Department of the Treasury

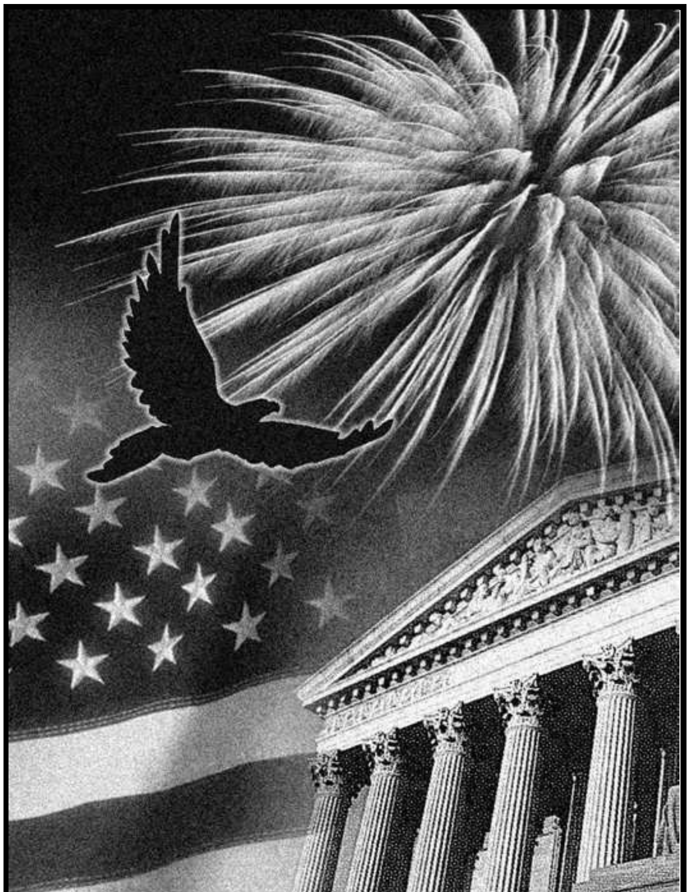
Internal Revenue Service

Publication 559
Cat. No. 15107U

Survivors, Executors, and Administrators

For use in preparing

2010 Returns



Get forms and other information faster and easier by:

Internet IRS.gov

Contents

Mar 14, 2011

What's New

Public Law 111-312, Act section 301:

1. Reinstated the estate tax for 2010,
2. Repealed the modified carryover of basis rules of section 1022 for property acquired from a decedent who died in 2010, and
3. Created a special election that elects out of the estate tax rules for 2010 and uses the modified carryover of basis rules (section 1022) for property acquired from a decedent dying in 2010.

If the special election is not made, the rules for determining basis of property acquired from a decedent who died in 2010 are the same as the rules for property acquired from a decedent who died in 2008 or 2009. This publication helps those in charge of the decedent's estate that did not make the special election.

This publication does not include a discussion of the application of the special election. Generally, the special election benefits estates that exceed the $5 million applicable exclusion for 2010. For more information about the special election and its application, see Publication 4895, Tax Treatment of Property Acquired From a Decedent Dying in 2010 and Form 8939, Allocation of Increase in Basis for Property Received From a Decedent.

Reminders

Throughout this publication, section references are to the Internal Revenue Code unless otherwise noted.

Requests for extension to file Form 1041. The automatic extension of time to file Form 1041, U.S. Income Tax Return for Estates and Trusts, has been decreased from six months to five months. You can request an automatic 5-month extension of time to file Form 1041 by filing Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns.

Consistent treatment of estate and trust items. Beneficiaries must generally treat estate items the same way on their individual returns as they are treated on the estate's return.

Photographs of missing children. The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. 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 does **not** discuss the tax effects of the special election for an estate of a decedent dying in 2010, under Public Law 111-312, Act section 301(c).*

For information regarding the special election, see Publication 4895 and Form 8939.

This publication is designed to help those in charge of the property (estate) of an individual who has died (decedent). It shows them how to complete and file federal income tax returns and points out their responsibility to pay any taxes due.

A comprehensive example, using tax forms, is included near the end of this publication. Also included at the end of this publication are the following items.

- A checklist of the forms you may need and their due dates.
- A worksheet to reconcile amounts reported in the decedent's name on information Forms W-2, 1099-INT, 1099-DIV, etc. The worksheet will help you correctly determine the income to report on the decedent's final return and on the return for either the estate or a beneficiary.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can write to us at the following address:

Internal Revenue Service
SE:W:CAR:MP:T:T:SP
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at *taxforms@irs.gov. (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

Useful Items

You may want to see:

Publication

- ❏ **3** Armed Forces' Tax Guide
- ❏ **950** Introduction to Estate and Gift Taxes
- ❏ **4895** Tax Treatment of Property Acquired From a Decedent Dying in 2010

Form (and Instructions)

- ❏ **SS-4** Application for Employer Identification Number
- ❏ **56** Notice Concerning Fiduciary Relationship
- ❏ **1040** U.S. Individual Income Tax Return
- ❏ **1041** U.S. Income Tax Return for Estates and Trusts
- ❏ **706** United States Estate (and Generation-Skipping Transfer) Tax Return
- ❏ **1310** Statement of Person Claiming Refund Due a Deceased Taxpayer
- ❏ **8939** Allocation of Increase in Basis for Property Received From a Decedent

See *How To Get Tax Help* near the end of this publication for information about getting publications and forms. Also near the end of this publication is *Table A,* a handy checklist of forms and their due dates.

Personal Representative

A *personal representative* of an estate is an executor, administrator, or anyone who is in charge of the decedent's property. Generally, an *executor* (or *executrix*) is named in a decedent's will to administer the estate and distribute properties as the decedent has directed. An *administrator* (or *administratrix*) is usually appointed by the court if no will exists, if no executor was named in the will, or if the named executor cannot or will not serve.

In general, an executor and an administrator perform the same duties and have the same responsibilities.

For estate tax purposes, if there is no executor or administrator appointed, qualified, and acting within the United States, the term "executor" includes anyone in actual or constructive possession of any property of the decedent. It includes, among others, the decedent's agents and representatives; safe-deposit companies, warehouse companies, and other custodians of property in this country; brokers holding securities of the decedent as collateral; and the debtors of the decedent who are in this country.

A personal representative for a decedent's estate can be an executor, administrator, or anyone in charge of the decedent's property, so the term personal representative will be used throughout this publication.

Duties

The primary duties of a personal representative are to collect all the decedent's assets, pay the creditors, and distribute the remaining assets to the heirs or other beneficiaries.

The personal representative also must perform the following duties.

- Apply for an employer identification number (EIN) for the estate.
- File all income tax returns and the estate tax return when due.
- Pay the tax determined up to the date of discharge from duties.

Other duties of the personal representative in federal tax matters are discussed in other sections of this publication. If any beneficiary is a nonresident alien, see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities, for information on the personal representative's duties as a withholding agent.

Penalty. There is a penalty for failure to file a tax return when due unless the failure is due to reasonable cause. Reliance on an agent (attorney, accountant, etc.) is not reasonable cause for late filing. It is the personal representative's duty to file the returns for the decedent and the estate when due.

Identification number. The first action you should take if you are the personal representative for the decedent is to apply for an EIN for the estate. You should apply for this number as soon as possible because you need to enter it on returns, statements, and other documents you file concerning the estate. You also must give the number to payers of interest and dividends and other payers who must file a return concerning the estate.

You can get an EIN by applying online at www.irs.gov/businesses or by calling 1-800-829-4933, Monday through Friday. Generally, if you apply online, you will receive your EIN immediately upon completing the application. You can also apply using Form SS-4, Application for Employer Identification Number. Generally, if you apply by mail, it takes about 4 weeks to get your EIN. See the form instructions for other ways to apply.

Payers of interest and dividends report amounts on Forms 1099 using the identification number of the person to whom the account is payable. After a decedent's death, Forms 1099 must reflect the identification number of the estate or beneficiary to whom the amounts are payable. As the personal representative handling the estate, you must furnish this identification number to the payer. For example, if interest is payable to the estate, the estate's EIN must be provided to the payer and used to report the interest on Form 1099-INT, Interest Income. If the interest is payable to a surviving joint owner, the survivor's identification number must be provided to the payer and used to report the interest.

If the estate or a survivor may receive interest or dividends after you inform the payer of the decedent's death, the payer should give you (or the survivor) a Form W-9, Request for Taxpayer Identification Number and Certification (or a similar substitute form). Complete this form to inform the payer of the estate's (or if completed by the survivor, the survivor's) identification number and return it to the payer.

Do not use the deceased individual's identifying number to file an individual tax return after the decedent's final tax return. Also do not use it to make estimated tax payments for a tax year after the year of death.

Penalty. If you do not include the EIN or the taxpayer identification number of another person where it is required on a return, statement, or other document, you are liable for a penalty for each failure, unless you can show reasonable cause. You also are liable for a penalty if you do not give the taxpayer identification number of another person when required on a return, statement, or other document.

Notice of fiduciary relationship. The term *fiduciary* means any person acting for another person. It applies to persons who have positions of trust on behalf of others. A personal representative for a decedent's estate is a fiduciary.

Form 56. If you are appointed to act in a fiduciary capacity for another, you must file a written notice with the IRS stating this. Form 56, Notice Concerning Fiduciary Relationship, is used for this purpose. The instructions and other requirements are given on the back of the form.

File Form 56 as soon as all the necessary information (including the EIN) is available. It notifies the IRS that you, as the fiduciary, are assuming the powers, rights, duties, and privileges of the decedent. The notice remains in effect until you notify the IRS (by filing another Form 56) that your fiduciary relationship with the estate has terminated.

Termination of fiduciary relationship. Form 56 should be filed to notify the IRS if your fiduciary relationship is terminated. Form 56 also should be filed to notify the IRS when a successor fiduciary is appointed if the estate has not been terminated. See Form 56 and its instructions for more information.

At the time of termination of the fiduciary relationship, you may want to file Form 4810, Request for Prompt Assessment Under Internal Revenue Code Section 6501(d), and Form 5495, Request for Discharge From Personal Liability Under Internal Revenue Code Section 2204 or 6905, to wind up your duties as fiduciary. See below for a discussion of these forms.

Request for prompt assessment (charge) of tax. The IRS ordinarily has 3 years from the date an income tax return is filed, or its due date, whichever is later, to charge any additional tax due. However, as a personal representative, you may request a prompt assessment of tax after the return has been filed. This reduces the time for making the assessment to 18 months from the date the written request for prompt assessment was received. This request can be made for any tax return (except the estate tax return) of the decedent or the decedent's estate. This may permit a quicker settlement of the tax liability of the estate and an earlier final distribution of the assets to the beneficiaries.

Form 4810. Form 4810 can be used for making this request. It must be filed separately from any other document.

As the personal representative for the decedent's estate, you are responsible for any additional taxes that may be due. You can request prompt assessment of any of the decedent's taxes (other than federal estate taxes) for any years for which the statutory period for assessment is open. This applies even though the returns were filed before the decedent's death.

Failure to report income. If you or the decedent failed to report substantial amounts of gross income (more than 25% of the gross income reported on the return) or filed a false or fraudulent return, your request for prompt assessment will not shorten the period during which the IRS may assess the additional tax. However, such a request may relieve you of personal liability for the tax if you did not have knowledge of the unpaid tax.

