to line 1b				
1b Totals for all transactions reported on Form(s) 8949 with **Box A** checked				
2 Totals for all transactions reported on Form(s) 8949 with **Box B** checked				
3 Totals for all transactions reported on Form(s) 8949 with **Box C** checked				

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 1a 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**	

Part II Long-Term Capital Gains and Losses—Generally Assets Held More Than One Year (see instructions)

See instructions for how to figure the amounts to enter on the lines below. This form may be easier to complete if you round off cents to whole dollars.	(d) Proceeds (sales price)	(e) Cost (or other basis)	(g) Adjustments to gain or loss from Form(s) 8949, Part II, line 2, column (g)	(h) Gain or (loss) Subtract column (e) from column (d) and combine the result with column (g)
8a Totals for all long-term transactions reported on Form 1099-B for which basis was reported to the IRS and for which you have no adjustments (see instructions). However, if you choose to report all these transactions on Form 8949, leave this line blank and go to line 8b				
8b Totals for all transactions reported on Form(s) 8949 with **Box D** checked				
9 Totals for all transactions reported on Form(s) 8949 with **Box E** checked				
10 Totals for all transactions reported on Form(s) 8949 with **Box F** checked				

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**	126,800
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**	(250,000)
15	**Net long-term capital gain or (loss).** Combine lines 8a through 14 in column (h). Then, go to Part III on the back	**15**	(123,200)

Part III Summary

16 Combine lines 7 and 15 and enter the result **16** (123,200)

- If line 16 is a **gain,** enter the amount from line 16 on Form 1040, 1040-SR, or 1040-NR, line 7. 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, 1040-SR, or 1040-NR, line 7. Then, go to line 22.

17 Are lines 15 and 16 **both** gains?

☐ **Yes.** Go to line 18.

☐ **No.** Skip lines 18 through 21, and go to line 22.

18 If you are required to complete the **28% Rate Gain Worksheet** (see instructions), enter the amount, if any, from line 7 of that worksheet . . . . . ▶ **18**

19 If you are required to complete the **Unrecaptured Section 1250 Gain Worksheet** (see instructions), enter the amount, if any, from line 18 of that worksheet . . . . . ▶ **19**

20 Are lines 18 and 19 both zero or blank and are you not filing Form 4952?

☐ **Yes.** Complete the **Qualified Dividends and Capital Gain Tax Worksheet** in the instructions for Forms 1040 and 1040-SR, line 16. **Don't** complete lines 21 and 22 below.

☐ **No.** Complete the **Schedule D Tax Worksheet** in the instructions. **Don't** complete lines 21 and 22 below.

21 If line 16 is a loss, enter here and on Form 1040, 1040-SR, or 1040-NR, line 7, the **smaller** of:

- The loss on line 16; or
- ($3,000), or if married filing separately, ($1,500)

. . . . . **21** (1,500)

Note: When figuring which amount is smaller, treat both amounts as positive numbers.

22 Do you have qualified dividends on Form 1040, 1040-SR, or 1040-NR, line 3a?

☐ **Yes.** Complete the **Qualified Dividends and Capital Gain Tax Worksheet** in the instructions for Forms 1040 and 1040-SR, line 16.

☑ **No.** Complete the rest of Form 1040, 1040-SR, or 1040-NR.

SCHEDULE E (Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Supplemental Income and Loss

(From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)

► **Attach to Form 1040, 1040-SR, 1040-NR, or 1041.**

► **Go to *www.irs.gov/ScheduleE* for instructions and the latest information.**

OMB No. 1545-0074

2021

Attachment Sequence No. **13**

Name(s) shown on return: Thomas Smith Bankruptcy Estate

Your social security number: 22-0000000

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.** See instructions. If you are an individual, report farm rental income or loss from **Form 4835** on page 2, line 40.

A Did you make any payments in 2021 that would require you to file Form(s) 1099? See instructions . . . . . ☐ **Yes** ☑ **No**

B If "Yes," did you or will you file required Form(s) 1099? . . . . . ☐ **Yes** ☐ **No**

1a	Physical address of each property (street, city, state, ZIP code)
A	Anywhere, Anystate 00000
B	
C	

1b	Type of Property (from list below)	**2** For each rental real estate property listed above, report the number of fair rental and personal use days. Check the **QJV** box only if you meet the requirements to file as a qualified joint venture. See instructions.		**Fair Rental Days**	**Personal Use Days**	**QJV**
A	4		**A**			☐
B			**B**			☐
C			**C**			☐

Type of Property:

1 Single Family Residence 3 Vacation/Short-Term Rental 5 Land 7 Self-Rental
2 Multi-Family Residence 4 Commercial 6 Royalties 8 Other (describe)

Income:	**Properties:**		**A**	**B**	**C**
3	Rents received	**3**	75,000		
4	Royalties received	**4**			
Expenses:					
5	Advertising	**5**			
6	Auto and travel (see instructions)	**6**			
7	Cleaning and maintenance	**7**			
8	Commissions.	**8**			
9	Insurance	**9**			
10	Legal and other professional fees	**10**			
11	Management fees	**11**			
12	Mortgage interest paid to banks, etc. (see instructions)	**12**	10,000		
13	Other interest.	**13**			
14	Repairs.	**14**			
15	Supplies	**15**			
16	Taxes	**16**	20,000		
17	Utilities.	**17**			
18	Depreciation expense or depletion	**18**	3,478		
19	Other (list) ► ----------	**19**			
20	Total expenses. Add lines 5 through 19	**20**	33,478		
21	Subtract line 20 from line 3 (rents) and/or 4 (royalties). If result is a (loss), see instructions to find out if you must file **Form 6198**	**21**	41,522		
22	Deductible rental real estate loss after limitation, if any, on **Form 8582** (see instructions)	**22**	( )	( )	( )

23a	Total of all amounts reported on line 3 for all rental properties	**23a**	75,000	
b	Total of all amounts reported on line 4 for all royalty properties	**23b**		
c	Total of all amounts reported on line 12 for all properties	**23c**	10,000	
d	Total of all amounts reported on line 18 for all properties	**23d**	3,478	
e	Total of all amounts reported on line 20 for all properties	**23e**	33,478	
24	**Income.** Add positive amounts shown on line 21. **Do not** include any losses	**24**		41,522
25	**Losses.** Add royalty losses from line 21 and rental real estate losses from line 22. Enter total losses here .	**25**		( )
26	**Total rental real estate and royalty income or (loss).** Combine lines 24 and 25. Enter the result here. If Parts II, III, IV, and line 40 on page 2 do not apply to you, also enter this amount on Schedule 1 (Form 1040), line 5. Otherwise, include this amount in the total on line 41 on page 2 .	**26**		41,522

For Paperwork Reduction Act Notice, see the separate instructions. Cat. No. 11344L **Schedule E (Form 1040) 2021**

Form **4797**

Department of the Treasury
Internal Revenue Service

Sales of Business Property

(Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))

► **Attach to your tax return.**
► **Go to *www.irs.gov/Form4797* for instructions and the latest information.**

OMB No. 1545-0184

2021

Attachment Sequence No. **27**

Name(s) shown on return	Identifying number
Thomas Smith Bankruptcy Estate	22-0000000

1a	Enter the gross proceeds from sales or exchanges reported to you for 2021 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20. See instructions	**1a**	280,000
b	Enter the total amount of gain that you are including on lines 2, 10, and 24 due to the partial dispositions of MACRS assets	**1b**	
c	Enter the total amount of loss that you are including on lines 2 and 10 due to the partial dispositions of MACRS assets	**1c**	

Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft—Most Property Held More Than 1 Year (see instructions)

2 **(a)** Description of property	**(b)** Date acquired (mo., day, yr.)	**(c)** Date sold (mo., day, yr.)	**(d)** Gross sales price	**(e)** Depreciation allowed or allowable since acquisition	**(f)** Cost or other basis, plus improvements and expense of sale	**(g) Gain or (loss)** Subtract (f) from the sum of (d) and (e)

3	Gain, if any, from Form 4684, line 39	**3**	
4	Section 1231 gain from installment sales from Form 6252, line 26 or 37	**4**	
5	Section 1231 gain or (loss) from like-kind exchanges from Form 8824	**5**	
6	Gain, if any, from line 32, from other than casualty or theft	**6**	126,800
7	Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows	**7**	126,800
	Partnerships and S corporations. Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 1120-S, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below.		
	Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you didn't have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below.		
8	Nonrecaptured net section 1231 losses from prior years. See instructions	**8**	
9	Subtract line 8 from line 7. If zero or less, enter -0-. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return. See instructions	**9**	126,800

Part II Ordinary Gains and Losses (see instructions)

10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):

11	Loss, if any, from line 7	**11**	( )
12	Gain, if any, from line 7 or amount from line 8, if applicable	**12**	
13	Gain, if any, from line 31	**13**	
14	Net gain or (loss) from Form 4684, lines 31 and 38a	**14**	
15	Ordinary gain from installment sales from Form 6252, line 25 or 36	**15**	
16	Ordinary gain or (loss) from like-kind exchanges from Form 8824	**16**	
17	Combine lines 10 through 16.	**17**	
18	For all except individual returns, enter the amount from line 17 on the appropriate line of your return and skip lines a and b below. For individual returns, complete lines a and b below.		
a	If the loss on line 11 includes a loss from Form 4684, line 35, column (b)(ii), enter that part of the loss here. Enter the loss from income-producing property on Schedule A (Form 1040), line 16. (Do not include any loss on property used as an employee.) Identify as from "Form 4797, line 18a." See instructions	**18a**	
b	Redetermine the gain or (loss) on line 17 excluding the loss, if any, on line 18a. Enter here and on Schedule 1 (Form 1040), Part I, line 4	**18b**	

Part III Gain From Disposition of Property Under Sections 1245, 1250, 1252, 1254, and 1255 (see instructions)

