Department of the Treasury

Internal Revenue Service

Your Federal Income Tax

For Individuals

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Order Form
(Inside back cover)

All material in this publication may be reprinted freely. A citation to Your Federal Income Tax (2010) *would be appropriate.*

The explanations and examples in this publication reflect the interpretation by the Internal Revenue Service (IRS) of:

- Tax laws enacted by Congress,
- Treasury regulations, and
- Court decisions.

However, the information given does not cover every situation and is not intended to replace the law or change its meaning.

This publication covers some subjects on which a court may have made a decision more favorable to taxpayers than the interpretation by the IRS. Until these differing interpretations are resolved by higher court decisions or in some other way, this publication will continue to present the interpretations by the IRS.

All taxpayers have important rights when working with the IRS. These rights are described in *Your Rights as a Taxpayer* in the back of this publication.

c. Subtract the total of the refigured tax amounts in (b) from the total of your actual tax amounts.

d. Subtract the result in (c) from the result in (a).

Compare the tax figured in methods (1) and (2). Your tax for 2010 is the smaller of the two amounts. If method (1) results in less tax, take the itemized deduction on Schedule A (Form 1040), line 28. If method (2) results in less tax, claim a credit for the amount from step 2(c) above on Form 1040, line 71, and enter "I.R.C. 1341" in the margin to the left of line 71. If both methods produce the same tax, deduct the repayment on Schedule A (Form 1040), line 28.

12.

Other Income

Introduction

You must include on your return all items of income you receive in the form of money, property, and services unless the tax law states that you do not include them. Some items, however, are only partly excluded from income. This chapter discusses many kinds of income and explains whether they are taxable or nontaxable.

- Income that is taxable must be reported on your tax return and is subject to tax.
- Income that is nontaxable may have to be shown on your tax return but is not taxable.

This chapter begins with discussions of the following income items.

- Bartering.
- Canceled debts.
- Sales parties at which you are the host or hostess.
- Life insurance proceeds.
- Partnership income.
- S Corporation income.
- Recoveries (including state income tax refunds).
- Rents from personal property.
- Repayments.
- Royalties.
- Unemployment benefits.
- Welfare and other public assistance benefits.

These discussions are followed by brief discussions of other income items.

Useful Items

You may want to see:

Publication

- ❑ **525** Taxable and Nontaxable Income
- ❑ **544** Sales and Other Dispositions of Assets
- ❑ **550** Investment Income and Expenses, Including Capital Gains and Losses
- ❑ **4681** Canceled Debts, Foreclosures, Repossessions, and Abandonments

Bartering

Bartering is an exchange of property or services. You must include in your income, at the time received, the fair market value of property or services you receive in bartering. If you exchange services with another person and you both have agreed ahead of time on the value of the services, that value will be accepted as fair market value unless the value can be shown to be otherwise.

Generally, you report this income on Schedule C (Form 1040), Profit or Loss From Business, or Schedule C-EZ (Form 1040), Net Profit From Business. However, if the barter involves an exchange of something other than services, such as in *Example 3* below, you may have to use another form or schedule instead.

Example 1. You are a self-employed attorney who performs legal services for a client, a small corporation. The corporation gives you shares of its stock as payment for your services. You must include the fair market value of the shares in your income on Schedule C (Form 1040) or Schedule C-EZ (Form 1040) in the year you receive them.

Example 2. You are self-employed and a member of a barter club. The club uses "credit units" as a means of exchange. It adds credit units to your account for goods or services you provide to members, which you can use to purchase goods or services offered by other members of the barter club. The club subtracts credit units from your account when you receive goods or services from other members. You must include in your income the value of the credit units that are added to your account, even though you may not actually receive goods or services from other members until a later tax year.

Example 3. You own a small apartment building. In return for 6 months rent-free use of an apartment, an artist gives you a work of art she created. You must report as rental income on Schedule E (Form 1040), Supplemental Income and Loss, the fair market value of the artwork, and the artist must report as income on Schedule C (Form 1040) or Schedule C-EZ (Form 1040) the fair rental value of the apartment.

Form 1099-B from barter exchange. If you exchanged property or services through a barter exchange, Form 1099-B, Proceeds From Broker and Barter Exchange Transactions, or a similar statement from the barter exchange should be sent to you by February 15, 2011. It should show the value of cash, property, services, credits, or scrip you received from exchanges during 2010. The IRS also will receive a copy of Form 1099-B.