Request for discharge from personal liability for tax. An executor can make a request for discharge from personal liability for a decedent's income, gift, and estate taxes. The request must be made after the returns for those taxes are filed. To make the request, file Form 5495. For this purpose, an executor is an executor or administrator that is appointed, qualified, and acting within the United States.

Within 9 months after receipt of the request, the IRS will notify the executor of the amount of taxes due. If this amount is paid, the executor will be discharged from personal liability for any future deficiencies. If the IRS has not notified the executor, he or she will be discharged from personal liability at the end of the 9-month period.

CAUTION

Even if the executor is discharged from personal liability, the IRS will still be able to assess tax deficiencies against the executor to the extent he or she still has any of the decedent's property.

Insolvent estate. Generally, if a decedent's estate is insufficient to pay all the decedent's debts, the debts due the United States must be paid first. Both the decedent's federal income tax liabilities at the time of death and the estate's income tax liability are debts due the United States. The personal representative of an insolvent estate is personally responsible for any tax liability of the decedent or of the estate if he or she had notice of such tax obligations or had failed to exercise due care in determining if such obligations existed before distribution of the estate's assets and before being discharged from duties. The extent of such personal responsibility is the amount of any other payments made before paying the debts due the United States, except where such other debt paid has priority over the debts due the United States. The income tax liabilities need not be formally assessed for the personal representative to be liable if he or she was aware or should have been aware of their existence.

Fees Received by 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). Otherwise, self-employment tax only applies if a trade or business is included in the estate's assets, the executor actively participates in the business, and the fees are related to operation of the business.

Final Income Tax Return for Decedent—Form 1040

The personal representative (defined earlier) must file the final income tax return (Form 1040) of the decedent for the year of death and any returns not filed for preceding years. A surviving spouse, under certain circumstances, may have to file the returns for the decedent. See *Joint Return,* later.

Return for preceding year. If an individual died after the close of the tax year, but before the return for that year was filed, the return for the year just closed will not be the final return. The return for that year will be a regular return and the personal representative must file it.

Example. Samantha Smith died on March 21, 2010, before filing her 2009 tax return. Her personal representative must file her 2009 return by April 15, 2010. Her final tax return covering the period from January 1, 2010, to March 20, 2010, is due April 18, 2011.

Name, Address, and Signature

Write the word "DECEASED," the decedent's name, and the date of death across the top of the tax return. If filing a joint return, write the name and address of the decedent and the surviving spouse in the name and address space. If a joint return is not being filed, write the decedent's name in the name space and the personal representative's name and address in the remaining space.

Third party designee. You can check the "Yes" box in the Third Party Designee area of the return to authorize the IRS to discuss the return with a friend, family member, or any other person you choose. This allows the IRS to call the person you identified as the designee to answer any questions that may arise during the processing of the return. It also allows the designee to perform certain actions. See the income tax package for details.

Signature. If a personal representative has been appointed, that person must sign the return. If it is a joint return, the surviving spouse must also sign it. If no personal representative has been appointed, the surviving spouse (on a joint return) signs the return and writes in the signature area "Filing as surviving spouse." If no personal representative has been appointed and if there is no surviving spouse, the person in charge of the decedent's property must file and sign the return as "personal representative."

Paid preparer. If you pay someone to prepare, assist in preparing, or review the tax return, that person must sign the return and fill in the other blanks in the *Paid Preparer Use Only* area of the return. See the income tax package for details.

When and Where To File

The final income tax return is due at the same time the decedent's return would have been due had death not occurred. A final return for a decedent who was a calendar year taxpayer is generally due on April 15 following the year of death, regardless of when during that year death occurred. However, when the due date falls on a Saturday, Sunday, or legal holiday, the return is filed timely if filed by the next business day.

The tax return must be prepared on a form for the year of death regardless of when during the year death occurred.

Generally, you must file the final income tax return of the decedent with the Internal Revenue Service Center for the place where you live. A tax return for a decedent can be electronically filed. A personal representative may also obtain an income tax filing extension on behalf of a decedent.

Filing Requirements

The gross income, age, and filing status of a decedent generally determine whether a return must be filed. Gross income usually is all income received by an individual in the form of money, goods, property, and services that is not tax-exempt. It includes gross receipts from self-employment, but if the business involves manufacturing, merchandising, or mining, subtract any cost of goods sold. In general, filing status depends on whether the decedent was considered single or married at the time of death. See the income tax return instructions or Publication 501, Exemptions, Standard Deduction, and Filing Information.

Refund

A return should be filed to obtain a refund if tax was withheld from salaries, wages, pensions, or annuities, or if estimated tax was paid, even if a return is not required to be filed. Also, the decedent may be entitled to other credits that result in a refund. These advance payments of tax and credits are discussed later under *Credits, Other Taxes, and Payments.*

Form 1310. However, you do not have to file Form 1310 if you are claiming a refund and you are:

- A surviving spouse filing an original or amended joint return with the decedent, or
- A court-appointed or certified personal representative filing the decedent's original return and a copy of the court certificate showing your appointment is attached to the return.

If the personal representative is filing a claim for refund on Form 1040X, Amended U.S. Individual Income Tax Return, or Form 843, Claim for Refund and Request for Abatement, and the court certificate has already been filed with the IRS, attach Form 1310 and write "Certificate Previously Filed" at the bottom of the form.

Example. Mr. Green died before filing his tax return. You were appointed the personal representative for Mr. Green's estate, and you file his Form 1040 showing a refund due. You do not need Form 1310 to claim the refund if you attach a copy of the court certificate showing you were appointed the personal representative.

TIP *If you are a surviving spouse and you receive a tax refund check in both your name and your deceased spouse's name, you can have the check reissued in your name alone. Return the joint-name check marked "VOID" to your local IRS office or the service center where you mailed your return, along with a written request for reissuance of the refund check. A new check will be issued in your name and mailed to you.*

Death certificate. When filing the decedent's final income tax return, do not attach the death certificate or other proof of death to the final return. Instead, keep it for your records and provide it if requested.

Nonresident Alien

If the decedent was a nonresident alien who would have had to file Form 1040NR, U.S. Nonresident Alien Income Tax Return, you must file that form for the decedent's final tax year. See the instructions for Form 1040NR for the filing requirements, due date, and where to file.

Joint Return

Generally, the personal representative and the surviving spouse can file a joint return for the decedent and the surviving spouse. However, the surviving spouse alone can file the joint return if no personal representative has been appointed before the due date for filing the final joint return for the year of death. This also applies to the return for the preceding year if the decedent died after the close of the preceding tax year and before filing the return for that year. The income of the decedent that was includible on his or her return for the year up to the date of death (see *Income To Include,* later) and the income of the surviving spouse for the entire year must be included in the final joint return.

A final joint return with the decedent cannot be filed if the surviving spouse remarried before the end of the year of the decedent's death. The filing status of the decedent in this instance is married filing a separate return.

For information about tax benefits to which a surviving spouse may be entitled, see *Tax Benefits for Survivors,* later, under *Other Tax Information.*

Personal representative may revoke joint return election. A court-appointed personal representative may revoke an election to file a joint return previously made by the surviving spouse alone. This is done by filing a separate return for the decedent within one year from the due date of the return (including any extensions). The joint return made by the surviving spouse will then be regarded as the separate return of that spouse by excluding the decedent's items and refiguring the tax liability.

Relief from joint liability. In some cases, one spouse may be relieved of joint liability for tax, interest, and penalties on a joint return for items of the other spouse that were incorrectly reported on the joint return. If the decedent qualified for this relief while alive, the personal representative can pursue an existing request, or file a request, for relief from joint liability. For information on requesting this relief, see Publication 971, Innocent Spouse Relief.

Income To Include

The decedent's income includible on the final return is generally determined as if the person were still alive except that the taxable period is usually shorter because it ends on the date of death. The method of accounting regularly used by the decedent before death also determines the income includible on the final return. This section explains how some types of income are reported on the final return.

For more information about accounting methods, see Publication 538, Accounting Periods and Methods.

Cash Method

If the decedent accounted for income under the cash method, only those items actually or constructively received before death are included on the final return.

Constructive receipt of income. Interest from coupons on the decedent's bonds was constructively received by the decedent if the coupons matured in the decedent's final tax year, but had not been cashed. Include the interest in the final return.

Generally, a dividend was constructively received if it was available for use by the decedent without restriction. If the corporation customarily mailed its dividend checks, the dividend was includible when received. If the individual died between the time the dividend was declared and the time it was received in the mail, the decedent did not constructively receive it before death. Do not include the dividend in the final return.

Accrual Method

Generally, under an accrual method of accounting, income is reported when earned.

If the decedent used an accrual method, only the income items normally accrued before death are included on the final return.

Interest and Dividend Income (Forms 1099)

Form 1099 should be received for the decedent reporting interest and dividends earned before death and included on the decedent's final return. A separate Form 1099 should show the interest and dividends earned after the date of the decedent's death and paid to the estate or other recipient that must include those amounts on its return. You can request corrected Forms 1099 if these forms do not properly reflect the right recipient or amounts.

For example, a Form 1099-INT, Interest Income, reporting interest payable to the decedent may include income that should be reported on the final income tax return of the decedent, as well as income that the estate or other recipient should report, either as income earned after death or as income in respect of the decedent (discussed later). For income earned after death, you should ask the payer for a Form 1099 that properly identifies the recipient (by name and identification number) and the proper amount. If that is not possible, or if the form includes an amount that represents income in respect of the decedent, report the interest as shown next under *How to report.*

See *U.S. savings bonds acquired from decedent* under *Income in Respect of the Decedent,* later, for information on savings bond interest that may have to be reported on the final return.

How to report. If you are preparing the decedent's final return and you have received a Form 1099-INT for the decedent that includes amounts belonging to the decedent and to another recipient (the decedent's estate or another beneficiary), report the total interest shown on Form 1099-INT on Schedule B (Form 1040A or 1040), Interest and Ordinary Dividends. Next, enter a subtotal of the interest shown on Forms 1099, and the interest reportable from other sources for which you did not receive Forms 1099. Then, show any interest (including any interest you receive as a nominee) belonging to another recipient separately and subtract it from the subtotal. Identify the amount of this adjustment as "Nominee Distribution" or other appropriate designation.

Report dividend income for which you received a Form 1099-DIV, Dividends and Distributions, on the appropriate schedule using the same procedure.

Note. If the decedent received amounts as a nominee, you must give the actual owner a Form 1099, unless the owner is the decedent's spouse. See General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G for more information on filing Forms 1099.

Partnership Income

The death of a partner closes the partnership's tax year for that partner. Generally, it does not close the partnership's tax year for the remaining partners. The decedent's distributive share of partnership items must be figured as if the partnership's tax year ended on the date the partner died. To avoid an interim closing of the partnership books, the partners can agree to estimate the decedent's distributive share by prorating the amounts the partner would have included for the entire partnership tax year.

On the decedent's final return, include the decedent's distributive share of partnership items for the following periods.

1. The partnership's tax year that ended within or with the decedent's final tax year (the year ending on the date of death).
2. The period, if any, from the end of the partnership's tax year in (1) to the decedent's date of death.

Example. Mary Smith was a partner in XYZ partnership and reported her income on a tax year ending December 31. The partnership uses a tax year ending June 30. Mary died August 31, 2010, and her estate established its tax year through August 31.

The distributive share of partnership items based on the decedent's partnership interest is reported as follows.