19 (a) Description of section 1245, 1250, 1252, 1254, or 1255 property:	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)
A Commercial Real Estate – Building	7/01/2002	7/01/2021
B		
C		
D		

These columns relate to the properties on lines 19A through 19D. ▶		Property A	Property B	Property C	Property D
20 Gross sales price (**Note:** *See line 1a before completing.*)	20	280,000			
21 Cost or other basis plus expense of sale	21	275,000			
22 Depreciation (or depletion) allowed or allowable	22	121,800			
23 Adjusted basis. Subtract line 22 from line 21	23	153,200			
24 Total gain. Subtract line 23 from line 20	24	126,800			
25 If section 1245 property:					
a Depreciation allowed or allowable from line 22	25a				
b Enter the **smaller** of line 24 or 25a	25b				
26 If section 1250 property: If straight line depreciation was used, enter -0- on line 26g, except for a corporation subject to section 291.					
a Additional depreciation after 1975. See instructions	26a				
b Applicable percentage multiplied by the **smaller** of line 24 or line 26a. See instructions	26b				
c Subtract line 26a from line 24. If residential rental property **or** line 24 isn't more than line 26a, skip lines 26d and 26e	26c				
d Additional depreciation after 1969 and before 1976	26d				
e Enter the **smaller** of line 26c or 26d	26e				
f Section 291 amount (corporations only)	26f				
g Add lines 26b, 26e, and 26f	26g	0			
27 If section 1252 property: Skip this section if you didn't dispose of farmland or if this form is being completed for a partnership.					
a Soil, water, and land clearing expenses	27a				
b Line 27a multiplied by applicable percentage. See instructions	27b				
c Enter the **smaller** of line 24 or 27b	27c				
28 If section 1254 property:					
a Intangible drilling and development costs, expenditures for development of mines and other natural deposits, mining exploration costs, and depletion. See instructions	28a				
b Enter the **smaller** of line 24 or 28a	28b				
29 If section 1255 property:					
a Applicable percentage of payments excluded from income under section 126. See instructions	29a				
b Enter the **smaller** of line 24 or 29a. See instructions	29b				

Summary of Part III Gains. Complete property columns A through D through line 29b before going to line 30.

30	Total gains for all properties. Add property columns A through D, line 24	30	126,800
31	Add property columns A through D, lines 25b, 26g, 27c, 28b, and 29b. Enter here and on line 13	31	0
32	Subtract line 31 from line 30. Enter the portion from casualty or theft on Form 4684, line 33. Enter the portion from other than casualty or theft on Form 4797, line 6	32	126,800

Part IV Recapture Amounts Under Sections 179 and 280F(b)(2) When Business Use Drops to 50% or Less (see instructions)

			(a) Section 179	(b) Section 280F(b)(2)
33	Section 179 expense deduction or depreciation allowable in prior years	33		
34	Recomputed depreciation. See instructions	34		
35	Recapture amount. Subtract line 34 from line 33. See the instructions for where to report	35		

Form **4797** (2021)

Form **982**
(Rev. March 2018)
Department of the Treasury
Internal Revenue Service

Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)

► **Attach this form to your income tax return.**
► **Go to *www.irs.gov/Form982* for instructions and the latest information.**

OMB No. 1545-0046

Attachment Sequence No. **94**

Name shown on return	Identifying number
Thomas Smith Bankruptcy Estate	22-0000000

Part I General Information (see instructions)

1 Amount excluded is due to (check applicable box(es)):

- **a** Discharge of indebtedness in a title 11 case . . . ☑
- **b** Discharge of indebtedness to the extent insolvent (not in a title 11 case) . . . ☐
- **c** Discharge of qualified farm indebtedness . . . ☐
- **d** Discharge of qualified real property business indebtedness . . . ☐
- **e** Discharge of qualified principal residence indebtedness (**Caution:** See instructions before checking this box if debt was discharged after 2017.) . . . ☐

2	Total amount of discharged indebtedness excluded from gross income	2	70,000

3 Do you elect to treat all real property described in section 1221(a)(1), relating to property held for sale to customers in the ordinary course of a trade or business, as if it were depreciable property? . . . ☐ Yes ☐ No

Part II Reduction of Tax Attributes.

Reduction of Tax Attributes. You must attach a description of any transactions resulting in the reduction in basis under section 1017. See Regulations section 1.1017-1 for basis reduction ordering rules, and, if applicable, required partnership consent statements. (For additional information, see the instructions for Part II.)

Enter amount excluded from gross income:

4	For a discharge of qualified real property business indebtedness applied to reduce the basis of depreciable real property	4	
5	That you elect under section 108(b)(5) to apply first to reduce the basis (under section 1017) of depreciable property	5	
6	Applied to reduce any net operating loss that occurred in the tax year of the discharge or carried over to the tax year of the discharge	6	
7	Applied to reduce any general business credit carryover to or from the tax year of the discharge	7	
8	Applied to reduce any minimum tax credit as of the beginning of the tax year immediately after the tax year of the discharge	8	
9	Applied to reduce any net capital loss for the tax year of the discharge, including any capital loss carryovers to the tax year of the discharge	9	70,000
10a	Applied to reduce the basis of nondepreciable and depreciable property if not reduced on line 5. *DO NOT use in the case of discharge of qualified farm indebtedness*	10a	
b	Applied to reduce the basis of your principal residence. *Enter amount here ONLY if line 1e is checked*	10b	
11	For a discharge of qualified farm indebtedness applied to reduce the basis of:		
a	Depreciable property used or held for use in a trade or business or for the production of income if not reduced on line 5	11a	
b	Land used or held for use in a trade or business of farming	11b	
c	Other property used or held for use in a trade or business or for the production of income	11c	
12	Applied to reduce any passive activity loss and credit carryovers from the tax year of the discharge	12	
13	Applied to reduce any foreign tax credit carryover to or from the tax year of the discharge	13	

Part III Consent of Corporation to Adjustment of Basis of Its Property Under Section 1082(a)(2)

Under section 1081(b), the corporation named above has excluded $ _____ from its gross income for the tax year beginning _____ and ending _____.
Under that section, the corporation consents to have the basis of its property adjusted in accordance with the regulations prescribed under section 1082(a)(2) in effect at the time of filing its income tax return for that year. The corporation is organized under the laws of _____.
(State of incorporation)

Note: You must attach a description of the transactions resulting in the nonrecognition of gain under section 1081.

Form **4562**

Department of the Treasury
Internal Revenue Service (99)

Depreciation and Amortization

(Including Information on Listed Property)

▶ **Attach to your tax return.**

▶ **Go to *www.irs.gov/Form4562* for instructions and the latest information.**

OMB No. 1545-0172

2021

Attachment Sequence No. **179**

Name(s) shown on return	Business or activity to which this form relates	**Identifying number**
Thomas Smith Bankruptcy Estate	Commercial Rental Real Estate	22-0000000

Part I Election To Expense Certain Property Under Section 179

Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount (see instructions)	1	
2	Total cost of section 179 property placed in service (see instructions)	2	
3	Threshold cost of section 179 property before reduction in limitation (see instructions)	3	
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	

6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost

7	Listed property. Enter the amount from line 29	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the **smaller** of line 5 or line 8	9	
10	Carryover of disallowed deduction from line 13 of your 2020 Form 4562	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5. See instructions	11	
12	Section 179 expense deduction. Add lines 9 and 10, but don't enter more than line 11	12	
13	Carryover of disallowed deduction to 2022. Add lines 9 and 10, less line 12 ▶	13	

Note: Don't use Part II or Part III below for listed property. Instead, use Part V.

Part II Special Depreciation Allowance and Other Depreciation (Don't include listed property. See instructions.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year. See instructions	14	
15	Property subject to section 168(f)(1) election	15	
16	Other depreciation (including ACRS)	16	3,478

Part III MACRS Depreciation (Don't include listed property. See instructions.)

Section A

17	MACRS deductions for assets placed in service in tax years beginning before 2021	17	
18	If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here ▶ ☐		

Section B—Assets Placed in Service During 2021 Tax Year Using the General Depreciation System

	(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only—see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a	3-year property						
b	5-year property						
c	7-year property						
d	10-year property						
e	15-year property						
f	20-year property						
g	25-year property			25 yrs.		S/L	
h	Residential rental property			27.5 yrs.	MM	S/L	
				27.5 yrs.	MM	S/L	
i	Nonresidential real property			39 yrs.	MM	S/L	
					MM	S/L	

Section C—Assets Placed in Service During 2021 Tax Year Using the Alternative Depreciation System

20a	Class life					S/L	
b	12-year			12 yrs.		S/L	
c	30-year			30 yrs.	MM	S/L	
d	40-year			40 yrs.	MM	S/L	

Part IV Summary (See instructions.)

21	Listed property. Enter amount from line 28	21	
22	**Total.** Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations—see instructions	22	3,478
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

Capital Loss Carryover Worksheet—Lines 6 and 14

Keep for Your Records

Use this worksheet to figure your capital loss carryovers from 2020 to 2021 if your 2020 Schedule D, line 21, is a loss and **(a)** that loss is a smaller loss than the loss on your 2020 Schedule D, line 16; **or (b)** if the amount on your 2020 Form 1040 or 1040-SR, line 15 (or your 2020 Form 1040-NR, line 15, if applicable) would be less than zero if you could enter a negative amount on that line. Otherwise, you don't have any carryovers.

If you and your spouse once filed a joint return and are filing separate returns for 2021, any capital loss carryover from the joint return can be deducted only on the return of the spouse who actually had the loss.

If you excluded canceled debt from income in 2021, see Pub. 4681.