Canceled Debts

Generally, if a debt you owe is canceled or forgiven, other than as a gift or bequest, you must include the canceled amount in your income. You have no income from the canceled debt if it is intended as a gift to you. A debt includes any indebtedness for which you are liable or which attaches to property you hold.

If the debt is a nonbusiness debt, report the canceled amount on Form 1040, line 21. If it is a business debt, report the amount on Schedule C (Form 1040) or Schedule C-EZ (Form 1040) (or on Schedule F (Form 1040), Profit or Loss From Farming, if the debt is farm debt and you are a farmer).

You may be able to elect to recognize a canceled business debt in income over a 5-tax-year period if the income is realized in a reacquisition in 2009 or 2010. For information on this election, see Revenue Procedure 2009-37 available at www.irs.gov/irb/2009-36_IRB/ar07.html.

Form 1099-C. If a Federal Government agency, financial institution, or credit union cancels or forgives a debt you owe of $600 or more, you will receive a Form 1099-C, Cancellation of Debt. The amount of the canceled debt is shown in box 2.

Interest included in canceled debt. If any interest is forgiven and included in the amount of canceled debt in box 2, the amount of interest also will be shown in box 3. Whether or not you must include the interest portion of the canceled debt in your income depends on whether the interest would be deductible if you paid it. See *Deductible debt*, under *Exceptions*, later.

If the interest would not be deductible (such as interest on a personal loan), include in your income the amount from Form 1099-C, box 2. If the interest would be deductible (such as on a business loan), include in your income the net amount of the canceled debt (the amount shown in box 2 less the interest amount shown in box 3).

Discounted mortgage loan. If your financial institution offers a discount for the early payment of your mortgage loan, the amount of the discount is canceled debt. You must include the canceled amount in your income.

Mortgage relief upon sale or other disposition. If you are personally liable for a mortgage (recourse debt), and you are relieved of the mortgage when you dispose of the property, you may realize gain or loss up to the fair market value of the property. To the extent the mortgage discharge exceeds the fair market value of the property, it is income from discharge of indebtedness unless it qualifies for exclusion under *Excluded debt*, later. Report any income from discharge of indebtedness on nonbusiness debt that does not qualify for exclusion as other income on Form 1040, line 21.

- All other amounts actually paid or credited to you,

up to the amount of your share of distributable net income.

How to report. Treat each item of income the same way that the estate or trust would treat it. For example, if a trust's dividend income is distributed to you, you report the distribution as dividend income on your return. The same rule applies to distributions of tax-exempt interest and capital gains.

The fiduciary of the estate or trust must tell you the type of items making up your share of the estate or trust income and any credits you are allowed on your individual income tax return.

Losses. Losses of estates and trusts generally are not deductible by the beneficiaries.

Grantor trust. Income earned by a grantor trust is taxable to the grantor, not the beneficiary, if the grantor keeps certain control over the trust. (The grantor is the one who transferred property to the trust.) This rule applies if the property (or income from the property) put into the trust will or may revert (be returned) to the grantor or the grantor's spouse.

Generally, a trust is a grantor trust if the grantor has a reversionary interest valued (at the date of transfer) at more than 5% of the value of the transferred property.

Expenses paid by another. If your personal expenses are paid for by another person, such as a corporation, the payment may be taxable to you depending upon your relationship with that person and the nature of the payment. But if the payment makes up for a loss caused by that person, and only restores you to the position you were in before the loss, the payment is not includible in your income.

Fees for services. Include all fees for your services in your income. Examples of these fees are amounts you receive for services you perform as:

- A corporate director,
- An executor, administrator, or personal representative of an estate,
- A manager of a trade or business you operated before declaring Chapter 11 bankruptcy,
- A notary public, or
- An election precinct official.

Nonemployee compensation. If you are not an employee and the fees for your services from the same payer total $600 or more for the year, you may receive a Form 1099-MISC. You may need to report your fees as self-employment income. See *Self-Employed Persons*, in chapter 1, for a discussion of when you are considered self-employed.

Corporate director. Corporate director fees are self-employment income. Report these payments on Schedule C or Schedule C-EZ (Form 1040).

Personal representatives. All personal representatives must include in their gross income fees paid to them from an estate. If you are not in the trade or business of being an executor (for instance, you are the executor of a friend's or relative's estate), report these fees on Form 1040, line 21. If you are in the trade or business of being an executor, report these fees as self-employment income on Schedule C or Schedule C-EZ (Form 1040). The fee is not includible in income if it is waived.