- Final Return for the Decedent—January 1 through August 31, 2010, includes XYZ partnership items from (a) the partnership tax year ending June 30, 2010, and (b) the partnership tax year beginning July 1, 2010, and ending August 31, 2010 (the date of death).
- Income Tax Return of the Estate—September 1, 2010, through August 31, 2011, includes XYZ partnership items for the period September 1, 2010, through June 30, 2011.

S Corporation Income

If the decedent was a shareholder in an S corporation, include on the final return the decedent's share of the S corporation's items of income, loss, deduction, and credit for the following periods.

1. The corporation's tax year that ended within or with the decedent's final tax year (the year ending on the date of death).
2. The period, if any, from the end of the corporation's tax year in (1) to the decedent's date of death.

Self-Employment Income

Include self-employment income actually or constructively received or accrued, depending on the decedent's accounting method. For self-employment tax purposes only, the decedent's self-employment income will include the decedent's distributive share of a partnership's income or loss through the end of the month in which death occurred. For this purpose, the partnership's income or loss is considered to be earned ratably over the partnership's tax year.

Community Income

If the decedent was married and domiciled in a community property state, half of the income received and half of the expenses paid during the decedent's tax year by either the decedent or spouse may be considered to be the income and expenses of the other. For more information, see Publication 555, Community Property.

HSA, Archer MSA, or Medicare Advantage MSA

The treatment of an HSA (health savings account), an Archer MSA (medical savings account), or a Medicare Advantage MSA at the death of the account holder, depends on who acquires the interest in the account. If the decedent's estate acquires the interest, the fair market value (FMV) of the assets in the account on the date of death is included in income on the decedent's final return. The estate tax deduction, discussed later, does not apply to this amount.

If a beneficiary acquires the interest, see the discussion under *Income in Respect of a Decedent,* later. For other information on HSAs, Archer MSAs, or Medicare Advantage MSAs, see Publication 969, Health Savings Accounts and Other Tax-Favored Health Plans.

Coverdell Education Savings Account (ESA)

Generally, the balance in a Coverdell ESA must be distributed within 30 days after the individual for whom the account was established reaches age 30, or dies, whichever is earlier. The treatment of the Coverdell ESA at the death of an individual under age 30 depends on who acquires the interest in the account. If the decedent's estate acquires the interest, the earnings on the account must be included on the final income tax return of the decedent. The estate tax deduction, discussed later, does not apply to this amount. If a beneficiary acquires the interest, see the discussion under *Income in Respect of a Decedent,* later.

The age 30 limitation does not apply if the individual for whom the account was established or the beneficiary that acquires the account is an individual with special needs. This includes an individual who, because of a physical, mental, or emotional condition (including a learning disability), requires additional time to complete his or her education.

For more information on Coverdell ESAs, see Publication 970, Tax Benefits for Education.

Accelerated Death Benefits

Accelerated death benefits are amounts received under a life insurance contract before the death of the insured individual. These benefits also include amounts received on the sale or assignment of the contract to a viatical settlement provider.

Generally, if the decedent received accelerated death benefits either on his or her own life or on the life of another person, those benefits are not included in the decedent's income. This exclusion applies only if the insured was a terminally or chronically ill individual. For more information, see the discussion under *Gifts, Insurance, and Inheritances* under *Other Tax Information,* later.

Exemptions and Deductions

Generally, the rules for exemptions and deductions allowed to an individual also apply to the decedent's final income tax return. Show on the final return deductible items the decedent paid (or accrued, if the decedent reported deductions on an accrual method) before death. This section contains a detailed discussion of medical expenses because the tax treatment of the decedent's medical expenses can be different. See *Medical Expenses,* later.

Exemptions

You can claim the decedent's personal exemption on the final income tax return. If the decedent was another person's dependent (for example, a parent's), you cannot claim the personal exemption on the decedent's final return.

Standard Deduction

If you do not itemize deductions on the final return, the full amount of the appropriate standard deduction is allowed regardless of the date of death. For information on the appropriate standard deduction, see the Form 1040 income tax return instructions or Publication 501.

Medical Expenses

Medical expenses paid before death by the decedent are deductible, subject to limits, on the final income tax return if deductions are itemized. This includes expenses for the decedent, as well as for the decedent's spouse and dependents.

CAUTION: *Qualified medical expenses are not deductible if paid with a tax-free distribution from an HSA or an Archer MSA.*

Election for decedent's expenses. Medical expenses not paid before death are liabilities of the estate and are shown on the federal estate tax return (Form 706). However, if medical expenses for the decedent are paid out of the estate during the 1-year period beginning with the day after death, you can elect to treat all or part of the expenses as paid by the decedent at the time they were incurred.

If you make the election, you can claim all or part of the expenses on the decedent's income tax return (if deductions are itemized) rather than on the federal estate tax return (Form 706). You can deduct expenses incurred in the year of death on the final income tax return. You should file an amended return (Form 1040X) for medical expenses incurred in an earlier year, unless the statutory period for filing a claim for that year has expired.

The amount you can deduct on the income tax return is the amount above 7.5% of adjusted gross income. Amounts not deductible because of this percentage cannot be claimed on the federal estate tax return.

Making the election. You make the election by attaching a statement, in duplicate, to the decedent's income tax return or amended return. The statement must state that you have not claimed the amount as an estate tax deduction, and that the estate waives the right to claim the amount as a deduction. This election applies only to expenses incurred for the decedent, not to expenses incurred to provide medical care for dependents.

Example. Richard Brown used the cash method of accounting and filed his income tax return on a calendar year basis. Mr. Brown died on June 1, 2010, after incurring $800 in medical expenses. Of that amount, $500 was incurred in 2009 and $300 was incurred in 2010. Richard itemized his deductions when he filed his 2009 income tax return. The personal representative of the estate paid the entire $800 liability in August 2010.

The personal representative may file an amended return (Form 1040X) for 2009 claiming the $500 medical expense as a deduction, subject to the 7.5% limit. The $300 of expenses incurred in 2010 can be deducted on the final income tax return if deductions are itemized, subject to the 7.5% limit. The personal representative must file a statement in duplicate with each return stating that these amounts have not been claimed on the federal estate tax return (Form 706), and waiving the right to claim such a deduction on Form 706 in the future.

Medical expenses not paid by estate. If you paid medical expenses for your deceased spouse or dependent, claim the expenses on your tax return for the year in which you paid them, whether they are paid before or after the decedent's death. If the decedent was a child of divorced or separated parents, the medical expenses can usually be claimed by both the custodial and noncustodial parent to the extent paid by that parent during the year.

Insurance reimbursements. Insurance reimbursements of previously deducted medical expenses due a decedent at the time of death and later received by the decedent's estate are includible in the income tax return of the estate (Form 1041) for the year the reimbursements are received. The reimbursements are also includible in the decedent's gross estate.

CAUTION: *No deduction for funeral expenses can be taken on the final Form 1040 of a decedent. These expenses may be deductible for estate tax purposes on Form 706.*

Deduction for Losses

A decedent's net operating loss deduction from a prior year and any capital losses (including capital loss carryovers) can be deducted only on the decedent's final income tax return. A net operating loss on the decedent's final income tax return can be carried back to prior years. (See Publication 536, Net Operating Losses (NOLs) for Individuals, Estates, and Trusts.) You cannot deduct any unused net operating loss or capital loss on the estate's income tax return.

At-risk loss limits. Special at-risk rules apply to most activities that are engaged in as a trade or business or for the production of income.

These rules limit the deductible loss to the amount for which the individual was considered at risk in the activity. An individual generally will be considered at risk to the extent of the money and the adjusted basis of property that he or she contributed to the activity and certain amounts the individual borrowed for use in the activity. An individual will be considered at risk for amounts borrowed only if he or she was personally liable for the repayment or if the amounts borrowed were secured by property other than that used in the activity. The individual is not considered at risk for borrowed amounts if the lender has an interest in the activity or if the lender is related to a person who has an interest in the activity. For more information, see Publication 925, Passive Activity and At-Risk Rules.

Passive activity rules. A *passive activity* is any trade or business activity in which the taxpayer does not materially participate. To determine material participation, see Publication 925. Rental activities are passive activities regardless of the taxpayer's participation, unless the taxpayer meets certain eligibility requirements.

Individuals, estates, and trusts can offset passive activity losses only against passive activity income. Passive activity losses or credits not allowed in one tax year can be carried forward to the next year.

If a passive activity interest is transferred because a taxpayer dies, the accumulated unused passive activity losses are allowed as a deduction against the decedent's income in the year of death. Losses are allowed only to the extent they are greater than the excess of the transferee's (recipient of the interest transferred) basis in the property over the decedent's adjusted basis in the property immediately before death. The part of the accumulated losses equal to the excess is not allowed as a deduction for any tax year.

Use Form 8582, Passive Activity Loss Limitations, to summarize losses and income from passive activities and to figure the amounts allowed. For more information, see Publication 925.

Credits, Other Taxes, and Payments

Discussed below are some of the tax credits, types of taxes that may be owed, income tax withheld, and estimated tax payments reported on the final return of a decedent.

Credits

On the final income tax return, you can claim any tax credits that applied to the decedent before death. Some of these credits are discussed next.

Earned income credit. If the decedent was an eligible individual, you can claim the earned income credit on the decedent's final return even though the return covers less than 12 months. If the allowable credit is more than the tax liability for the year, the excess is refunded.

For more information, see Publication 596, Earned Income Credit (EIC).

Credit for the elderly or the disabled. This credit is allowable on a decedent's final income tax return if the decedent met both of the following requirements in the year of death. The decedent:

- Was a "qualified individual," and
- Had income (adjusted gross income (AGI) and nontaxable social security and pensions) less than certain limits.

For details on qualifying for or figuring the credit, see Publication 524, Credit for the Elderly or the Disabled.

Child tax credit. If the decedent had a qualifying child, you may be able to claim the child tax credit on the decedent's final return even though the return covers less than 12 months. You may be able to claim the additional child tax credit and get a refund if the credit is more than the decedent's liability. For more information, see the Form 1040 income tax form instructions.

Adoption credit. Depending upon when the adoption was finalized, this credit may be taken upon a decedent's final income tax return if the decedent:

- Adopted an eligible child and paid qualified adoption expenses, or
- Has a carryforward of an adoption credit from a prior year.

Also, if the decedent is survived by a spouse who meets the filing status of qualifying widow(er), unused adoption credit may be carried forward and used following the death of the decedent. See Form 8839, Qualified Adoption Expenses, and its Instructions for more details.

General business tax credit. The general business credit available to a taxpayer is limited. Any credit arising in a tax year beginning before 1998 that has not been used up can be carried forward for up to 15 years. Any unused credit arising in a tax year beginning after 1997 has a 1-year carryback and a 20-year carryforward period.

After the carryforward period, a deduction may be allowed for any unused business credit. If the taxpayer dies before the end of the carryforward period, the deduction generally is allowed in the year of death.

For more information on the general business credit, see Publication 334, Tax Guide for Small Business.

Other Taxes

Taxes other than income tax that may be owed on the final return of a decedent include self-employment tax and alternative minimum tax, which are reported on Form 1040.

Self-employment tax. Self-employment tax may be owed on the final return if either of the following applied to the decedent in the year of death.

1. Net earnings from self-employment (excluding income described in (2)) were $400 or more.
2. Wages from services performed as a church employee were $108.28 or more.