1.	Enter the amount from your 2020 Form 1040 or 1040-SR, line 15, or your 2020 Form 1040-NR, line 15. If the amount would have been a loss if you could enter a negative number on that line, enclose the amount in parentheses		**1.**	20,522
2.	Enter the loss from your 2020 Schedule D, line 21, as a positive amount		**2.**	1,500
3.	Combine lines 1 and 2. If zero or less, enter -0-		**3.**	22,022
4.	Enter the **smaller** of line 2 or line 3b	**4.** 1,500		
	If line 7 of your 2020 Schedule D is a loss, go to line 5; otherwise, enter -0- on line 5 and go to line 9.			
5.	Enter the loss from your 2020 Schedule D, line 7, as a positive amount		**5.**	0
6.	Enter any gain from your 2020 Schedule D, line 15. If a loss, enter -0-	**6.**		
7.	Add lines 4 and 6		**7.**	1,500
8.	**Short-term capital loss carryover for 2021.** Subtract line 7 from line 5. If zero or less, enter -0-. If more than zero, also enter this amount on Schedule D, line 6		**8.**	0
	If line 15 of your 2020 Schedule D is a loss, go to line 9; otherwise, skip lines 9 through 13.			
9.	Enter the loss from your 2020 Schedule D, line 15, as a positive amount		**9.**	251,500
10.	Enter any gain from your 2020 Schedule D, line 7. If a loss, enter -0-	**10.** 0		
11.	Subtract line 5 from line 4. If zero or less, enter -0-	**11.** 1,500		
12.	Add lines 10 and 11		**12.**	1,500
13.	**Long-term capital loss carryover for 2021.** Subtract line 12 from line 9. If zero or less, enter -0-. If more than zero, also enter this amount on Schedule D, line 14		**13.**	250,000

Partnerships and Corporations

Filing Requirements

A separate taxable estate isn't created when a partnership or corporation files a bankruptcy petition and their tax return filing requirements don't change. The debtor-in-possession, or court-appointed trustee, must file the entity's income tax returns on Form 1065, Form 1120, or Form 1120-S.

In cases where a trustee isn't appointed, the debtor-in-possession continues business operations and remains in possession of the business' property during the bankruptcy proceeding. The debtor-in-possession, rather than the general partner of a partnership or corporate officer of a corporation, assumes the fiduciary responsibility to file the business' tax returns.

Partnerships

The filing requirements for a partnership in a bankruptcy proceeding don't change. However, the responsibility to file the required returns becomes that of the trustee, or debtor-in-possession.

A partnership's debt that is canceled as a result of the bankruptcy proceeding isn't included in the partnership's income. However, it may or may not be included in the individual partner's income. See *Partnerships,* later, under *Debt Cancellation.*

Corporations

The filing requirements for a corporation in a bankruptcy proceeding also don't change. A bankruptcy trustee, or debtor-in-possession, having possession of or holding title to substantially all of the property or business operations of the debtor corporation, must file the debtor's corporate income tax return for the tax year.

CAUTION *The following discussion only highlights bankruptcy tax rules applying to corporations. The complex details of corporate bankruptcy reorganizations are beyond the scope of this publication. Therefore, you may wish to seek the help of a professional tax advisor. See* Corporations *under* Debt Cancellation, later, *for information about a corporation's debt canceled in a bankruptcy proceeding.*

Tax-Free Reorganizations

The tax-free reorganization provisions of the Internal Revenue Code allow a corporation to transfer all or part of its assets to another corporation in a bankruptcy under title 11 of the United States Code. However, under the reorganization plan, the stock or securities of the corporation to which the assets are transferred must be distributed in a transaction that qualifies under Internal Revenue Code section 354, 355, or 356.

Generally, Internal Revenue Code section 354 provides that no gain or loss is recognized if a corporation's stock is exchanged solely for stock or securities in a corporation that is a party to the reorganization under a qualifying reorganization plan. In this case, shareholders in the bankrupt corporation would recognize no gain or loss if they exchange their stock solely for stock or securities of the corporation acquiring the bankrupt corporation's assets.

Internal Revenue Code section 355 generally provides that no gain or loss is recognized by a shareholder if a corporation distributes solely stock or securities of another corporation that the distributing corporation controls immediately before the distribution.

Internal Revenue Code section 356 allows tax-free exchanges in situations that would qualify under Internal Revenue Code section 354 or 355, except that other property or money, in addition to the permitted stock or securities, is received by the shareholder. In this situation, gain is recognized by the shareholder, but only to the extent of the money and the FMV of the other property received. No loss is recognized in this situation.

Exemption From Tax Return Filing

A trustee in a corporate bankruptcy case may apply to the IRS for relief from filing federal income tax returns for the corporation. To qualify, the corporation must have ceased business operations and have no assets or income for the tax year. The exemption request must be submitted to the local IRS Insolvency Office handling the case.

The request to the IRS must include the name, address, and EIN of the corporation and a statement of the facts (with any supporting documents) showing why the debtor needs relief from the filing requirements. The request must also include the following statement:

"I hereby request relief from filing federal income tax returns for tax years ending _____ for the above-named corporation and declare under penalties of perjury that to the best of my knowledge and belief the information contained herein is correct."

The statement must be signed by the trustee. The IRS will act on your request within 90 days.

Disclosure of return information to trustee. Upon written request, current and earlier returns of the debtor are open to inspection by or disclosure to the trustee. However, in bankruptcy cases other than those of individuals filing under chapter 7 or 11, such as a corporate bankruptcy, the IRS must find that the trustee has a material interest that will be affected by information on the return. Material interest is generally defined as a financial or monetary interest. Material interest isn't limited to the trustee's responsibility to file a return on behalf of the bankruptcy estate.

Receiverships

Court-established receiverships sometimes arise in connection with bankruptcies. Certain court-established receiverships should be treated as qualified settlement funds (QSFs) for purposes of Internal Revenue Code section 468B and the underlying Treasury regulations. QSFs are required to file an annual income tax return, Form 1120-SF, U.S. Income Tax Return for Settlement Funds. More information about QSFs may be found in Treasury Regulations sections 1.468B-1 through -5.

Determination of Tax

The determination of the proper amount of tax due for a tax year begins with the bankruptcy estate's filing of Form 1041, and the individual debtor's filing of Form 1040 or 1040-SR, or for bankrupt entities filing Forms 1065, 1120, or 1120-S. After a return is filed, the IRS will either accept the return as filed or select the return for examination. Under examination, the IRS may redetermine the tax liability shown on the return. If the bankruptcy estate or debtor disagrees with the redetermined tax due, the tax as redetermined by the IRS may be contested in the bankruptcy court, or Tax Court, as applicable. See *Court Jurisdiction Over Tax Matters*, later.

Prompt Determination Requests

Pursuant to Revenue Procedure 2006-24, 2006-22 I.R.B. 943, available at *IRS.gov/irb/2006-22_IRB/ar12*, as modified by Announcement 2011-77, available at *IRS.gov/irb/2011-51_IRB/ar13*, the bankruptcy trustee may request a determination of any unpaid tax liability incurred by the bankruptcy estate during the administration of the case, by filing a tax return and a request for such determination with the IRS. Unless the return is fraudulent or contains a material misrepresentation, the estate, trustee, debtor, and any successor to the debtor are discharged from liability upon payment of the tax:

1. As determined by the IRS;
2. As determined by the bankruptcy court, after completion of the IRS examination; or
3. As shown on the return, if the IRS does not:
   a. Notify the trustee within 60 days after the request for determination that the return has been selected for examination, or
   b. Complete the examination and notify the trustee of any tax due within 180 days after the request (or any additional time permitted by the bankruptcy court).

Making the request for determination. As detailed in Revenue Procedure 2006-24, as modified by Announcement 2011-77, to request a prompt determination of any unpaid tax liability of the estate, the trustee must file a signed written request, in duplicate, with the Internal

Revenue Service, Centralized Insolvency Operation, P.O. Box 7346, Philadelphia, PA 19101-7346 (marked "Request for Prompt Determination").

The request must be submitted in duplicate and must be executed under penalties of perjury. In addition, the trustee must submit along with the request an exact copy of the return(s) filed by the trustee with the IRS for each completed tax period. The request must contain the following information.

- A statement indicating that it is a Request for Prompt Determination of Tax Liability, specifying the type of return and tax period for each return being filed.
- The name and location of the office where the return was filed.
- The name of the debtor.
- Debtor's social security number, TIN, or EIN.
- Type of bankruptcy estate.
- Bankruptcy case number.
- Court where the bankruptcy case is pending.

The copy of the return(s) submitted with the request **must** be an exact copy of a valid return. A request for prompt determination will be considered incomplete and returned to the trustee if it is filed with a copy of a document that does not qualify as a valid return.

To qualify as valid, a return must meet certain criteria, including a signature under penalties of perjury. A document filed by the trustee with the jurat stricken, deleted, or modified doesn't qualify as a valid return.

Examination of return. The IRS will notify the trustee within 60 days from receipt of the request whether the return filed by the trustee has been selected for examination or has been accepted as filed. If the return is selected for examination, it will be examined as soon as possible. The IRS will notify the trustee of any tax due within 180 days from receipt of the application or within any additional time permitted by the bankruptcy court.

If a prompt determination request is incomplete, all the documents received by the IRS will be returned to the trustee by the assigned Field Insolvency Office with an explanation identifying the missing item(s) and instructions to re-file the request once corrected.

Once corrected, the request **must** be filed with the IRS at the Field Insolvency Office address specified in the correspondence accompanying the returned incomplete request.

In the case of an incomplete request submitted with a copy of an invalid return document, the trustee must file a valid original return with the appropriate IRS office and submit a copy of that return with the corrected request when the request is re-filed.

Note. An incomplete request includes those submitted with a copy of a return form, the original of which does not qualify as a valid return.

The 60-day period to notify the trustee whether the return is accepted as filed or has been selected for examination does not begin to run until a complete request package is received by the IRS. The compete request package must be filed with the Field Insolvency Office specified by the IRS in its correspondence returning the incomplete request for the 60-day period to begin to run.

If the IRS does select the estate's return for examination and redetermines the tax shown on the return, the trustee may contest the IRS's determination in bankruptcy court. See *Bankruptcy Court*, later.