Manager of trade or business for bankruptcy estate. Include in your income all payments received from your bankruptcy estate for managing or operating a trade or business that you operated before you filed for bankruptcy. Report this income on Form 1040, line 21.

Notary public. Report payments for these services on Schedule C or Schedule C-EZ (Form 1040). These payments are not subject to self-employment tax. (See the separate instructions for Schedule SE (Form 1040) for details.

Election precinct official. You should receive a Form W-2 showing payments for services performed as an election official or election worker. Report these payments on line 7 of Form 1040 or Form 1040A or on line 1 of Form 1040EZ.

Foster care providers. Payments you receive from a state, political subdivision, or a qualified foster care placement agency for providing care to qualified foster individuals in your home generally are not included in your income. However, you must include in your income payments received for the care of more than 5 individuals age 19 or older and certain difficulty-of-care payments.

A qualified foster individual is a person who:

1. Is living in a foster family home, and
2. Was placed there by:
   a. An agency of a state or one of its political subdivisions, or
   b. A qualified foster care placement agency.

Difficulty-of-care payments. These are additional payments that are designated by the payer as compensation for providing the additional care that is required for physically, mentally, or emotionally handicapped qualified foster individuals. A state must determine that the additional compensation is needed, and the care for which the payments are made must be provided in your home.

You must include in your income difficulty-of-care payments received for more than:

- 10 qualified foster individuals under age 19, or
- 5 qualified foster individuals age 19 or older.

Maintaining space in home. If you are paid to maintain space in your home for emergency foster care, you must include the payment in your income.

Reporting taxable payments. If you receive payments that you must include in your income, you are in business as a foster care provider and you are self-employed. Report the payments on Schedule C or Schedule C-EZ (Form 1040). See Publication 587, Business Use of Your Home (Including Use by Daycare Providers), to help you determine the amount you can deduct for the use of your home.

Found property. If you find and keep property that does not belong to you that has been lost or abandoned (treasure-trove), it is taxable to you at its fair market value in the first year it is your undisputed possession.

Free tour. If you received a free tour from a travel agency for organizing a group of tourists, you must include its value in your income. Report the fair market value of the tour on Form 1040, line 21, if you are not in the trade or business of organizing tours. You cannot deduct your expenses in serving as the voluntary leader of the group at the group's request. If you organize tours as a trade or business, report the tour's value on Schedule C or Schedule C-EZ (Form 1040).

Gambling winnings. You must include your gambling winnings in income on Form 1040, line 21. If you itemize your deductions on Schedule A (Form 1040), you can deduct gambling losses you had during the year, but only up to the amount of your winnings. See chapter 28 for information on recordkeeping.

Lotteries and raffles. Winnings from lotteries and raffles are gambling winnings. In addition to cash winnings, you must include in your income the fair market value of bonds, cars, houses, and other noncash prizes.



If you win a state lottery prize payable in installments, see Publication 525 for more information.

Form W-2G. You may have received a Form W-2G, Certain Gambling Winnings, showing the amount of your gambling winnings and any tax taken out of them. Include the amount from box 1 on Form 1040, line 21. Include the amount shown in box 2 on Form 1040, line 61, as federal income tax withheld.

Gifts and inheritances. Generally, property you receive as a gift, bequest, or inheritance is not included in your income. However, if property you receive this way later produces income such as interest, dividends, or rents, that income is taxable to you. If property is given to a trust and the income from it is paid, credited, or distributed to you, that income is also taxable to you. If the gift, bequest, or inheritance is the income from the property, that income is taxable to you.

Inherited pension or IRA. If you inherited a pension or an individual retirement arrangement (IRA), you may have to include part of the inherited amount in your income. See chapter 10 if you inherited a pension. See chapter 17 if you inherited an IRA.

Hobby losses. Losses from a hobby are not deductible from other income. A hobby is an activity from which you do not expect to make a profit. See *Activity not for profit*, earlier.



If you collect stamps, coins, or other items as a hobby for recreation and pleasure, and you sell any of the items, your gain is taxable as a capital gain. (See chapter 16.) However, if you sell items from your collection at a loss, you cannot deduct the loss.

2016

Instructions for Form 1099-MISC

Miscellaneous Income

Department of the Treasury
Internal Revenue Service

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 1099-MISC and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/form1099misc*.

Reminder

In addition to these specific instructions, you should also use the 2016 General Instructions for Certain Information Returns. Those general instructions include information about the following topics.