Alternative minimum tax (AMT). The tax laws give special treatment to some kinds of income and allow special deductions and credits for some kinds of expenses. The alternative minimum tax (AMT) was enacted so certain taxpayers who benefit from these laws still pay at least a minimum amount of tax. In general, the AMT is the excess of the tentative minimum tax over the regular tax shown on the return.

Form 6251. Use Form 6251, Alternative Minimum Tax—Individuals, to determine if this tax applies to the decedent. See the form instructions for information on when you must attach the form to the tax return.

Form 8801. If the decedent paid AMT in a previous year or had a credit carryforward, the decedent may be eligible for a minimum tax credit. See Form 8801, Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts.

Payments of Tax

The income tax withheld from the decedent's salary, wages, pensions, or annuities, and the amount paid as estimated tax are credits (advance payments of tax) that you must claim on the final return.

Tax Forgiveness for Armed Forces Members, Victims of Terrorism, and Astronauts

Income tax liability may be forgiven for a decedent who dies due to service in a combat zone, due to military or terrorist actions, as a result of a terrorist attack, or while serving in the line of duty as an astronaut.

Combat Zone

If a member of the Armed Forces of the United States dies while in active service in a combat zone or from wounds, disease, or injury incurred in a combat zone, the decedent's income tax liability is abated (forgiven) for the entire year in which death occurred and for any prior tax year ending on or after the first day the person served in a combat zone in active service. For this purpose, a qualified hazardous duty area is treated as a combat zone.

If the tax (including interest, additions to the tax, and additional amounts) for these years has been assessed, the assessment will be forgiven. If the tax has been collected (regardless of the date of collection), that tax will be credited or refunded.

Any of the decedent's income tax for tax years before those mentioned above that remains unpaid as of the actual (or presumptive) date of death will not be assessed. If any unpaid tax (including interest, additions to the tax, and additional amounts) has been assessed, this assessment will be forgiven. Also, if any tax was collected after the date of death, that amount will be credited or refunded.

The date of death of a member of the Armed Forces reported as missing in action or as a prisoner of war is the date his or her name is removed from missing status for military pay purposes. This is true even if death actually occurred earlier.

For other tax information for members of the Armed Forces, see Publication 3, Armed Forces' Tax Guide.

Military or Terrorist Actions

The decedent's income tax liability is forgiven if, at death, he or she was a military or civilian employee of the United States who died because of wounds or injury incurred:

- While a U.S. employee, and
- In a military or terrorist action.

The forgiveness applies to the tax year in which death occurred and for any earlier tax year, beginning with the year before the year in which the wounds or injury occurred.

Example. The income tax liability of a civilian employee of the United States who died in 2010 because of wounds incurred while a U.S. employee in a terrorist attack that occurred in 2006 will be forgiven for 2010 and for all prior tax years in the period 2005 through 2009. Refunds are allowed for the tax years for which the period for filing a claim for refund has not ended, as discussed later.

Military or terrorist action defined. A *military or terrorist action* means the following.

- Any terrorist activity that most of the evidence indicates was directed against the United States or any of its allies.
- Any military action involving the U.S. Armed Forces and resulting from violence or aggression against the United States or any of its allies, or the threat of such violence or aggression.

Terrorist activity includes criminal offenses intended to coerce, intimidate, or retaliate against the government or civilian population. Military action does not include training exercises. Any multinational force in which the United States is participating is treated as an ally of the United States.

Determining if a terrorist activity or military action has occurred. You may rely on published guidance from the IRS to determine if a particular event is considered a terrorist activity or military action.

Specified Terrorist Victim

The Victims of Terrorism Tax Relief Act of 2001 (the Act) provides tax relief for those injured or killed as a result of terrorist attacks, certain survivors of those killed as a result of terrorist attacks, and others who were affected by terrorist attacks. Under the Act, the federal income tax liability of those killed in the following attacks (specified terrorist victim) is forgiven for certain tax years.

- The April 19, 1995, terrorist attack on the Alfred P. Murrah Federal Building (Oklahoma City).
- The September 11, 2001, terrorist attacks.
- The terrorist attacks involving anthrax occurring after September 10, 2001, and before January 1, 2002.

The Act also exempts from federal income tax the following types of income.

- Qualified disaster relief payments made after September 10, 2001, to cover personal, family, living, or funeral expenses incurred because of a terrorist attack.
- Certain disability payments received in tax years ending after September 10, 2001, for injuries sustained in a terrorist attack.
- Certain death benefits paid by an employer to the survivor of an employee because the employee died as a result of a terrorist attack.
- Payments from the September 11th Victim Compensation Fund 2001.

The Act also reduces the estate tax of individuals who die as a result of a terrorist attack. See Publication 3920, Tax Relief for Victims of Terrorist Attacks, for more information.

Astronauts

For astronauts who died in the line of duty after December 31, 2002, legislation extended the tax relief available under The Victims of Terrorism Tax Relief Act of 2001 (the Act). The decedent's income tax liability is forgiven for the tax year in which death occurs, and for the tax year prior to death. For information on death benefit payments and the reduction of federal estate taxes, see Publication 3920. However, the discussions in that publication under *Death Benefits* and *Estate Tax Reduction* should be modified for astronauts (for example, by using the date of death of the astronaut rather than September 11, 2001).

For more information on the Act, see Publication 3920.

Claim for Credit or Refund

If any of these tax-forgiveness situations applies to a prior year tax, any tax paid for which the period for filing a claim has not ended will be credited or refunded. If any tax is still due, it will be canceled. The normal period for filing a claim for credit or refund is 3 years after the return was filed or 2 years after the tax was paid, whichever is later.

If death occurred in a combat zone or from wounds, disease, or injury incurred in a combat zone, the period for filing the claim is extended by:

1. The amount of time served in the combat zone (including any period in which the individual was in missing status), plus
2. The period of continuous qualified hospitalization for injury from service in the combat zone, if any, plus
3. The next 180 days.

Qualified hospitalization means any hospitalization outside the United States and any hospitalization in the United States of not more than 5 years.

This extended period for filing the claim also applies to a member of the Armed Forces who was deployed outside the United States in a designated contingency operation.

Filing a claim. Use the following procedures to file a claim.

- If a U.S. individual income tax return (Form 1040, 1040A, or 1040EZ) has not been filed, you should make a claim for refund of any withheld income tax or estimated tax payments by filing Form 1040. Form W-2, Wage and Tax Statement, must accompany all returns.
- If a U.S. individual income tax return has been filed, you should make a claim for refund by filing Form 1040X. You must file a separate Form 1040X for each year in question.

You must file these returns and claims at the following address for regular mail (U.S. Postal Service).

Internal Revenue Service
P.O. Box 4053
Woburn, MA 01888

Identify all returns and claims for refund by writing "Iraq—KIA," "Enduring Freedom—KIA," "Kosovo Operation—KIA," "Desert Storm—KIA," or "Former Yugoslavia—KIA" in bold letters on the top of page 1 of the return or claim. On Forms 1040 and 1040X, write the same phrase on the line for total tax. If the individual was killed in a terrorist or military action, put "KITA" on the front of the return and on the line for total tax.

Include an attachment showing the computation of the decedent's tax liability and a computation of the amount to be forgiven. On joint returns, make an allocation of the tax as described below under *Joint returns.* If you cannot make a proper allocation, attach a statement of all income and deductions allocable to each spouse and the IRS will make the proper allocation.

You must attach Form 1310 to all returns and claims for refund. However, for exceptions to filing Form 1310, see *Form 1310* under *Refund,* earlier.

You must also attach proof of death that includes a statement that the individual was a U.S. employee on the date of injury and on the date of death and died as the result of a military or terrorist action. For military and civilian employees of the Department of Defense, attach DD Form 1300, Report of Casualty. For other U.S. civilian employees killed in the United States, attach a death certificate and a certification (letter) from the federal employer. For other U.S. civilian employees killed overseas, attach a certification from the Department of State.

If you do not have enough tax information to file a timely claim for refund, you can suspend the period for filing a claim by filing Form 1040X. Attach Form 1310, any required documentation currently available, and a statement that you will file an amended claim as soon as you have the required tax information.

Joint returns. If a joint return was filed, only the decedent's part of the income tax liability is eligible for forgiveness. Determine the decedent's tax liability as follows.

1. Figure the income tax for which the decedent would have been liable if a separate return had been filed.
2. Figure the income tax for which the spouse would have been liable if a separate return had been filed.
3. Multiply the joint tax liability by a fraction. The numerator of the fraction is the amount in (1), above. The denominator of the fraction is the total of (1) and (2).

The amount in (3) above is the decedent's tax liability eligible for forgiveness.

Filing Reminders

To minimize the time needed to process the decedent's final return and issue any refund, be sure to follow these procedures.

1. Write "DECEASED," the decedent's name, and the date of death across the top of the tax return.
2. If a personal representative has been appointed, the personal representative must sign the return. If it is a joint return, the surviving spouse must also sign it.
3. If you are the decedent's spouse filing a joint return with the decedent and no personal representative has been appointed, write "Filing as surviving spouse" in the area where you sign the return.
4. If no personal representative has been appointed and if there is no surviving spouse, the person in charge of the decedent's property must file and sign the return as "personal representative."
5. To claim a refund for the decedent, do the following.
   a. If you are the decedent's spouse filing a joint return with the decedent, file only the tax return to claim the refund.
   b. If you are the personal representative and the return is not a joint return filed with the decedent's surviving spouse, file the return and attach a copy of the certificate that shows your appointment by the court. (A power of attorney or a copy of the decedent's will is not acceptable evidence of your appointment as the personal representative.) If you are filing an amended return, attach Form 1310 and a copy of the certificate of appointment (or, if you have already

sent the certificate of appointment to IRS, write "Certificate Previously Filed" at the bottom of Form 1310).

c. If you are not filing a joint return as the surviving spouse and a personal representative has not been appointed, file the return and attach Form 1310.

Other Tax Information

Discussed below is information about the effect of an individual's death on the income tax liability of the survivors (including widows and widowers), the beneficiaries, and the estate.

Tax Benefits for Survivors

Survivors can qualify for certain benefits when filing their own income tax returns.

Joint return by surviving spouse. A surviving spouse can file a joint return for the year of death and may qualify for special tax rates for the following 2 years, as explained under *Qualifying widows and widowers,* later.

Decedent as your dependent. If the decedent qualified as your dependent for a part of the year before death, you can claim the exemption for the dependent on your tax return, regardless of when death occurred during the year.

If the decedent was your qualifying child, you may be able to claim the child tax credit or the earned income credit. To determine if you qualify for the child tax credit, see the instructions for Form 1040, line 51; Form 1040A, line 33; or Form 1040NR, line 48. To determine if you qualify for the earned income credit, see the instructions for Form 1040, lines 64a and 64b or Form 1040A, lines 41a and 41b.

Qualifying widows and widowers. If your spouse died within the 2 tax years preceding the year for which your return is being filed, you may be eligible to claim the filing status of qualifying widow(er) with dependent child and qualify to use the married-filing-jointly tax rates.

Requirements. Generally, you qualify for this special benefit if you meet all of the following requirements.

- You were entitled to file a joint return with your spouse for the year of death—whether or not you actually filed jointly.
- You did not remarry before the end of the current tax year.
- You have a child, stepchild, or foster child who qualifies as your dependent for the tax year.
- You provide more than half the cost of maintaining your home, which is the principal residence of that child for the entire year except for temporary absences.