The automatic stay. When the debtor files a petition with the bankruptcy court, the debtor receives the protection of the automatic stay. The automatic stay arises as a matter of law and, with certain exceptions, suspends most collection activity. The automatic stay applies to all entities, including governmental units.

The automatic stay prohibits acts to collect taxes that arose before the bankruptcy filing. IRS collection actions such as serving Notices of Federal Tax Lien or Levy are prohibited if they were intended to collect pre-bankruptcy debts or property of the estate. The automatic stay also stops the commencement or continuation of civil actions, including certain Tax Court cases.

Generally, the automatic stay to collect taxes continues until either the bankruptcy court lifts the stay, the bankruptcy case is closed or dismissed, or the debtor receives a discharge.

Note. The stay against property of the estate does not end (as long as the property is in the estate) unless the stay is lifted (removed).

Tax audits and the automatic stay. The automatic stay does not prohibit the IRS from determining the amount of a tax that is owed. The automatic stay does not prohibit:

1. An audit to determine tax liability,
2. A demand for tax returns,
3. The issuance of a Notice of Deficiency, or
4. Assessing a tax and sending a notice and demand for payment.

Assessment of tax. Assessment is the statutorily required recording of a tax liability. During a bankruptcy case, the IRS may make an assessment of tax due and issue a notice and demand for payment. This grant of authority is a specific exception to the "automatic stay" rules discussed below.

Accordingly, after the correct amount of tax is determined by the IRS, bankruptcy court, or Tax Court, the IRS may assess the tax due against the bankruptcy estate and issue a notice and demand for payment.

Statute of limitations for collection. In a bankruptcy case, the period of limitations for collection of tax (generally, 10 years from the date of assessment) is suspended for the period during which the IRS is prohibited from collecting, plus 6 months thereafter.

Offsets of refunds during the automatic stay. Generally, the automatic stay prevents the IRS from offsetting the refund against a tax liability; however, the IRS may freeze the refund until the stay is lifted. The IRS can offset a pre-petition income tax refund against a pre-petition income tax liability while the automatic stay is in effect.

Requests for Refund or Credit

If the debtor has already claimed a refund or credit for an overpayment of tax on a properly filed return or claim for refund, the trustee may rely on that claim. However, if the credit or refund was not claimed by the debtor, the trustee may make the request on behalf of the bankruptcy estate by filing the original or amended return or form with the Internal Revenue Service, Centralized Insolvency Operation, P.O. Box 7346, Philadelphia, PA 19101-7346 (marked "Request for Prompt Refund" and accompanied by a written statement explaining that the request is being submitted pursuant to section 505(a) of the Bankruptcy Code). See Revenue Procedure 2010-27, as modified by Announcement 2011-77.

The appropriate form for the trustee to use in making the claim for refund is as follows.

1. For income taxes for which an individual debtor filed a Form 1040 or 1040-SR, the trustee should use a Form 1040-X, Amended U.S. Individual Income Tax Return.
2. For income taxes for which a corporate debtor filed a Form 1120, the trustee should use a Form 1120-X, Amended U.S. Corporation Income Tax Return.
3. For income taxes for which a debtor filed a form other than Form 1040 or 1040-SR, or Form 1120, the trustee should use the same type of form that the debtor had originally filed, and write "Amended Return" at the top of the form.
4. For taxes other than certain excise taxes or income taxes for which the debtor filed a return, the trustee should use a Form 843, Claim for Refund and Request for Abatement, and attach an exact copy of any return that is the subject of the claim along with a statement of the name and location of the office where the return was filed.
5. For excise taxes reported on Form 720, 730, or 2290, the trustee should use Form 8849, Claim for Refund of Excise Taxes, or Form 720-X, Amended Quarterly Federal Excise Tax Return, as appropriate.
6. For overpayment of taxes of the **bankruptcy estate** incurred during the administration of the case, the trustee may use a properly executed tax return (for income taxes, a Form 1041) as a claim for refund or credit.

Once the IRS receives the trustee's claim for refund, it will examine the refund claim on an expedited basis and notify the trustee of its decision within 120 days from the date of the filing of the claim. If the trustee disagrees with the IRS's decision or does not receive a decision from the IRS within 120 days of filing the claim, the trustee may seek a determination from the bankruptcy court to determine the estate's right to the refund.

Excessive and erroneous tax refunds paid to the bankruptcy estate. Taxpayers who have net losses can sometimes carry back the losses to previous years where taxes were paid to reduce the liability in the prior year, which generate a refund. Such taxpayers may also make a special request for a refund, known as a tentative carryback adjustment (also called a "quickie refund"). A tax liability arising from an excessive allowance for a quickie refund payable to the bankruptcy estate is given second priority treatment as an administrative expense. However, an erroneous refund or credit other than a quickie refund paid to the bankruptcy estate receives the same priority as the underlying tax. See *Federal Tax Claims*, later.

Court Jurisdiction Over Tax Matters

Bankruptcy Court

Determination of tax liability. Generally, the bankruptcy court has the authority to determine the amount or legality of any tax imposed on a debtor under its jurisdiction and the bankruptcy estate, including any fine, penalty, or addition to tax, whether or not the tax was previously assessed or paid.

The bankruptcy court does **not** have authority:

1. To determine the amount or legality of a tax, fine, penalty, or addition to tax that was contested before and adjudicated by a court or administrative tribunal of competent jurisdiction before the date of the bankruptcy petition filing; or
2. To decide the right of a tax refund for the bankruptcy estate before the earlier of:
   - A determination for refund by the IRS or other governmental unit, or
   - 120 days since the trustee properly requested the refund.

Tax Court

Tax Court proceedings. The filing of a bankruptcy petition results in an automatic stay immediately stopping the commencement or continuation of certain Tax Court proceedings. In individual bankruptcy cases, the stay prohibits the commencement of a Tax Court case regarding the tax liabilities of the debtor for tax periods ending before the bankruptcy court's order for relief. If the debtor is a corporation, the automatic stay prohibits the commencement or continuation of Tax Court proceedings relating to liabilities for tax periods that the bankruptcy court may determine. Generally, in corporate chapter 11 cases, the bankruptcy court determines the debtor corporation's tax liabilities for tax periods ending before the date a plan of reorganization is confirmed.

The bankruptcy court has the power to lift the automatic stay and allow the debtor to begin or continue a Tax Court case. Accordingly, during the pendency of the bankruptcy case, in effect, the bankruptcy court has the sole authority to determine whether the tax issue will be decided by the bankruptcy court or Tax Court.

Suspension of time for filing. In any bankruptcy case, the 90-day period for filing a Tax Court petition after the issuance of the Statutory Notice of Deficiency is suspended for the time the debtor is prevented from filing the petition due to the bankruptcy case, and for an additional 60 days thereafter. Accordingly, if the Statutory Notice of Deficiency was issued before the bankruptcy petition was filed, and the 90-day period had not expired, the running of the 90-day period will be suspended while the stay prevents the commencement of the Tax Court case. The 90-day period will begin to run 60 days after the stay against filing the petition ends. The suspension is effective for any part of the 90-day period remaining on the date of the bankruptcy petition filing.

However, the 90-day period for filing a Tax Court petition after issuance of a Notice of Determination in an innocent spouse case isn't suspended by filing of a bankruptcy petition. Thus, if the IRS issues a final Notice of Determination denying the debtor's request for innocent spouse relief during the bankruptcy case, the debtor is prohibited from petitioning the Tax Court while the automatic stay is in effect; however, the 90-day period for petitioning the Tax Court isn't suspended. In these circumstances, the debtor must file a motion with the bankruptcy court asking the bankruptcy court to lift the automatic stay. If the bankruptcy court lifts the stay, then the taxpayer can petition the Tax Court so long as the 90 days for petitioning hasn't expired.

Trustee may intervene. The trustee of a bankruptcy estate in any title 11 bankruptcy case may intervene on behalf of the estate in a proceeding in the Tax Court to which the debtor is a party.

Federal Tax Claims

Proof of claim. Upon filing a bankruptcy petition, as a result of the automatic stay, the debtor's assets in the bankruptcy estate under the jurisdiction of the bankruptcy court aren't subject to levy. However, creditors may file a "proof of claim" with the bankruptcy court to protect their rights. The IRS may file a proof of claim with the bankruptcy court in the same manner as other creditors. This claim may be filed with the bankruptcy court even though taxes haven't been assessed or are subject to a Tax Court proceeding.

Secured tax claims. If the IRS filed a Notice of Federal Tax Lien (NFTL) before the bankruptcy petition was filed, the IRS will have a secured claim in the bankruptcy case to the extent the lien attached to equity in the debtor's assets. In chapter 7 cases, in certain circumstances, the trustee may be able to subordinate the tax lien in order to pay certain non-tax priority claims. In chapter 11 cases, if the secured claim would otherwise have been entitled to treatment as a priority claim, the chapter 11 plan must provide for the secured tax claim in the same manner, over the same period, as an unsecured eighth priority tax claim.

Unsecured Tax Claims

Eighth priority taxes. In general, certain unsecured debts are given priority for payment purposes. Certain tax debts arising before the bankruptcy case was filed are classified as eighth priority claims.

The following federal taxes, if unsecured, are eighth priority taxes of the government.

1. Income taxes on or measured by income or gross receipts for a tax year ending on or before the date of the filing of the petition for which a return, if required, is last due, including extensions, after 3 years before the date of the filing of the bankruptcy petition.
2. Income taxes on or measured by income or gross receipts assessed within 240 days before the date of the filing of the petition. The 240-day period is exclusive of any time during which an offer in compromise for that tax was pending or in effect during that 240-day period plus 30 days, and exclusive of any time during which a stay of proceedings against collections was in effect in a prior case during the 240-day period plus 90 days.
3. Income taxes that were not assessed before the bankruptcy petition date, but were assessable as of the petition date, unless these taxes were still assessable solely because no return was filed, a late return was filed within 2 years of the filing of the bankruptcy petition, a fraudulent return was filed, or because the debtor willfully attempted to evade or defeat the tax.
4. Withholding taxes that were incurred in any capacity.
5. Employer's share of employment taxes on wages, salaries, or commissions (including vacation, severance, and sick leave pay) paid as priority claims under title 11 U.S.C. section 507(a)(4), or for which a return was last due within 3 years of the filing of the bankruptcy petition, including a return for which an extension of the filing date was obtained.
6. Excise taxes on transactions occurring before the date of filing the bankruptcy petition, for which a return, if required, is last due (including extensions) within 3 years of the filing of the bankruptcy petition. If a return isn't required, these excise taxes include only those on transactions occurring during the 3 years immediately before the date of filing the petition.