- Who must file (nominee/middleman; certain FFIs and U.S. payors that report on Form(s) 1099 to satisfy their chapter 4 reporting requirements).
- When and where to file.
- Electronic reporting requirements.
- Corrected and void returns.
- Statements to recipients.
- Taxpayer identification numbers.
- Backup withholding.
- Penalties.
- The definitions of terms applicable for chapter 4 purposes that are referenced in these instructions.
- Other general topics.

You can get the general instructions from *www.irs.gov/form1099misc*.

Specific Instructions

File Form 1099-MISC, Miscellaneous Income, for each person to whom you have paid during the year:

- At least $10 in royalties (see the instructions for box 2) or broker payments in lieu of dividends or tax-exempt interest (see the instructions for box 8);
- At least $600 in:
  1. rents (box 1);
  2. services performed by someone who is not your employee (including parts and materials), box 7;
  3. prizes and awards (see instructions for boxes 3 and 7);
  4. other income payments (box 3);
  5. medical and health care payments (box 6);
  6. crop insurance proceeds (box 10);
  7. cash payments for fish (or other aquatic life) you purchase from anyone engaged in the trade or business of catching fish (box 7);
  8. generally, the cash paid from a notional principal contract to an individual, partnership, or estate (box 3);
  9. Payments to an attorney. See *Payments to attorneys*, later; or
  10. Any fishing boat proceeds (box 5).

In addition, use Form 1099-MISC to report that you made direct sales of at least $5,000 of consumer products to a buyer for resale anywhere other than a permanent retail establishment (box 9).

You must also file Form 1099-MISC for each person from whom you have withheld any federal income tax (report in box 4) under the backup withholding rules regardless of the amount of the payment.

CAUTION *Be sure to report each payment in the proper box because the IRS uses this information to determine whether the recipient has properly reported the payment.*

Trade or business reporting only. Report on Form 1099-MISC only when payments are made in the course of your trade or business. Personal payments are not reportable. You are engaged in a trade or business if you operate for gain or profit. However, nonprofit organizations are considered to be engaged in a trade or business and are subject to these reporting requirements. Other organizations subject to these reporting requirements include trusts of qualified pension or profit-sharing plans of employers, certain organizations exempt from tax under section 501(c) or (d), farmers' cooperatives that are exempt from tax under section 521, and widely held fixed investment trusts. Payments by federal, state, or local government agencies are also reportable.

Exceptions. Some payments do not have to be reported on Form 1099-MISC, although they may be taxable to the recipient. Payments for which a Form 1099-MISC is not required include all of the following.

- Generally, payments to a corporation (including a limited liability company (LLC) that is treated as a C or S Corporation). But see *Reportable payments to corporations*, later.
- Payments for merchandise, telegrams, telephone, freight, storage, and similar items.
- Payments of rent to real estate agents. But the real estate agent must use Form 1099-MISC to report the rent paid over to the property owner. See Regulations section 1.6041-1(e)(5), Example 5, and the instructions for box 1.
- Wages paid to employees (report on Form W-2, Wage and Tax Statement).
- Military differential wage payments made to employees while they are on active duty in the Armed Forces or other uniformed services (report on Form W-2).
- Business travel allowances paid to employees (may be reportable on Form W-2).
- Cost of current life insurance protection (report on Form W-2 or Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.).
- Payments to a tax-exempt organization including tax-exempt trusts (IRAs, HSAs, Archer MSAs, and Coverdell

ESAs), the United States, a state, the District of Columbia, a U.S. possession, or a foreign government.

- Payments made to or for homeowners from the HFA Hardest Hit Fund or similar state program (report on Form 1098-MA).
- Compensation for injuries or sickness by the Department of Justice as a public safety officer disability or survivor's benefit, or under a state program that provides benefits for surviving dependents of a public safety officer who has died as the direct and proximate result of a personal injury sustained in the line of duty.

Form 1099-K. Payments made with a credit card or payment card and certain other types of payments, including third party network transactions, must be reported on Form 1099-K by the payment settlement entity under section 6050W and are not subject to reporting on Form 1099-MISC. See the separate Instructions for Form 1099-K.

Fees paid to informers. A payment to an informer as an award, fee, or reward for information about criminal activity does not have to be reported if the payment is made by a federal, state, or local government agency, or by a nonprofit organization exempt from tax under section 501(c)(3) that makes the payment to further the charitable purpose of lessening the burdens of government. For more information, see Regulations section 1.6041-3(l).