Example. William Burns' wife died in 2008. Mr. Burns has not remarried and continued throughout 2009 and 2010 to maintain a home for himself and his dependent child. For 2008, he was entitled to file a joint return for himself and his deceased wife. For 2009 and 2010, he qualifies to file as a qualifying widower with dependent child. For later years, he may qualify to file as a head of household.

Figuring your tax. Check the box on line 5 (Form 1040 or 1040A) under filing status on your tax return. Use the Tax Rate Schedule or the column in the Tax Table for Married filing jointly, which gives you the split-income benefits.

The last year you can file jointly with, or claim an exemption for, your deceased spouse is the year of death.

Joint return filing rules. If you are the surviving spouse and a personal representative is handling the estate for the decedent, you should coordinate filing your return for the year of death with this personal representative. See *Joint Return* under *Final Income Tax Return for Decedent—Form 1040*, earlier.

Income in Respect of a Decedent

All income the decedent would have received had death not occurred that was not properly includible on the final return, discussed earlier, is income in respect of a decedent.

CAUTION: *If the decedent is a specified terrorist victim (see* Specified Terrorist Victim, *earlier), income received after the date of death and before the end of the decedent's tax year (determined without regard to death) is excluded from the recipient's gross income. This exclusion does not apply to certain income. For more information, see Publication 3920.*

How To Report

Income in respect of a decedent must be included in the income of one of the following.

- The decedent's estate, if the estate receives it.
- The beneficiary, if the right to income is passed directly to the beneficiary and the beneficiary receives it.
- Any person to whom the estate properly distributes the right to receive it.

TIP: *If you have to include income in respect of a decedent in your gross income and an estate tax return (Form 706) was filed for the decedent, you may be able to claim a deduction for the estate tax paid on that income. See* Estate Tax Deduction, *later.*

Example 1. Frank Johnson owned and operated an apple orchard. He used the cash method of accounting. He sold and delivered 1,000 bushels of apples to a canning factory for $2,000, but did not receive payment before his death. The proceeds from the sale are income in respect of a decedent. When the estate was settled, payment had not been made and the estate transferred the right to the payment to his widow. When Frank's widow collects the $2,000, she must include that amount in her return. It is not reported on the final return of the decedent or on the return of the estate.

Example 2. Assume the same facts as in Example 1, except that Frank used the accrual method of accounting. The amount accrued from the sale of the apples would be included on his final return. Neither the estate nor the widow would realize income in respect of a decedent when the money is later paid.

Example 3. On February 1, George High, a cash method taxpayer, sold his tractor for $3,000, payable March 1 of the same year. His adjusted basis in the tractor was $2,000. Mr. High died on February 15, before receiving payment. The gain to be reported as income in respect of a decedent is the $1,000 difference between the decedent's basis in the property and the sale proceeds. In other words, the income in respect of a decedent is the gain the decedent would have realized had he lived.

Example 4. Cathy O'Neil was entitled to a large salary payment at the date of her death. The amount was to be paid in five annual installments. The estate, after collecting two installments, distributed the right to the remaining installments to you, the beneficiary. The payments are income in respect of a decedent. None of the payments were includible on Cathy's final return. The estate must include in its income the two installments it received, and you must include in your income each of the three installments as you receive them.

Example 5. You inherited the right to receive renewal commissions on life insurance sold by your father before his death. You inherited the right from your mother, who acquired it by bequest from your father. Your mother died before she received all the commissions she had the right to receive, so you received the rest. The commissions are income in respect of a decedent. None of these commissions were includible in your father's final return. The commissions received by your mother were included in her income. The commissions you received are not includible in your mother's income, even on her final return. You must include them in your income.

Character of income. The character of the income you receive in respect of a decedent is the same as it would be to the decedent if he or she were alive. If the income would have been a capital gain to the decedent, it will be a capital gain to you.

Transfer of right to income. If you transfer your right to income in respect of a decedent, you must include in your income the greater of:

- The amount you receive for the right or
- The fair market value of the right you transfer.

If you make a gift of such a right, you must include in your income the fair market value of the right at the time of the gift.

If the right to income from an installment obligation is transferred, the amount you must include in income is reduced by the basis of the obligation. See *Installment obligations,* later.

Transfer defined. A transfer for this purpose includes a sale, exchange, or other disposition, the satisfaction of an installment obligation at other than face value, or the cancellation of an installment obligation.

Installment obligations. If the decedent had sold property using the installment method and you collect payments on an installment obligation you acquired from the decedent, use the same gross profit percentage the decedent used to figure the part of each payment that represents profit. Include in your income the same profit the decedent would have included had death not occurred. For more information, see Publication 537, Installment Sales.

If you dispose of an installment obligation acquired from a decedent (other than by transfer to the obligor), the rules explained in Publication 537 for figuring gain or loss on the disposition apply to you.

Transfer to obligor. A transfer of a right to income, discussed above, has occurred if the decedent (seller) sold property using the installment method and the installment obligation was transferred to the obligor (buyer or person legally obligated to pay the installments). A transfer also occurs if the obligation was canceled either at death or by the estate or person receiving the obligation from the decedent. An obligation that becomes unenforceable is treated as having been canceled.

If such a transfer occurs, the amount included in the income of the transferor (the estate or beneficiary) is the greater of the amount received or the fair market value of the installment obligation at the time of transfer, reduced by the basis of the obligation. The basis of the obligation is the decedent's basis, adjusted for all installment payments received after the decedent's death and before the transfer.

If the decedent and obligor were related persons, the fair market value of the obligation cannot be less than its face value.

Specific Types of Income in Respect of a Decedent

This section explains and provides examples of some specific types of income in respect of a decedent.

Wages. The entire amount of wages or other employee compensation earned by the decedent but unpaid at the time of death is income in respect of a decedent. The income is not reduced by any amounts withheld by the employer. If the income is $600 or more, the employer should report it in box 3 of Form 1099-MISC, Miscellaneous Income, and give the recipient a copy of the form or a similar statement.

Wages paid as income in respect of a decedent are not subject to federal income tax withholding. However, if paid during the calendar year of death, they are subject to withholding for social security and Medicare taxes. These taxes should be included on the decedent's Form W-2 along with the taxes withheld before death. These wages are not included in box 1 of Form W-2.

Wages paid as income in respect of a decedent after the year of death generally are not subject to withholding for any federal taxes.

Farm income from crops, crop shares, and livestock. A farmer's growing crops and livestock at the date of death normally would not give rise to income in respect of a decedent or income to be included in the final return. However, when a cash method farmer receives rent in the form of crop shares or livestock and owns the crop shares or livestock at the time of death, the rent is income in respect of a decedent and is reported in the year in which the crop shares or livestock are sold or otherwise disposed of. The same treatment applies to crop shares or livestock that the decedent had a right to receive as rent at the time of death for economic activities that occurred before death.

If the individual died during a rental period, only the proceeds from the part of the rental period ending with death are income in respect of a decedent. The proceeds from the rental period from the day after death to the end of the rental period are income to the estate. Cash rent or crop shares and livestock received as rent and reduced to cash by the decedent are includible on the final return even though the rental period did not end until after death.

Example. Alonzo Roberts, who used the cash method of accounting, leased part of his farm for a 1-year period beginning March 1. The rental was one-third of the crop, payable in cash when the crop share is sold at the direction of Roberts. Roberts died on June 30 and was alive during 122 days of the rental period. Seven months later, Roberts' personal representative ordered the crop to be sold and was paid $1,500. Of the $1,500, 122/365, or $501, is income in respect of a decedent. The balance of the $1,500 received by the estate, $999, is income to the estate.

Partnership income. If the partner who died had been receiving payments representing a distributive share or guaranteed payment in liquidation of the partner's interest in a partnership, the remaining payments made to the estate or other successor in interest are income in respect of a decedent. The estate or the successor receiving the payments must include them in income when received. Similarly, the estate or other successor in interest receives income in respect of a decedent if amounts are paid by a third person in exchange for the successor's right to the future payments.

For a discussion of partnership rules, see Publication 541, Partnerships.

U.S. savings bonds acquired from decedent. If series EE or series I U.S. savings bonds owned by a cash method individual who had chosen to report the interest each year (or by an accrual method individual) are transferred because of death, the increase in value of the bonds (interest earned) in the year of death up to the date of death must be reported on the decedent's final return. The transferee (estate or beneficiary) reports on its return only the interest earned after the date of death.

The redemption values of U.S. savings bonds generally are available from local banks, credit unions, savings and loan institutions, or your nearest Federal Reserve Bank.

You also can get information by writing to the following address.

Bureau of the Public Debt
P.O. Box 1328
Parkersburg, WV 26106-1328

Or, on the Internet, visit: www.treasurydirect.gov.

If the bonds transferred because of death were owned by a cash method individual who had chosen not to report the interest each year and had purchased the bonds entirely with personal funds, interest earned before death must be reported in one of the following ways.

1. The person (executor, administrator, etc.) who must file the final income tax return of the decedent can elect to include in it all of the interest earned on the bonds before the decedent's death. The transferee (estate or beneficiary) then includes in its return only the interest earned after the date of death.
2. If the election in (1), above, was not made, the interest earned to the date of death is income in respect of the decedent and is not included on the decedent's final return. In this case, all of the interest earned before and after the decedent's death is income to the transferee (estate or beneficiary). A transferee who uses the cash method of accounting and who has chosen not to report the interest annually may defer reporting any of it until the bonds are cashed or the date of maturity, whichever is earlier. In the year the interest is reported, the transferee may claim a deduction for any federal estate tax paid that arose because of the part of interest (if any) included in the decedent's estate.

Example 1. Your uncle, a cash method taxpayer, died and left you a $1,000 series EE bond. He bought the bond for $500 and had not chosen to report the increase in value each year. At the date of death, interest of $94 had accrued on the bond, and its value of $594 at date of death was included in your uncle's estate. Your uncle's personal representative did not choose to include the $94 accrued interest on the decedent's final income tax return. You are a cash method taxpayer and do not choose to report the increase in value each year as it is earned. Assuming you cash it when it reaches maturity value of $1,000, you would report $500 interest income (the difference between maturity value of $1,000 and the original cost of $500) in that year. You also are entitled to claim, in that year, a deduction for any federal estate tax resulting from the inclusion in your uncle's estate of the $94 increase in value.

Example 2. If, in Example 1, the personal representative had chosen to include the $94 interest earned on the bond before death in the final income tax return of your uncle, you would report $406 ($500 − $94) as interest when you cashed the bond at maturity. This $406 represents the interest earned after your uncle's death and was not included in his estate, so no deduction for federal estate tax is allowable for this amount.

Example 3. Your uncle died owning series HH bonds he acquired in exchange for series EE bonds. You were the beneficiary on these bonds. Your uncle used the cash method of accounting and had not chosen to report the increase in redemption price of the series EE bonds each year as it accrued. Your uncle's personal representative made no election to include any interest earned before death on the decedent's final return. Your income in respect of the decedent is the sum of the unreported increase in value of the series EE bonds, which constituted part of the amount paid for series HH bonds, and the interest, if any, payable on the series HH bonds but not received as of the date of the decedent's death.

Specific dollar amount legacy satisfied by transfer of bonds. If a beneficiary receives series EE or series I bonds from an estate in satisfaction of a specific dollar amount legacy and the decedent was a cash method taxpayer who did not elect to report interest each year, only the interest earned after receipt of the bonds is income to the beneficiary. The interest earned to the date of death plus any further interest earned to the date of distribution is income to (and reportable by) the estate.