Payment of Tax Claims

Chapter 7 cases. In a chapter 7 case, eighth priority taxes may be paid out of the assets of the bankruptcy estate to the extent assets remain after paying the claims of secured creditors and other creditors with higher priority claims.

Chapter 11, 12, and 13 cases. Different rules apply to payment of eighth priority pre-petition taxes under chapters 11, 12, and 13.

1. A chapter 11 plan can provide for payment of these taxes, with post-confirmation interest, over a period of 5 years from the date of the order for relief issued by the bankruptcy court (this is the bankruptcy petition date in voluntary cases), in a manner not less favorable than the most favored non-priority claims (except for convenience claims under section 1122(b) of the Bankruptcy Code).
2. In a chapter 12 case, the debtor can pay such tax claims in deferred cash payments over time. However, pursuant to Bankruptcy Code section 1232 an unsecured priority tax claim arising from the sale of farm assets shall be treated as a non-priority unsecured claim.
3. In a chapter 13 case, the debtor can pay such taxes over 3 years or over 5 years with court approval.

Higher priority taxes. Certain taxes are assigned a higher priority for payment. Taxes incurred by the bankruptcy estate are given second priority treatment, as administrative expenses. In an involuntary bankruptcy case, taxes arising in the ordinary course of business or the debtor's financial affairs (after the filing of the bankruptcy petition but before the earlier of the appointment of a trustee or the order for relief) are included in the third priority payment category. If the debtor has employees, the employees' portion of employment taxes on the first $13,650 (this amount adjusted every 3 years) of wages that they earned during the 180-day period before the date of the bankruptcy filing or the cessation of the business (whichever occurs first) is given fourth priority treatment. However, the debtor's portion of the employment taxes on these wages, as the employer, is given eighth priority treatment.

Penalties. A tax penalty which is punitive in nature, that is, not for actual pecuniary (monetary) loss, is payable as a general unsecured claim.

Relief from certain penalties. A penalty for failure to pay tax, including failure to pay estimated tax, is not imposed if the tax was incurred by the bankruptcy estate as a result of an order of the court finding probable insufficiency of funds of the bankruptcy estate to pay administrative expenses.

If the tax was incurred by the debtor, the penalty is not imposed if:

1. The tax was incurred before the earlier of the order for relief or (in an involuntary case) the appointment of a trustee, and
2. The bankruptcy petition was filed before the due date for the tax return (including extensions) or the date for imposing the penalty occurs on or after the day the bankruptcy petition was filed.

Note. Relief from the failure-to-pay penalty does not apply to any penalty for failure to pay or deposit tax withheld or collected from others which is required to be paid over to the U.S. government. Nor does it apply to any penalty for failure to file a timely return.

FUTA credit. Employers are generally allowed a credit against FUTA for contributions made to a state unemployment fund if the contributions are paid by the last day for filing a federal unemployment tax return for the tax year.

If contributions are paid to the state fund after such date, the allowable credit shall not exceed 90% of the otherwise allowable credit that may be taken against FUTA. However, in the case of wages paid by the trustee of a title 11 bankruptcy estate where the failure to timely pay state unemployment contributions was without fault by the trustee, 100% of the credit is allowed. An employer may also receive an additional credit against FUTA contributions. See Pub. 15, (Circular E), Employer's Tax Guide, for additional information.

Discharge of Unpaid Tax

The bankruptcy court may enter an order discharging the debtor from personal liability for certain debts, including taxes. The order for discharge is a permanent order of the court prohibiting the creditors from taking action against the debtor personally to collect the debt. However, secured creditors with valid pre-bankruptcy liens may enforce them to recover property secured by the lien.

Not all debts are dischargeable. Many tax debts are excepted from the bankruptcy discharge. The scope of the bankruptcy discharge depends on the chapter under which the case was filed and the nature of the debt. Chapter 7 debtors don't have an absolute right to a discharge; objections may be filed by creditors. Chapters 12 and 13 debtors are generally entitled to discharge upon completion of all payments under the bankruptcy plan.

Chapter 7 cases. For individuals in chapter 7 cases, the following tax debts (including interest) aren't subject to discharge.

- Taxes entitled to eighth priority.
- Taxes for which no return was filed.
- Taxes for which a return was filed late after 2 years before the bankruptcy petition was filed.
- Taxes for which a fraudulent return was filed.
- Taxes that the debtor willfully attempted to evade or defeat.

Penalties in a chapter 7 case are dischargeable unless the event that gave rise to the penalty occurred within 3 years of the bankruptcy and the penalty relates to a tax that isn't discharged. Only individuals may receive a discharge in chapter 7 cases; corporations and other entities don't.

Chapter 11 cases. The same exceptions to discharge that apply to individuals in chapter 7 cases also apply to individuals in chapter 11 cases. However, different rules apply to corporations. A corporation in a chapter 11 case may receive a broad discharge when the reorganization plan is confirmed; however, secured and priority claims must be satisfied under the plan. There is an exception to discharge for taxes for which the debtor filed a fraudulent return or willfully attempted to evade or defeat.

Chapter 13 cases. A debtor who completes all payments under the chapter 13 plan shall receive a broad discharge of all debts provided for by the plan. However, priority tax claims **must** be paid in full under the chapter 13 plan. The following taxes are excepted from the broad chapter 13 discharge.

- Withholding taxes for which the debtor is liable in any capacity.
- Taxes for which no return was filed.
- Taxes for which a return was filed late after 2 years before the bankruptcy petition was filed.
- Taxes for which a fraudulent return was filed.
- Taxes that the debtor willfully attempted to evade or defeat.

Also, there is an exception from discharge for debts where the creditor, including the IRS, did not receive notice of the chapter 13 bankruptcy case in time to file a claim.

Chapter 13 "Hardship Discharge". In cases where the failure to complete all payments under the chapter 13 plan was due to circumstances for which the debtor should not be held accountable, the bankruptcy court may grant a "hardship discharge." However, all unsecured claims **must** be paid an amount not less than they would have received in a chapter 7 liquidation. Debts that would be excepted under an individual chapter 7 discharge are also excepted from the chapter 13 hardship discharge.

Chapter 12 cases. The same tax debts that are excepted from discharge in chapter 7 cases of individuals are excepted from discharge in chapter 12 cases of individuals. The exceptions don't apply to chapter 12 cases of non-individuals. As in chapter 13 cases, the debtor may be granted a hardship discharge if appropriate.

Federal Tax Liens. If a tax is discharged, the discharged tax may still be collectable from the debtor's pre-bankruptcy property if the IRS filed a Notice of Federal Tax Lien (NFTL) before the bankruptcy petition was filed. Perfected liens generally pass through bankruptcy proceedings unaffected, even if the debtor's personal liability for the debt is discharged. If the IRS did not file an NFTL before the bankruptcy petition was filed, the tax lien will be removed from the debtor's pre-bankruptcy property if the debtor exempted the property out of the bankruptcy estate. However, a tax lien that arises when a tax is assessed may not be removed from the property upon discharge if the property was excluded or abandoned from the bankruptcy estate, even if an NFTL was not filed.

Debt Cancellation

If a debt is canceled or forgiven, other than as a gift or bequest, the debtor must generally include the canceled amount in gross income for tax purposes. A debt includes any indebtedness for which the debtor is liable or that attaches to property the debtor holds. In the event that the amount forgiven is $600 or more, the debtor should receive a Form 1099-C, Cancellation of Debt, from the lender. See Form 1099-C and its separate instructions. The debtor may not have to report the entire amount

of canceled debt as income, as certain exclusions may apply.

Exclusions

Don't include a canceled debt in gross income if:

- The cancellation takes place in a bankruptcy case under the Bankruptcy Code;
- The cancellation takes place when the debtor is insolvent, and the amount excluded isn't more than the amount by which the debtor is insolvent;
- The canceled debt is qualified farm debt (debt incurred in operating a farm)—see *Cancellation of Debt* in chapter 3 of Pub. 225; or
- The canceled debt is qualified real property business indebtedness (certain debt connected with business real property). See Pub. 525.
- The canceled debt is qualified principal residence indebtedness. See Pub. 936, Home Mortgage Interest Deduction.

Order of exclusions. If the cancellation of debt occurs in a title 11 bankruptcy case, the bankruptcy exclusion takes precedence over the insolvency exclusion. To the extent that the taxpayer is insolvent, the insolvency exclusion takes precedence over qualified farm debt or qualified real property business indebtedness exclusions.

Bankruptcy case exclusion. A bankruptcy case is a case under title 11 of the United States Code, but only if the debtor is under the jurisdiction of the court and the cancellation of the debt is granted by the court or occurs as a result of a plan approved by the court.

None of the debt canceled in a bankruptcy case is included in the debtor's gross income in the year it was canceled. Instead, certain losses, credits, and basis of property must be reduced by the amount of excluded income (but not below zero). These losses, credits, and basis in property are called tax attributes and are discussed under *Reduction of Tax Attributes*, later.

Insolvency exclusion. A debtor is insolvent when, and to the extent, the debtor's liabilities exceed the FMV of the assets. Determine the debtor's liabilities and the FMV of the assets immediately before the cancellation of the debtor's debt to determine whether or not the debtor is insolvent and the amount by which the debtor is insolvent.