Scholarships. Do not use Form 1099-MISC to report scholarship or fellowship grants. Scholarship or fellowship grants that are taxable to the recipient because they are paid for teaching, research, or other services as a condition for receiving the grant are considered wages and must be reported on Form W-2. Other taxable scholarship or fellowship payments (to a degree or nondegree candidate) do not have to be reported by you to the IRS on any form. See section 117(b)-(d) and Regulations section 1.6041-3(n) for more information.

Difficulty-of-care payments. Do not use Form 1099-MISC to report difficulty-of-care payments that are excludable from the recipient's gross income. Difficulty-of-care payments to foster care providers are not reportable if paid for fewer than 11 children under age 19 and fewer than six individuals age 19 or older. Amounts paid for more than 10 children or more than five other individuals are reportable on Form 1099-MISC.

Certain Medicaid waiver payments may be excludable from income as difficulty-of-care payments. For more information, see Notice 2014-7, available at *www.irs.gov/irb/2014-4_IRB/ar06.html*, and Medicaid waiver payments frequently asked questions (FAQs), available at *www.irs.gov/Individuals/Certain-Medicaid-Payments-May-Be-Excludable-From-Income*.

Canceled debt. A canceled debt is not reportable on Form 1099-MISC. Canceled debts must be reported on Form 1099-C, Cancellation of Debt, by financial institutions, credit unions, Federal Government agencies, certain agencies connected with the Federal Government, and an organization where the lending of money (such as finance and credit card companies) is a significant trade or business. See the Instructions for Forms 1099-A and 1099-C.

Reportable payments to corporations. The following payments made to corporations generally must be reported on Form 1099-MISC.

- Medical and health care payments reported in box 6.
- Fish purchases for cash reported in box 7.
- Attorneys' fees reported in box 7.
- Gross proceeds paid to an attorney reported in box 14.
- Substitute payments in lieu of dividends or tax-exempt interest reported in box 8.
- Payments by a federal executive agency for services (vendors) reported in box 7.



Federal executive agencies may also have to file Form 8596, Information Return for Federal Contracts, and Form 8596-A, Quarterly Transmittal of Information Returns for Federal Contracts, if a contracted amount for personal services is more than $25,000. See Rev. Rul. 2003-66, which is on page 1115 of Internal Revenue Bulletin 2003-26 at www.irs.gov/pub/irs-irbs/irb03-26.pdf for details.

Payments to attorneys. The term "attorney" includes a law firm or other provider of legal services. Attorneys' fees of $600 or more paid in the course of your trade or business are reportable in box 7 of Form 1099-MISC.

Gross proceeds paid to attorneys. Under section 6045(f), report in box 14 payments that:

- Are made to an attorney in the course of your trade or business in connection with legal services, for example, as in a settlement agreement;
- Total $600 or more and
- Are not reportable by you in box 7.

Generally, you are not required to report the claimant's attorney's fees. For example, an insurance company pays a claimant's attorney $100,000 to settle a claim. The insurance company reports the payment as gross proceeds of $100,000 in box 14. The insurance company does not have a reporting requirement for the claimant's attorney's fees subsequently paid from these funds.

These rules apply whether or not the legal services are provided to the payer and whether or not the attorney is the exclusive payee (for example, the attorney's and claimant's names are on one check) or other information returns are required for some or all of a payment under section 6041A(a)(1). For example, a person who, in the course of a trade or business, pays $600 of taxable damages to a claimant by paying that amount to a claimant's attorney is required to furnish Form 1099-MISC to the claimant under section 6041 and furnish Form 1099-MISC to the claimant's attorney under section 6045(f). For more examples and exceptions relating to payments to attorneys, see Regulations section 1.6045-5.

However, these rules do not apply to wages paid to attorneys that are reportable on Form W-2 or to profits distributed by a partnership to its partners that are reportable on:

- Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc.; or
- Schedule K-1 (Form 1065-B), Partner's Share of Income (Loss) From an Electing Large Partnership.

Payments to corporations for legal services. The exemption from reporting payments made to corporations does not apply to payments for legal services. Therefore, you must report attorneys' fees (in box 7) or gross proceeds (in box 14) as described earlier to corporations that provide legal services.

Taxpayer identification numbers (TINs). To report payments to an attorney on Form 1099-MISC, you must obtain the attorney's TIN. You may use Form W-9, Request for Taxpayer Identification Number and Certification, to obtain the attorney's TIN. An attorney is required to promptly supply its TIN whether it is a corporation or other entity, but