Cashing U.S. savings bonds. When you cash a U.S. savings bond that you acquired from a decedent, the bank or other payer that redeems it must give you a Form 1099-INT if the interest part of the payment you receive is $10 or more. Your Form 1099-INT should show the difference between the amount received and the cost of the bond. The interest shown on your Form 1099-INT will not be reduced by any interest reported by the decedent before death, or, if elected, by the personal representative on the final income tax return of the decedent, or by the estate on the estate's income tax return. Your Form 1099-INT may show more interest than you must include in your income.

You must make an adjustment on your tax return to report the correct amount of interest. Report the total interest shown on Form 1099-INT on your Schedule B (Form 1040A or 1040). Enter a subtotal of the interest shown on Forms 1099, and the interest reportable from other sources for which you did not receive Forms 1099. Show the total interest that was previously reported and subtract it from the subtotal. Identify this adjustment as "U.S. Savings Bond Interest Previously Reported."

Interest accrued on U.S. Treasury bonds. The interest accrued on U.S. Treasury bonds owned by a cash method taxpayer and redeemable for the payment of federal estate taxes that was not received as of the date of the individual's death is income in respect of a decedent. This interest is not included in the decedent's final income tax return. The estate will treat such interest as taxable income in the tax year received if it chooses to redeem the U.S. Treasury bonds to pay federal estate taxes. If the person entitled to the bonds (by bequest, devise, or inheritance, or because of the death of the individual) receives them, that person will treat the accrued interest as taxable income in the year the interest is received. Interest that accrues on the U.S. Treasury bonds after the owner's death does not represent income in respect of a decedent. The interest, however, is taxable income and must be included in the income of the respective recipients.

Interest accrued on savings certificates. The interest accrued on savings certificates (redeemable after death without forfeiture of interest) for the period from the date of the last interest payment and ending with the date of the decedent's death, but not received as of that date, is income in respect of a decedent. Interest for a period after the decedent's death that becomes payable on the certificates after death is not income in respect of a decedent, but is taxable income includible in the income of the respective recipients.

Inherited IRAs. If a beneficiary receives a lump-sum distribution from a traditional IRA he or she inherited, all or some of it may be taxable. The distribution is taxable in the year received as income in respect of a decedent up to the decedent's taxable balance. This is the decedent's balance at the time of death, including unrealized appreciation and income accrued to date of death, minus any basis (nondeductible contributions). Amounts distributed that are more than the decedent's entire IRA balance (includes taxable and nontaxable amounts) at the time of death are the income of the beneficiary.

If the beneficiary of a traditional IRA is the decedent's surviving spouse who properly rolls over the distribution into another traditional IRA, the distribution is not currently taxed. Also, a surviving spouse can roll over tax free the taxable part of the distribution into a qualified plan, section 403 annuity, or section 457 plan.

For more information on inherited IRAs, see Publication 590, Individual Retirement Arrangements (IRAs).

Roth IRAs. Qualified distributions from a Roth IRA are not subject to tax. A distribution made to a beneficiary or to the Roth IRA owner's estate on or after the date of death is a qualified distribution if it is made after the 5-tax-year period beginning with the first tax year in which a contribution was made to any Roth IRA of the owner.

Generally, the entire interest in the Roth IRA must be distributed by the end of the fifth calendar year after the year of the owner's death unless the interest is payable to a designated beneficiary over his or her life or life expectancy. If paid as an annuity, the distributions must begin before the end of the calendar year following the year of death. If the sole beneficiary is the decedent's spouse, the spouse can delay the distributions until the decedent would have reached age 70½ or can treat the Roth IRA as his or her own Roth IRA.

Part of any distribution to a beneficiary that is not a qualified distribution may be includible in the beneficiary's income. Generally, the part includible is the earnings in the Roth IRA. Earnings attributable to the period ending with the decedent's date of death are income in respect of a decedent. Additional earnings are the income of the beneficiary.

For more information on Roth IRAs, see Publication 590.

Coverdell education savings account (ESA). Generally, the balance in a Coverdell ESA must be distributed within 30 days after the individual for whom the account was established reaches age 30 or dies, whichever is earlier. The treatment of the Coverdell ESA at the death of an individual under age 30 depends on who acquires the interest in the account. If the decedent's estate acquires the interest, see the discussion under *Final Income Tax Return for Decedent—Form 1040,* earlier.

CAUTION *The age 30 limitation does not apply if the individual for whom the account was established or the beneficiary that acquires the account is an individual with special needs. This includes an individual who, because of a physical, mental, or emotional condition (including a learning disability), requires additional time to complete his or her education.*

If the decedent's spouse or other family member is the designated beneficiary of the decedent's account, the Coverdell ESA becomes that person's Coverdell ESA. It is subject to the rules discussed in Publication 970.

Any other beneficiary (including a spouse or family member who is not the designated beneficiary) must include in income the earnings portion of the distribution. Any balance remaining at the close of the 30-day period is deemed to be distributed at that time. The amount included in income is reduced by any qualified education expenses of the decedent that are paid by the beneficiary within one year after the decedent's date of death. An estate tax deduction, discussed later, applies to the amount included in income by a beneficiary other than the decedent's spouse or family member.

HSA, Archer MSA, or a Medicare Advantage MSA. The treatment of an HSA, Archer MSA, or a Medicare Advantage MSA at the death of the account holder depends on who acquires the interest in the account. If the decedent's estate acquired the interest, see the discussion under *Final Income Tax Return for Decedent—Form 1040,* earlier.

If the decedent's spouse is the designated beneficiary of the account, the account becomes that spouse's Archer MSA. It is subject to the rules discussed in Publication 969.

Any other beneficiary (including a spouse that is not the designated beneficiary) must include in income the fair market value of the assets in the account on the decedent's date of death. This amount must be reported for the beneficiary's tax year that includes the decedent's date of death. The amount included in income is reduced by any qualified medical expenses for the decedent paid by the beneficiary within one year after the decedent's date of death. An estate tax deduction, discussed later, applies to the amount included in income by a beneficiary other than the decedent's spouse.

Deductions in Respect of a Decedent

Items such as business expenses, income-producing expenses, interest, and taxes, for which the decedent was liable but that are not properly allowable as deductions on the decedent's final income tax return will be allowed as a deduction to one of the following when paid:

- The estate, or
- The person who acquired an interest in the decedent's property (subject to such obligations) because of the decedent's death, if the estate was not liable for the obligation.

Similar treatment is given to the foreign tax credit. A beneficiary who must pay a foreign tax on income in respect of a decedent will be entitled to claim the foreign tax credit.

Depletion. The deduction for percentage depletion is allowable only to the person (estate or beneficiary) who receives income in respect of a decedent to which the deduction relates, whether or not that person receives the property from which the income is derived. An heir who (because of the decedent's death) receives income as a result of the sale of units of mineral by the decedent (who used the cash method) will be entitled to the depletion allowance for that income. If the decedent had not figured the deduction on the basis of percentage depletion, any depletion deduction to which the decedent was entitled at the time of death is allowable on the decedent's final return, and no depletion deduction in respect of a decedent is allowed to anyone else.

For more information about depletion, see chapter 9 in Publication 535, Business Expenses.

Estate Tax Deduction

Income a decedent had a right to receive is included in the decedent's gross estate and is subject to estate tax. This income in respect of a decedent is also taxed when received by the recipient (estate or beneficiary). However, an income tax deduction is allowed to the recipient for the estate tax paid on the income.

The deduction for estate tax can only be claimed for the same tax year in which the income in respect of a decedent must be included in the recipient's income. (This also is true for income in respect of a prior decedent.)

Individuals can claim this deduction only as an itemized deduction on line 28 of Schedule A (Form 1040). This deduction is not subject to the 2% limit on miscellaneous itemized deductions. Estates can claim the deduction on the line provided for the deduction on Form 1041. For the alternative minimum tax computation, the deduction is not included as an itemized deduction that is an adjustment to taxable income.

If income in respect of a decedent is capital gain income, you must reduce the gain, but not below zero, by any deduction for estate tax paid on such gain. This applies in figuring the following.

- The maximum tax on net capital gain (including qualified dividends).
- The 50% exclusion for gain on small business stock.
- The limitation on capital losses.

Computation

To figure a recipient's estate tax deduction, determine:

- The estate tax that qualifies for the deduction, and
- The recipient's part of the deductible tax.

Deductible estate tax. The estate tax is the tax on the taxable estate, reduced by any credits allowed. The estate tax qualifying for the deduction is the part of the net value of all the items in the estate that represents income in respect of a decedent. Net value is the excess of the items of income in respect of a decedent over the items of expenses in respect of a decedent. The deductible estate tax is the difference between the actual estate tax and the estate tax determined without including net value.

Example 1. Jack Sage used the cash method of accounting. At the time of his death, he was entitled to receive $12,000 from clients for his services and he had accrued bond interest of $8,000, for a total income in respect of a decedent of $20,000. He also owed $5,000 for business expenses for which his estate is liable. The income and expenses are reported on Jack's estate tax return.

The tax on Jack's estate is $9,460 after credits. The net value of the items included as income in respect of the decedent is $15,000 ($20,000 − $5,000). The estate tax determined without including the $15,000 in the taxable estate is $4,840, after credits. The estate tax that qualifies for the deduction is $4,620 ($9,460 − $4,840).

Recipient's deductible part. Figure the recipient's part of the deductible estate tax by dividing the estate tax value of the items of income in respect of a decedent included in the recipient's income (the numerator) by the total value of all items included in the estate that represents income in respect of a decedent (the denominator). If the amount included in the recipient's income is less than the estate tax value of the item, use the lesser amount in the numerator.

Example 2. As the beneficiary of Jack's estate (Example 1), you collect the $12,000 accounts receivable from his clients. You will include the $12,000 in your income in the tax year you receive it. If you itemize your deductions in that tax year, you can claim an estate tax deduction of $2,772 figured as follows:

$$\frac{\text{Value included in your income}}{\text{Total value of income in respect of decedent}} \times \text{Estate tax qualifying for deduction}$$

$$\frac{\$12,000}{\$20,000} \times \$4,620 = \$2,772$$

If the amount you collected for the accounts receivable was more than $12,000, you would still claim $2,772 as an estate tax deduction because only the $12,000 actually reported on the estate tax return can be used in the above computation. However, if you collected less than the $12,000 reported on the estate tax return, use the smaller amount to figure the estate tax deduction.

Estates. The estate tax deduction allowed to an estate is figured in the same manner discussed above. However, any income in respect of a decedent received by the estate during the tax year is reduced by any such income properly paid, credited, or required to be distributed by the estate to a beneficiary. The beneficiary would include such distributed income in respect of a decedent for figuring the beneficiary's estate tax deduction.

Surviving annuitants. For the estate tax deduction, an annuity received by a surviving annuitant under a joint and survivor annuity contract is considered income in respect of a decedent. The deceased annuitant must have died after the annuity starting date. You must make a special computation to figure the estate tax deduction for the surviving annuitant. See Regulations section 1.691(d)-1.

Gifts, Insurance, and Inheritances

Property received as a gift, bequest, or inheritance is not included in your income. However, if property you receive in this manner later produces income, such as interest, dividends, or rents, that income is taxable to you. The income from property donated to a trust that is paid, credited, or distributed to you is taxable income to you. If the gift, bequest, or inheritance is the income from property, that income is taxable to you.