Exclude from the debtor's gross income debt canceled when the debtor is insolvent, but only up to the amount by which the debtor is insolvent. However, you must use the amount excluded to reduce certain tax attributes, as explained later under *Reduction of Tax Attributes.*

Example. $4,000 of the Simpson Corporation's liabilities are canceled outside bankruptcy. Immediately before the cancellation, the Simpson Corporation's liabilities totaled $21,000 and the FMV of its assets was $17,500. Because its liabilities were more than its assets, it was insolvent. The amount of the insolvency was $3,500 ($21,000 – $17,500). The corporation may exclude only $3,500 of the $4,000 debt cancellation from income because that is the amount by which it was insolvent. It must also reduce certain tax attributes by the $3,500 of excluded income. The remaining $500 of canceled debt must be included in income.

Reduction of Tax Attributes

If a debtor excludes canceled debt from income because it is canceled in a bankruptcy case or during insolvency, he or she must use the excluded amount to reduce certain "tax attributes." Tax attributes include the basis of certain assets and the losses and credits listed later. By reducing the tax attributes, the tax on the canceled debt is partially postponed instead of being entirely forgiven. This prevents an excessive tax benefit from the debt cancellation.

If a separate bankruptcy estate was created, the trustee or debtor-in-possession must reduce the estate's attributes (but not below zero) by the canceled debt. See *Attribute carryovers* under *Bankruptcy Estate—Income, Deductions, and Credits,* earlier.

Order of reduction. Generally, use the amount of canceled debt to reduce the tax attributes in the order listed below. However, the debtor may choose to use all or a part of the amount of canceled debt to first reduce the basis of depreciable property before reducing the other tax attributes. This choice is discussed later.

Net operating loss (NOL). Reduce any NOL for the tax year in which the debt cancellation takes place, and any NOL carryover to that tax year.

General business credit carryovers. Reduce any carryovers, to or from the tax year of the debt cancellation, of amounts used to determine the general business credit.

Minimum tax credit. Reduce any minimum tax credit that is available as of the beginning of the tax year following the tax year of the debt cancellation.

Capital losses. Reduce any net capital loss for the tax year of the debt cancellation, and any capital loss carryover to that year.

Basis. Reduce the basis of the debtor's property, as described under *Basis Reduction,* later. This reduction applies to the basis of both depreciable and nondepreciable property.

Passive activity loss and credit carryovers. Reduce any passive activity loss or credit carryover from the tax year of the debt cancellation.

Foreign tax credit. Last, reduce any carryover, to or from the tax year of the debt cancellation, of an amount used to determine the foreign tax credit or the Puerto Rico and possession tax credit.

Amount of reduction. Except for the credit carryovers, reduce the tax attributes listed earlier one dollar for each dollar of canceled debt that is excluded from income. Reduce the credit carryovers by 33 1/3 cents for each dollar of canceled debt that is excluded from income.

Making the reduction. Make the required reductions in tax attributes after figuring the tax for the tax year of the debt cancellation. In reducing NOLs and capital losses, first reduce the loss for the tax year of the debt cancellation, and then any loss carryovers to that year in the order of the tax years from which the carryovers arose, starting with the earliest year. Make the reductions of credit carryovers in the order in which the carryovers are taken into account for the tax year of the debt cancellation.

Individuals under chapter 7 or 11. In an individual bankruptcy under chapter 7 or 11 of title 11, the required reduction of tax attributes must be made to the attributes of the bankruptcy estate, a separate taxable entity resulting from the filing of the case. The trustee of the bankruptcy estate must make the choice of whether to reduce the basis of depreciable property first before reducing other tax attributes.

Basis Reduction

If any amount of the debt cancellation is used to reduce the basis of assets as discussed earlier under *Reduction of Tax Attributes,* the following rules apply to the extent indicated.

When to make the basis reduction. Reductions in basis due to debt cancellation are made at the beginning of the tax year following the cancellation. The reduction applies to property held at that time. See Regulations section 1.1017-1 for more information.

Bankruptcy and insolvency reduction limit. The reduction in basis for canceled debt in bankruptcy or in insolvency cannot be more than the total basis of property held immediately after the debt cancellation, minus the total liabilities immediately after the cancellation. This limit does not apply if an election is made to reduce basis before reducing other attributes. This election is discussed later.

Exempt property under title 11. If debt is canceled in a bankruptcy case under title 11 of the United States Code, don't reduce the basis in property that the debtor treats as exempt property under section 522 of title 11.

Election to reduce basis in depreciable property first. The estate, in the case of an individual bankruptcy under chapter 7 or 11, may choose to reduce the basis of depreciable property before reducing any other tax attributes. However, this reduction of the basis of depreciable property cannot be more than the total basis of depreciable property held at the beginning of the tax year following the tax year of the debt cancellation.

Depreciable property means any property subject to depreciation, but only if a reduction of basis will reduce the amount of depreciation or amortization otherwise allowable for the period immediately following the basis reduction. The debtor may choose to treat as depreciable property any real property that is stock in trade or is held primarily for sale to customers in the ordinary course of trade or business. The debtor must generally make this choice on the tax return for the tax year of the debt cancellation, and, once made, the debtor can only

revoke it with IRS approval. However, if the debtor establishes reasonable cause, the debtor may make the choice with an amended return or claim for refund or credit.

Making elections. Make the election to reduce the basis of depreciable property before reducing other tax attributes, as well as the election to treat real property inventory as depreciable property, on Form 982.

Recapture of basis reductions. If any basis in property is reduced under these provisions and is later sold or otherwise disposed of at a gain, the part of the gain corresponding to the basis reduction is taxable as ordinary income. Figure the ordinary income part by treating the amount of the basis reduction as a depreciation deduction and by treating any such basis-reduced property that isn't already either Internal Revenue Code section 1245 or Internal Revenue Code section 1250 property as Internal Revenue Code section 1245 property. In the case of Internal Revenue Code section 1250 property, make the determination of what would have been straight line depreciation as though there had been no basis reduction for debt cancellation. Internal Revenue Code sections 1245 and 1250 and the recapture of gain as ordinary income are explained in Pub. 544.

Partnerships

If a partnership's debt is canceled because of bankruptcy or insolvency, the rules for the exclusion of the canceled amount from gross income and for tax attribute reduction are applied at the individual partner level. Thus, each partner's share of debt cancellation income must be reported on the partner's return unless the partner meets the bankruptcy or insolvency exclusions explained earlier. Then all choices, such as the choices to reduce the basis of depreciable property before reducing other tax attributes, to treat real property inventory as depreciable property, and to end the tax year on the day before filing the bankruptcy case, must be made by the individual partners, not the partnership.

Depreciable property. For purposes of reducing the basis of depreciable property in attribute reduction, a partner treats his or her partnership interest as depreciable property to the extent of the partner's proportionate interest in the partnership's depreciable property. This applies only if the partnership makes a corresponding reduction in the partnership's basis in its depreciable property with respect to the partner.

Partner's basis in partnership. The allocation of an amount of debt cancellation income to a partner results in that partner's basis in the partnership being increased by that amount. At the same time, the reduction in the partner's share of partnership liabilities caused by the debt cancellation results in a deemed distribution, in turn resulting in a reduction of the partner's basis in the partnership. These basis adjustments are separate from any basis reduction under the attribute-reduction rules described earlier.

Corporations

Corporations in a bankruptcy proceeding or insolvency generally follow the same rules for debt cancellation and reduction of tax attributes as an individual or individual bankruptcy estate would follow.

Stock for Debt Exchange

If a corporation transfers its stock (or if a partnership transfers an interest in the partnership) in satisfaction of indebtedness and the FMV of the stock or interest is less than the indebtedness owed, the corporation or partnership has income to the extent of the difference from the cancellation of indebtedness. The corporation or partnership can exclude all or a portion of the income created by the stock or interest debt transfer if it is in a bankruptcy proceeding or, if not in a bankruptcy proceeding, it can exclude the income to the extent it is insolvent. However, the corporation or partnership must reduce its tax attributes to the extent it has any by the amount of the excluded income.

Earnings and Profits

The earnings and profits of a corporation don't include income from the discharge of indebtedness to the extent of the amount applied to reduce the basis of the corporation's property, as explained earlier. Otherwise, discharge of indebtedness income, including amounts excluded from gross income, increases the earnings and profits of the corporation (or reduces a deficit in earnings and profits).

If there is a deficit in the corporation's earnings and profits and the interest of any shareholder of the corporation is terminated or extinguished in a title 11 or similar case (defined earlier), the deficit must be reduced by an amount equal to the paid-in capital allocable to the shareholder's terminated or extinguished interest.

S Corporations

For S corporations, the rules for excluding income from debt cancellation because of bankruptcy or insolvency apply at the corporate level.

Net operating losses (NOLs). A loss or deduction that is disallowed for the tax year of the debt cancellation because it exceeds the shareholders' basis in the corporation's stock and debt is treated as an NOL for that tax year in making the required reduction of tax attributes for the amount of the canceled debt.

Tax Attribute Reduction Example

The sample filled-in Form 982 shown on the next page is based on the following situation.

Tom Smith is in financial difficulty, but he has been able to avoid declaring bankruptcy. In 2021, he reached an agreement with his creditors whereby they agreed to forgive $10,000 of the total that he owed them in return for his setting up a schedule for repayment of the rest of his debts.

Immediately before the debt cancellation, Tom's liabilities totaled $120,000 and the FMV of his assets was $100,000 (his total basis in all these assets was $90,000). At the time of the debt cancellation, he was considered insolvent by $20,000. He can exclude from income the entire $10,000 debt cancellation because it was not more than the amount by which he was insolvent.

Among Tom's assets, the only depreciable asset is a rental condominium with an adjusted basis of $50,000. Of this, $10,000 is allocable to the land, leaving a depreciable basis of $40,000. He has a long-term capital loss carryover to 2021 of $5,000. He also has an NOL of $2,000 and a $3,000 NOL carryover from 2018. He has no other tax attributes arising from the current tax year or carried to this year.

Ordinarily, in applying the $10,000 debt cancellation amount to reduce tax attributes, Tom would first reduce his $2,000 NOL; next, his $3,000 NOL carryover from 2018; and then his $5,000 net capital loss carryover. However, he figures that it is better for him to preserve his loss carryovers for the next tax year.

Tom elects to reduce basis first. He can reduce the depreciable basis of his rental condominium (his only depreciable asset) by $10,000. The tax effect of doing this will be to reduce his depreciation deductions for years following the year of the debt cancellation. However, if he later sells the condominium at a gain, the part of the gain from the basis reduction will be taxable as ordinary income.

Tom must file Form 982, as shown here, with his individual return (Form 1040 or 1040-SR) for the tax year of the debt discharge. In addition, he must attach a statement describing the debt cancellation transaction and identifying the property to which the basis reduction applies. This statement isn't illustrated.

Form **982**
(Rev. March 2018)
Department of the Treasury
Internal Revenue Service

Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)

► **Attach this form to your income tax return.**
► **Go to *www.irs.gov/Form982* for instructions and the latest information.**

OMB No. 1545-0046

Attachment Sequence No. **94**

Name shown on return	Identifying number
Thomas Smith	111-11-1111

Part I General Information (see instructions)

1 Amount excluded is due to (check applicable box(es)):

- **a** Discharge of indebtedness in a title 11 case . . . ☐
- **b** Discharge of indebtedness to the extent insolvent (not in a title 11 case) . . . ☑
- **c** Discharge of qualified farm indebtedness . . . ☐
- **d** Discharge of qualified real property business indebtedness . . . ☐
- **e** Discharge of qualified principal residence indebtedness (**Caution:** See instructions before checking this box if debt was discharged after 2017.) . . . ☐

2	Total amount of discharged indebtedness excluded from gross income	**2**	10,000

3 Do you elect to treat all real property described in section 1221(a)(1), relating to property held for sale to customers in the ordinary course of a trade or business, as if it were depreciable property? . . . ☐ Yes ☐ No

Part II Reduction of Tax Attributes.

You must attach a description of any transactions resulting in the reduction in basis under section 1017. See Regulations section 1.1017-1 for basis reduction ordering rules, and, if applicable, required partnership consent statements. (For additional information, see the instructions for Part II.)

Enter amount excluded from gross income:			
4	For a discharge of qualified real property business indebtedness applied to reduce the basis of depreciable real property	**4**	
5	That you elect under section 108(b)(5) to apply first to reduce the basis (under section 1017) of depreciable property	**5**	10,000
6	Applied to reduce any net operating loss that occurred in the tax year of the discharge or carried over to the tax year of the discharge	**6**	
7	Applied to reduce any general business credit carryover to or from the tax year of the discharge	**7**	
8	Applied to reduce any minimum tax credit as of the beginning of the tax year immediately after the tax year of the discharge	**8**	
9	Applied to reduce any net capital loss for the tax year of the discharge, including any capital loss carryovers to the tax year of the discharge	**9**	
10a	Applied to reduce the basis of nondepreciable and depreciable property if not reduced on line 5. *DO NOT use in the case of discharge of qualified farm indebtedness*	**10a**	
b	Applied to reduce the basis of your principal residence. *Enter amount here ONLY if line 1e is checked*	**10b**	
11	For a discharge of qualified farm indebtedness applied to reduce the basis of:		
a	Depreciable property used or held for use in a trade or business or for the production of income if not reduced on line 5	**11a**	
b	Land used or held for use in a trade or business of farming	**11b**	
c	Other property used or held for use in a trade or business or for the production of income	**11c**	
12	Applied to reduce any passive activity loss and credit carryovers from the tax year of the discharge	**12**	
13	Applied to reduce any foreign tax credit carryover to or from the tax year of the discharge	**13**	

Part III Consent of Corporation to Adjustment of Basis of Its Property Under Section 1082(a)(2)

Under section 1081(b), the corporation named above has excluded $ _____ from its gross income for the tax year beginning _____ and ending _____.
Under that section, the corporation consents to have the basis of its property adjusted in accordance with the regulations prescribed under section 1082(a)(2) in effect at the time of filing its income tax return for that year. The corporation is organized under the laws of _____.
(State of incorporation)

Note: You must attach a description of the transactions resulting in the nonrecognition of gain under section 1081.

How To Get Tax Help

If you have questions about a tax issue, need help preparing your tax return, or want to download free publications, forms, or instructions, go to *IRS.gov* and find resources that can help you right away.

Preparing and filing your tax return. After receiving all your wage and earnings statements (Form W-2, W-2G, 1099-R, 1099-MISC, 1099-NEC, etc.); unemployment compensation statements (by mail or in a digital format) or other government payment statements (Form 1099-G); and interest, dividend, and retirement statements from banks and investment firms (Forms 1099), you have several options to choose from to prepare and file your tax return. You can prepare the tax return yourself, see if you qualify for free tax preparation, or hire a tax professional to prepare your return.

Free options for tax preparation. Go to *IRS.gov* to see your options for preparing and filing your return online or in your local community, if you qualify, which include the following.

- **Free File.** This program lets you prepare and file your federal individual income tax return for free using brand-name tax-preparation-and-filing software or Free File fillable forms. However, state tax preparation may not be available through Free File. Go to *IRS.gov/FreeFile* to see if you qualify for free online federal tax preparation, e-filing, and direct deposit or payment options.
- **VITA.** The Volunteer Income Tax Assistance (VITA) program offers free tax help to people with low-to-moderate incomes, persons with disabilities, and limited-English-speaking taxpayers who need help preparing their own tax returns. Go to *IRS.gov/VITA*, download the free IRS2Go app, or call 800-906-9887 for information on free tax return preparation.
- **TCE.** The Tax Counseling for the Elderly (TCE) program offers free tax help for all taxpayers, particularly those who are 60 years of age and older. TCE volunteers specialize in answering questions about pensions and retirement-related issues unique to seniors. Go to *IRS.gov/TCE*, download the free IRS2Go app, or call 888-227-7669 for information on free tax return preparation.
- **MilTax.** Members of the U.S. Armed Forces and qualified veterans may use MilTax, a free tax service offered by the Department of Defense through Military OneSource. For more information go to *MilitaryOneSource* (*MilitaryOneSource.mil/Tax*).

  Also, the IRS offers Free Fillable Forms, which can be completed online and then filed electronically regardless of income.

Using online tools to help prepare your return. Go to *IRS.gov/Tools* for the following.

- The *Earned Income Tax Credit Assistant* (*IRS.gov/EITCAssistant*) determines if you're eligible for the earned income credit (EIC).
- The *Online EIN Application* (*IRS.gov/EIN*) helps you get an employer identification number (EIN).
- The *Tax Withholding Estimator* (*IRS.gov/W4app*) makes it easier for everyone to pay the correct amount of tax during the year. The tool is a convenient, online way to check and tailor your withholding. It's more user-friendly for taxpayers, including retirees and self-employed individuals. The features include the following.
  - ►Easy to understand language.
  - ► The ability to switch between screens, correct previous entries, and skip screens that don't apply.
  - ► Tips and links to help you determine if you qualify for tax credits and deductions.
  - ► A progress tracker.
  - ► A self-employment tax feature.
  - ► Automatic calculation of taxable social security benefits.
- The *First Time Homebuyer Credit Account Look-up* (*IRS.gov/HomeBuyer*) tool provides information on your repayments and account balance.
- The *Sales Tax Deduction Calculator* (*IRS.gov/SalesTax*) figures the amount you can claim if you itemize deductions on Schedule A (Form 1040).

Getting answers to your tax questions. On IRS.gov, you can get up-to-date information on current events and changes in tax law.

- *IRS.gov/Help*: A variety of tools to help you get answers to some of the most common tax questions.
- *IRS.gov/ITA*: The Interactive Tax Assistant, a tool that will ask you questions on a number of tax law topics and provide answers.
- *IRS.gov/Forms*: Find forms, instructions, and publications. You will find details on current tax changes and hundreds of interactive links to help you find answers to your questions.
- You may also be able to access tax law information in your electronic filing software.

Need someone to prepare your tax return? There are various types of tax return preparers, including tax preparers, enrolled agents, certified public accountants (CPAs), attorneys, and many others who don't have professional credentials. If you choose to have someone prepare your tax return, choose that preparer wisely. A paid tax preparer is:

- Primarily responsible for the overall substantive accuracy of your return,
- Required to sign the return, and
- Required to include their preparer tax identification number (PTIN).

Although the tax preparer always signs the return, you're ultimately responsible for providing all the information required for the preparer to accurately prepare your return. Anyone paid to prepare tax returns for others should have a thorough understanding of tax matters. For more information on how to choose a tax preparer, go to *Tips for Choosing a Tax Preparer* on IRS.gov.

Advance child tax credit payments. From July through December 2021, advance payments were sent automatically to taxpayers with qualifying children who met certain criteria. The advance child tax credit payments were early payments of up to 50% of the estimated child tax credit that taxpayers may properly claim on their 2021 returns. Go to *IRS.gov/AdvCTC* for more information about these payments and how they can affect your taxes.

Coronavirus. Go to *IRS.gov/Coronavirus* for links to information on the impact of the coronavirus, as well as tax relief available for individuals and families, small and large businesses, and tax-exempt organizations.

Employers can register to use Business Services Online. The Social Security Administration (SSA) offers online service at *SSA.gov/employer* for fast, free, and secure online W-2 filing options to CPAs, accountants, enrolled agents, and individuals who process Form W-2, Wage and Tax Statement, and Form W-2c, Corrected Wage and Tax Statement.

IRS social media. Go to *IRS.gov/SocialMedia* to see the various social media tools the IRS uses to share the latest information on tax changes, scam alerts, initiatives, products, and services. At the IRS, privacy and security are paramount. We use these tools to share public information with you. **Don't** post your SSN or other confidential information on social media sites. Always protect your identity when using any social networking site.