If you receive property from a decedent's estate in satisfaction of your right to the income of the estate, it is treated as a bequest or inheritance of income from property. See *Distributions to Beneficiaries From an Estate,* later.

Insurance

The proceeds from a decedent's life insurance policy paid by reason of his or her death generally are excluded from income. The exclusion applies to any beneficiary, whether a family member or other individual, a corporation, or a partnership.

Veterans' insurance proceeds. Veterans' insurance proceeds and dividends are not taxable either to the veteran or to the beneficiaries.

Interest on dividends left on deposit with the Department of Veterans Affairs is not taxable.

Life insurance proceeds. Life insurance proceeds paid to a beneficiary because of the death of the insured (or because the insured is a member of the U.S. uniformed services who is missing in action) are not taxable unless the policy was turned over to the recipient for a price. This is true even if the proceeds are paid under an accident or health insurance policy or an endowment contract. If the proceeds are received in installments, see the discussion under *Insurance received in installments,* later.

Accelerated death benefits. A beneficiary can exclude from income accelerated death benefits received on the life of an insured individual if certain requirements are met. Accelerated death benefits are amounts received under a life insurance contract before the death of the insured. These benefits also include amounts received on the sale or assignment of the contract to a viatical settlement provider. This exclusion applies only if the insured was a terminally ill individual or a chronically ill individual. This exclusion does not apply if the insured is a director, officer, employee, or has a financial interest, in any trade or business carried on by the beneficiary.

Terminally ill individual. A *terminally ill individual* is one who has been certified by a physician as having an illness or physical condition that reasonably can be expected to result in death in 24 months or less from the date of certification.

Chronically ill individual. A *chronically ill individual* is one who has been certified as one of the following.

- An individual who, for at least 90 days, is unable to perform at least two activities of daily living without substantial assistance due to a loss of functional capacity.
- An individual who requires substantial supervision to be protected from threats to health and safety due to severe cognitive impairment.

A certification must have been made by a licensed health care practitioner within the previous 12 months.

Exclusion limited. If the insured was a chronically ill individual, exclusion of accelerated death benefits is limited to the cost incurred in providing qualified long-term care services for the insured. In determining the cost incurred, do not include amounts paid or reimbursed by insurance or otherwise. Subject to certain limits, exclude payments received on a periodic basis without regard to costs.

Interest option on insurance. If an insurance company pays interest only on proceeds from life insurance left on deposit, the interest is taxable.

Insurance received in installments. If a beneficiary receives life insurance proceeds in installments, he or she can exclude part of each installment from income.

To determine the part excluded, divide the amount held by the insurance company (generally the total lump sum payable at the death of the insured person) by the number of installments to be paid. Include anything over this excluded part in income as interest.

Specified number of installments. If a beneficiary will receive a specified number of installments under the insurance contract, figure the part of each installment he or she can exclude by dividing the amount held by the insurance company by the number of installments to which he or she is entitled. In case he or she dies before receiving all the installments, a secondary beneficiary is entitled to the same exclusion.

Example. As beneficiary, you choose to receive $100,000 of life insurance proceeds in 10 annual installments of $11,000. Each year, you can exclude from your income $10,000 ($100,000 ÷ 10) as a return of principal. The balance of the installment, $1,000, is taxable as interest income.

Specified amount payable. If each installment received under the insurance contract is a specific amount based on a guaranteed rate of interest, but the number of installments that will be received is uncertain, the part of each installment excluded from income is the amount held by the insurance company divided by the number of installments necessary to use up the principal and guaranteed interest in the contract.

Example. The face amount of the policy is $200,000, and as beneficiary you choose to receive annual installments of $12,000. The insurer's settlement option guarantees you this amount for 20 years based on a guaranteed rate of interest. It also provides that extra interest may be credited to the principal balance according to the insurer's earnings. The excludable part of each guaranteed installment is $10,000 ($200,000 ÷ 20 years). The balance of each guaranteed installment, $2,000, is interest income to you. The full amount of any additional payment for interest is income to you.

Installments for life. If the beneficiary under an insurance contract is entitled to receive the proceeds in installments for the rest of his or her life without a refund or period-certain guarantee, the excluded part of each installment can be determined by dividing the amount held by the insurance company by his or her life expectancy. If there is a refund or period-certain guarantee, the amount held by the insurance company for this purpose is reduced by the actuarial value of the guarantee.

Example. As beneficiary, you choose to receive the $50,000 proceeds from a life insurance contract under a life-income-with-cash-refund option. You are guaranteed $2,700 a year for the rest of your life (which is estimated by use of mortality tables to be 25 years from the insured's death). The actuarial value of the refund feature is $9,000. The amount held by the insurance company, reduced by the value of the guarantee, is $41,000 ($50,000 − $9,000) and the excludable part of each installment representing a return of principal is $1,640 ($41,000 ÷ 25). The remaining $1,060 ($2,700 − $1,640) is interest income to you. If you should die before receiving the entire $50,000, the refund payable to the refund beneficiary is not taxable.

Flexible premium contracts. A life insurance contract (including any qualified additional benefits) is a flexible premium life insurance contract if it provides for the payment of one or more premiums that are not fixed by the insurer as to both timing and amount. For a flexible premium contract issued before January 1, 1985, the proceeds paid under the contract because of the death of the insured will be excluded from the recipient's income only if the contract meets the requirements explained under section 101(f) of the Internal Revenue Code.

Basis of Inherited Property

Note. See the *Caution* under the *Introduction* section on page 2 of this publication.

Your basis in property you inherit from a decedent is generally one of the following.

- The FMV of the property on the date of the individual's death.
- The FMV on the alternate valuation date (discussed in the instructions for Form 706), if so elected by you.
- The value under the special-use valuation method for real property used in farming or other closely held business (see *Special-use valuation,* later), if you as the personal representative so elect.
- The decedent's adjusted basis in land to the extent of the value excluded from the decedent's taxable estate as a qualified conservation easement (discussed in the instructions for Form 706).

Exception for appreciated property. If you or your spouse gave appreciated property to an individual during the 1-year period ending on the date of that individual's death and you (or your spouse) later acquired the same property from the decedent, your basis in the property is the same as the decedent's adjusted basis immediately before death.

Appreciated property. Appreciated property is property that had an FMV greater than its adjusted basis on the day it was transferred to the decedent.

Special-use valuation. If you are a qualified heir and you receive a farm or other closely held business real property from the estate for which the personal representative elected special-use valuation, the property is valued on the basis of its actual use rather than its FMV.

If you are a qualified heir and you buy special-use valuation property from the estate, your basis is the estate's basis (determined under the special-use valuation method) immediately before your purchase increased by any gain recognized by the estate.

You are a qualified heir if you are an ancestor (parent, grandparent, etc.), the spouse, or a lineal descendant (child, grandchild, etc.) of the decedent, a lineal descendant of the decedent's parent or spouse, or the spouse of any of these lineal descendants.

For more information on special-use valuation, see Form 706.

Increased basis for special-use valuation property. Under certain conditions, some or all of the estate tax benefits obtained by using the special-use valuation will be subject to recapture. Generally, an additional estate tax must be paid by the qualified heir if the property is disposed of, or is no longer used for a qualifying purpose within 10 years of the decedent's death.

If you must pay any additional estate (recapture) tax, you can elect to increase your basis in the special-use valuation property to its FMV on the date of the decedent's death (or on the alternate valuation date, if it was elected by the personal representative). If you elect to increase your basis, you must pay interest on the recapture tax for the period beginning 9 months after the decedent's death until the date you pay the recapture tax.

For more information on the recapture tax, see the Instructions for Form 706-A, U.S. Additional Estate Tax Return.

S corporation stock. The basis of inherited S corporation stock must be reduced if there is income in respect of a decedent attributable to that stock.

Joint interest. Figure the surviving tenant's new basis of jointly-owned property (joint tenancy or tenancy by the entirety) by adding the surviving tenant's original basis in the property to the value of the part of the property (one of the values described earlier) included in the decedent's estate. Subtract from the sum any deductions for wear and tear, such as depreciation or depletion, allowed to the surviving tenant on that property.

Example. Fred and Anne Maple (brother and sister) owned, as joint tenants with right of survivorship, rental property they purchased for $60,000. Anne paid $15,000 of the purchase price and Fred paid $45,000. Under local law, each had a half interest in the income from the property. When Fred died, the FMV of the property was $100,000. Depreciation deductions allowed before Fred's death were $20,000. Anne's basis in the property is $80,000 figured as follows:

Anne's original basis	$15,000	
Interest acquired from Fred (3/4 of $100,000)	75,000	$90,000
Minus: 1/2 of $20,000 depreciation		10,000
Anne's basis		**$80,000**

Qualified joint interest. One-half of the value of property owned by a decedent and spouse as tenants by the entirety, or as joint tenants with right of survivorship if the decedent and spouse are the only joint tenants, is included in the decedent's gross estate. This is true regardless of how much each contributed toward the purchase price.

Figure the basis for a surviving spouse by adding one-half of the property's cost basis to the value included in the gross estate. Subtract from this sum any deductions for wear and tear, such as depreciation or depletion, allowed on that property to the surviving spouse.

Example. Dan and Diane Gilbert owned, as tenants by the entirety, rental property they purchased for $60,000. Dan paid $15,000 of the purchase price and Diane paid $45,000. Under local law, each had a half interest in the income from the property. When Diane died, the FMV of the property was $100,000. Depreciation deductions allowed before Diane's death were $20,000. Dan's basis in the property is $70,000 figured as follows:

One-half of cost basis (1/2 of $60,000)	$30,000	
Interest acquired from Diane (1/2 of $100,000)	50,000	$80,000
Minus: 1/2 of $20,000 depreciation		10,000
Dan's basis		**$70,000**

See Publication 551, Basis of Assets, for more information on basis. If the decedent and his or her spouse lived in a community property state, see the discussion in that publication about figuring the basis of community property after a spouse's death.

Depreciation. If a beneficiary can depreciate inherited property, the modified accelerated cost recovery system (MACRS) must be used to determine depreciation.

For joint interests and qualified joint interests, use the following computations to figure depreciation.

- The first computation is for the original basis in the property.
- The second computation is for the inherited part of the property.

Continue depreciating the original basis under the same method used in previous years. Depreciate the inherited part using MACRS.

MACRS consists of two depreciation systems, the General Depreciation System (GDS) and the Alternative Depreciation System (ADS). For more information on MACRS, see Publication 946, How To Depreciate Property.

Valuation misstatements. If the value or adjusted basis of any property claimed on an income tax return is 150% or more of the amount determined to be the correct amount, there is a substantial valuation misstatement. If the value or adjusted basis is 200% or more of the amount determined to be the correct amount, there is a gross valuation misstatement.

Understatements. A substantial estate or gift tax valuation misstatement occurs when the value of property reported is 65% or less of the actual value of the property. A gross valuation misstatement occurs if any property on a return is valued at 40% or less of the value determined to be correct.

Penalty. If a misstatement results in an underpayment of tax of more than $5,000, an addition to tax of 20% of the underpayment can apply. The penalty increases to 40% if the value or adjusted basis reported is a gross valuation misstatement.

The IRS may waive all or part of the 20% addition to tax (for substantial valuation overstatement) if the following apply.

- The claimed value of the property was based on a qualified appraisal made by a qualified appraiser.
- In addition to obtaining such appraisal, the taxpayer made a good faith investigation of the value of the contributed property.