The following IRS YouTube channels provide short, informative videos on various tax-related topics in English, Spanish, and ASL.

- *Youtube.com/irsvideos*.
- *Youtube.com/irsvideosmultilingua*.
- *Youtube.com/irsvideosASL*.

Watching IRS videos. The IRS Video portal *IRSVideos.gov* contains video and audio presentations for individuals, small businesses, and tax professionals.

Online tax information in other languages. You can find information on *IRS.gov/MyLanguage* if English isn't your native language.

Free Over-the-Phone Interpreter (OPI) service. The IRS is committed to serving our multilingual customers by offering OPI services. The OPI service is a federally funded program and is available at Taxpayer Assistance Centers (TACs), other IRS offices, and every VITA/TCE return site. OPI service is accessible in more than 350 languages.

Accessibility Helpline available for taxpayers with disabilities. Taxpayers who need information about accessibility services can call 833-690-0598. The Accessibility Helpline can answer questions related to current and future accessibility products and services available in alternative media formats (for example, braille, large print, audio, etc.).

Getting tax forms and publications. Go to *IRS.gov/Forms* to view, download, or print all of the forms, instructions, and publications you

may need. Or you can go to *IRS.gov/OrderForms* to place an order.

Getting tax publications and instructions in eBook format. You can also download and view popular tax publications and instructions (including the Instructions for Forms 1040) on mobile devices as an eBook at *IRS.gov/eBooks*.

Note. IRS eBooks have been tested using Apple's iBooks for iPad. Our eBooks haven't been tested on other dedicated eBook readers, and eBook functionality may not operate as intended.

Access your online account (Individual taxpayers only). Go to *IRS.gov/Account* to securely access information about your federal tax account.

- View the amount you owe and a breakdown by tax year.
- See payment plan details or apply for a new payment plan.
- Make a payment or view 5 years of payment history and any pending or scheduled payments.
- Access your tax records, including key data from your most recent tax return, your EIP amounts, and transcripts.
- View digital copies of select notices from the IRS.
- Approve or reject authorization requests from tax professionals.
- View your address on file or manage your communication preferences.

Tax Pro Account. This tool lets your tax professional submit an authorization request to access your individual taxpayer *IRS online account*. For more information, go to *IRS.gov/TaxProAccount*.

Using direct deposit. The fastest way to receive a tax refund is to file electronically and choose direct deposit, which securely and electronically transfers your refund directly into your financial account. Direct deposit also avoids the possibility that your check could be lost, stolen, or returned undeliverable to the IRS. Eight in 10 taxpayers use direct deposit to receive their refunds. If you don't have a bank account, go to *IRS.gov/DirectorDeposit* for more information on where to find a bank or credit union that can open an account online.

Getting a transcript of your return. The quickest way to get a copy of your tax transcript is to go to *IRS.gov/Transcripts*. Click on either "Get Transcript Online" or "Get Transcript by Mail" to order a free copy of your transcript. If you prefer, you can order your transcript by calling 800-908-9946.

Reporting and resolving your tax-related identity theft issues.

- Tax-related identity theft happens when someone steals your personal information to commit tax fraud. Your taxes can be affected if your SSN is used to file a fraudulent return or to claim a refund or credit.
- The IRS doesn't initiate contact with taxpayers by email, text messages, telephone calls, or social media channels to request personal or financial information. This includes requests for personal identification numbers (PINs), passwords, or similar information for credit cards, banks, or other financial accounts.
- Go to *IRS.gov/IdentityTheft*, the IRS Identity Theft Central webpage, for information on identity theft and data security protection for taxpayers, tax professionals, and businesses. If your SSN has been lost or stolen or you suspect you're a victim of tax-related identity theft, you can learn what steps you should take.
- Get an Identity Protection PIN (IP PIN). IP PINs are six-digit numbers assigned to taxpayers to help prevent the misuse of their SSNs on fraudulent federal income tax returns. When you have an IP PIN, it prevents someone else from filing a tax return with your SSN. To learn more, go to *IRS.gov/IPPIN*.

Ways to check on the status of your refund.

- Go to *IRS.gov/Refunds*.
- Download the official IRS2Go app to your mobile device to check your refund status.
- Call the automated refund hotline at 800-829-1954.

Note. The IRS can't issue refunds before mid-February 2022 for returns that claimed EIC or the additional child tax credit (ACTC). This applies to the entire refund, not just the portion associated with these credits.

Making a tax payment. Go to *IRS.gov/Payments* to make a payment using any of the following options.

- *IRS Direct Pay*: Pay your individual tax bill or estimated tax payment directly from your checking or savings account at no cost to you.
- *Debit or Credit Card*: Choose an approved payment processor to pay online or by phone.
- *Electronic Funds Withdrawal*: Schedule a payment when filing your federal taxes using tax return preparation software or through a tax professional.
- *Electronic Federal Tax Payment System*: Best option for businesses. Enrollment is required.
- *Check or Money Order*: Mail your payment to the address listed on the notice or instructions.
- *Cash*: You may be able to pay your taxes with cash at a participating retail store.
- *Same-Day Wire*: You may be able to do same-day wire from your financial institution. Contact your financial institution for availability, cost, and cut-off times.

Note. The IRS uses the latest encryption technology to ensure that the electronic payments you make online, by phone, or from a mobile device using the IRS2GO app are safe and secure. Paying electronically is quick, easy, and faster than mailing in a check or money order.

What if I can't pay now? Go to *IRS.gov/Payments* for more information about your options

- Apply for an *online payment agreement* (*IRS.gov/OPA*) to meet your tax obligation in monthly installments if you can't pay your taxes in full today. Once you complete the online process, you will receive immediate notification of whether your agreement has been approved.
- Use the *Offer in Compromise Pre-Qualifier* to see if you can settle your tax debt for less than the full amount you owe. For more information on the Offer in Compromise program, go to *IRS.gov/OIC*.

Filing an amended return. You can now file Form 1040-X electronically with tax filing software to amend 2019 Forms 1040 and 1040-SR. To do so, you must have e-filed your original 2019 or 2020 Forms 1040 and 1040-SR. Amended returns for all prior years must be mailed. Go to *IRS.gov/Form1040X* for information and updates.

Checking the status of an amended return. Go to *IRS.gov/WMAR* to track the status of Form 1040X amended returns.

Note. It can take up to 3 weeks from the date you filed your amended return for it to show up in our system, and processing it can take up to 16 weeks.

Understanding an IRS notice or letter you've received. Go to *IRS.gov/Notices* to find additional information about responding to an IRS notice or letter.

You can use Schedule LEP, Request for Change in Language Preference, to state a preference to receive notices, letters, or other written communications from the IRS in an alternative language, when these are available. Once your Schedule LEP is processed, the IRS will determine your translation needs and provide you translations when available. If you have a disability requiring notices in an accessible format, see Form 9000.

Contacting your local IRS office. Keep in mind, many questions can be answered on IRS.gov without visiting an IRS TAC. Go to *IRS.gov/LetUsHelp* for the topics people ask about most. If you still need help, IRS TACs provide tax help when a tax issue can't be handled online or by phone. All TACs now provide service by appointment, so you'll know in advance that you can get the service you need without long wait times. Before you visit, go to *IRS.gov/TACLocator* to find the nearest TAC, check hours, available services, and appointment options. Or, on the IRS2Go app, under the Stay Connected tab, choose the Contact Us option and click on "Local Offices."

The Taxpayer Advocate Service (TAS) Is Here To Help You

What is TAS?

TAS is an ***independent*** organization within the IRS that helps taxpayers and protects taxpayer rights. Their job is to ensure that every taxpayer

is treated fairly and that you know and understand your rights under the *Taxpayer Bill of Rights*.

How Can You Learn About Your Taxpayer Rights?

The Taxpayer Bill of Rights describes 10 basic rights that all taxpayers have when dealing with the IRS. Go to *TaxpayerAdvocate.IRS.gov* to help you understand what these rights mean to you and how they apply. These are ***your*** rights. Know them. Use them.

What Can TAS Do For You?

TAS can help you resolve problems that you can't resolve with the IRS. And their service is free. If you qualify for our assistance, you will be assigned to one advocate who will work with you throughout the process and will do everything possible to resolve your issue. TAS can help you if:

- Your problem is causing financial difficulty for you, your family, or your business,
- You face (or your business is facing) an immediate threat of adverse action, or
- You've tried repeatedly to contact the IRS but no one has responded, or the IRS hasn't responded by the date promised.

How Can You Reach TAS?

TAS has offices *in every state, the District of Columbia, and Puerto Rico*. Your local advocate's number is in your local directory and at *TaxpayerAdvocate.IRS.gov/Contact-Us*. You can also call us at 877-777-4778.

How Else Does TAS Help Taxpayers?

TAS works to resolve large-scale problems that affect many taxpayers. If you know of one of these broad issues, please report it to us at *IRS.gov/SAMS*.

TAS for Tax Professionals

TAS can provide a variety of information for tax professionals, including tax law updates and guidance, TAS programs, and ways to let TAS know about systemic problems you've seen in your practice.

Low Income Taxpayer Clinics (LITCs)

LITCs are independent from the IRS. LITCs represent individuals whose income is below a certain level and need to resolve tax problems with the IRS, such as audits, appeals, and tax collection disputes. In addition, LITCs can provide information about taxpayer rights and responsibilities in different languages for individuals who speak English as a second language. Services are offered for free or a small fee for eligible taxpayers. To find an LITC near you, go to *TaxpayerAdvocate.IRS.gov/about-us/Low-Income-Taxpayer-Clinics-LITC/* or see IRS Pub. 4134, *Low Income Taxpayer Clinic List*.

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To help us develop a more useful index, please let us know if you have ideas for index entries. See "Comments and Suggestions" in the "Introduction" for the ways you can reach us.

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