No waiver is available for the 40% addition to tax (for gross valuation overstatement).

For transitional guidance on the definitions of "qualified appraisal" and "qualified appraiser," see Notice 2006-96, 2006-46 I.R.B. 902, available at *www.irs.gov/irb/2006-46_IRB/ar13.html*.

The definitions apply to appraisals prepared for the following.

- Donated property for which a deduction of more than $5,000 is claimed.
- Returns filed after August 17, 2006.

Holding period. If you sell or dispose of inherited property that is a capital asset, you have a long-term gain or loss from property held for more than 1 year, regardless of how long you held the property.

Property distributed in kind. Your basis in property distributed in kind by a decedent's estate is the same as the estate's basis immediately before the distribution plus any gain, or minus any loss, recognized by the estate. Property is distributed in kind if it satisfies your right to receive another property or amount, such as the income of the estate or a specific dollar amount. Property distributed in kind generally includes any noncash property you receive from the estate other than the following:

- A specific bequest (unless it must be distributed in more than three installments), or
- Real property, the title to which passes directly to you under local law.

For information on an estate's recognized gain or loss on distributions in kind, see *Income To Include* under *Income Tax Return of an Estate—Form 1041,* later.

Other Items of Income

Some other items of income that a survivor or beneficiary may receive are discussed below. Lump-sum payments received by the surviving spouse or beneficiary of a deceased employee may represent the following.

- Accrued salary payments.
- Distributions from employee profit-sharing, pension, annuity, and stock bonus plans.
- Other items that should be treated separately for tax purposes.

The treatment of these lump-sum payments depends on what the payments represent.

Public safety officers. Special rules apply to certain amounts received due to the death of a public safety officer (a law enforcement officer, fire fighter, chaplain, or member of an ambulance crew or rescue squad).

CAUTION *The provisions for public safety officers apply to a chaplain killed in the line of duty after September 10, 2001, if the chaplain was responding to a fire, rescue, or police emergency as a member or employee of a fire or police department.*

Death benefits. The death benefit payable to eligible survivors of public safety officers who die as a result of traumatic injuries sustained in the line of duty is not included in either the beneficiaries' income or the decedent's gross estate. This benefit is administered through the Bureau of Justice Assistance (BJA).

The BJA can pay the eligible survivors an emergency interim benefit up to $3,000 if it determines that a public safety officer's death is one for which a death benefit will probably be paid. If there is no final payment, the recipient of the interim benefit is liable for repayment. However, the BJA may waive all or part of the repayment if it will cause a hardship. Any repayment waived is not included in income.

Survivor benefits. Generally, a survivor annuity received by the spouse, former spouse, or child of a public safety officer killed in the line of duty is excluded from the recipient's income. The annuity must be provided under a government plan and is excludable to the extent that it is attributable to the officer's service as a public safety officer.

The exclusion does not apply if the recipient's actions were responsible for the officer's death. It also does not apply in the following circumstances.

- The death was caused by the intentional misconduct of the officer or by the officer's intention to cause such death.
- The officer was voluntarily intoxicated at the time of death.
- The officer was performing his or her duties in a grossly negligent manner at the time of death.

Salary or wages. Salary or wages paid after the employee's death are usually taxable income to the beneficiary. See *Wages,* earlier, under *Specific Types of Income in Respect of a Decedent.*

CAUTION

If the decedent is a specified terrorist victim (see Specified Terrorist Victim, *earlier), certain income received by the beneficiary or the estate is not taxable. For more information, see Publication 3920.*

Rollover distributions. An employee's surviving spouse who receives an eligible rollover distribution may roll it over tax free into an IRA, a qualified plan, a section 403 annuity, or a section 457 plan. For more information, see Publication 575, Pension and Annuity Income, and Form 4972, Tax on Lump-Sum Distributions.

Rollovers by nonspouse beneficiary. A beneficiary other than the employee's surviving spouse may be able to roll over all or part of a distribution from an eligible retirement plan of a deceased employee. The nonspouse beneficiary must be the designated beneficiary of the employee. The distribution must be a direct trustee-to-trustee transfer to his or her IRA set up to receive the distribution. The transfer will be treated as an eligible rollover distribution and the receiving plan will be treated as an inherited IRA. For more information on inherited IRAs, see Publication 590.

Pensions and annuities. For beneficiaries who receive pensions and annuities, see Publication 575. For beneficiaries of federal civil service employees or retirees, see Publication 721, Tax Guide to U.S. Civil Service Retirement Benefits.

Inherited IRAs. If a person other than the decedent's spouse inherits the decedent's traditional IRA or Roth IRA, that person cannot treat the IRA as one established on his or her behalf. If a distribution from a traditional IRA is from contributions that were deducted or from earnings and gains in the IRA, it is fully taxable income. If there were nondeductible contributions, an allocation between taxable and nontaxable income must be made. For information on distributions from a Roth IRA, see the discussion earlier under *Income in Respect of a Decedent.* The inherited IRA cannot be rolled over into, or receive a rollover from, another IRA. No deduction is allowed for amounts paid into that inherited IRA. For more information about IRAs, see Publication 590.

Estate income. Estates may have to pay federal income tax. Beneficiaries may have to pay tax on their share of estate income. However, there is never a double tax. See *Distributions to Beneficiaries From an Estate,* later.

Income Tax Return of an Estate— Form 1041

An estate is a taxable entity separate from the decedent and comes into being with the death of the individual. It exists until the final distribution of its assets to the heirs and other beneficiaries. The income earned by the assets during this period must be reported by the estate under the conditions described in this publication. The tax generally is figured in the same manner and on the same basis as for individuals, with certain differences in the computation of deductions and credits, as explained later.

The estate's income, like an individual's income, must be reported annually on either a calendar or fiscal year basis. As the personal representative, you choose the estate's accounting period when you file its first Form 1041. The estate's first tax year can be any period that ends on the last day of a month and does not exceed 12 months.

Once you choose the tax year, you generally cannot change it without IRS approval. Also, on the first income tax return, you must choose the accounting method (cash, accrual, or other) you will use to report the estate's income. Once you have used a method, you ordinarily cannot change it without IRS approval. For a more complete discussion of accounting periods and methods, see Publication 538.

Filing Requirements

Every domestic estate with gross income of $600 or more during a tax year must file a Form 1041. If one or more of the beneficiaries of the domestic estate are nonresident alien individuals, the personal representative must file Form 1041, even if the gross income of the estate is less than $600.

A fiduciary for a nonresident alien estate with U.S. source income, including any income that is effectively connected with the conduct of a trade or business in the United States, must file Form 1040NR, U.S. Nonresident Alien Income Tax Return, as the income tax return of the estate.

A nonresident alien who was a resident of Puerto Rico, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands for the entire tax year will, for this purpose, be treated as a resident alien of the United States.

Schedule K-1 (Form 1041)

As personal representative, you must file a separate Schedule K-1 (Form 1041), or an acceptable substitute (described below), for each beneficiary. File these schedules with Form 1041.

You must show each beneficiary's taxpayer identification number. A $50 penalty is charged for each failure to provide the identifying number of each beneficiary unless reasonable cause is established for not providing it. When you assume your duties as the personal representative, you must ask each beneficiary to give you a taxpayer identification number (TIN). A nonresident alien beneficiary that gives you a withholding certificate generally must provide you with a TIN (see Publication 515). A TIN is not required for an executor or administrator of the estate unless that person is also a beneficiary.

As personal representative, you must also furnish a Schedule K-1 (Form 1041), or a substitute, to the beneficiary by the date on which the Form 1041 is filed. Failure to provide this payee statement can result in a penalty of $50 for each failure. This penalty also applies if you omit information or include incorrect information on the payee statement.

You do not need prior approval for a substitute Schedule K-1 (Form 1041) that is an exact copy of the official schedule or that follows the specifications in Publication 1167, General Rules and Specifications for Substitute Forms and Schedules. You must have prior approval for any other substitute Schedule K-1 (Form 1041).

Beneficiaries. The personal representative has a fiduciary responsibility to the ultimate recipients of the income and the property of the estate. While the courts use a number of names to designate specific types of beneficiaries or the recipients of various types of property, it is sufficient in this publication to call all of them beneficiaries.

Liability of the beneficiary. The income tax liability of an estate attaches to the assets of the estate. If the income is distributed or must be distributed during the current tax year, the income is reportable by each beneficiary on his or her individual income tax return. If the income does not have to be distributed, and is not distributed but is retained by the estate, the income tax on the income is payable by the estate. If the income is distributed later without the payment of the taxes due, the beneficiary can be liable for tax due and unpaid to the extent of the value of the estate assets received.

Income of the estate is taxed to either the estate or the beneficiary, but not to both.

Nonresident alien beneficiary. As a resident or domestic fiduciary, in addition to filing Form 1041, you may have to file the income tax return (Form 1040NR) and pay the tax for a nonresident alien beneficiary. Depending upon a number of factors, you may or may not have to file Form 1040NR for that beneficiary. For information on who must file Form 1040NR, see Publication 519, U.S. Tax Guide for Aliens.

You do not have to file the nonresident alien's return and pay the tax if that beneficiary has appointed an agent in the United States to file a federal income tax return. However, you must attach to the estate's return (Form 1041) a copy of the document that appoints the beneficiary's agent.

You also must file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, and Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, to report and transmit withheld tax on distributable net income (discussed later) actually distributed. This applies to the extent the distribution consists of an amount subject to withholding. For more information, see Publication 515.

Amended Return

If you have to file an amended Form 1041, use a copy of the form for the appropriate year and check the Amended return box. Complete the entire return, correct the appropriate lines with the new information, and refigure the tax liability. On an attached sheet, explain the reason for the changes and identify the lines and amounts changed.

If the amended return results in a change to income, or a change in distribution of any income or other information provided to a beneficiary, you must file an amended Schedule K-1 (Form 1041) and give a copy to each beneficiary. Check the "Amended K-1" box at the top of Schedule K-1 (Form 1041).

Information Returns

Even though you may not have to file an income tax return for the estate, you may have to file Form 1099-DIV, Form 1099-INT, or Form 1099-MISC if you receive the income as a nominee or middleman for another person. For more information on filing information returns, see the General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.

You will not have to file information returns for the estate if the estate is the owner of record and you file an income tax return for the estate on Form 1041 giving the name, address, and identifying number of each actual owner and furnish a completed Schedule K-1 (Form 1041) to each actual owner.

Penalty. A penalty of up to $50 can be charged for each failure to file or failure to include correct information on an information return. (Failure to include correct information includes failure to include all the information required.) If it is shown that such failure is due to intentional disregard of the filing requirement, the penalty amount increases.

See the General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G, for more information.

Copy of the Will

You do not have to file a copy of the decedent's will unless requested by the IRS. If requested, you must attach a statement to it indicating the provisions that, in your opinion, determine how much of the estate's income is taxable to the estate or to the beneficiaries. You should also attach a statement signed by you under penalties of perjury that the will is a true and complete copy.

Income To Include

The estate's taxable income generally is figured the same way as an individual's income, except as explained in the following discussions.

CAUTION *If the decedent is a specified terrorist victim (see* Specified Terrorist Victim, *earlier), certain income received by the estate is not taxable. See Publication 3920.*

Gross income of an estate consists of all items of income received or accrued during the tax year. It includes dividends, interest, rents, royalties, gain from the sale of property, and income from business, partnerships, trusts, and any other sources. For a discussion of income from dividends, interest, and other investment income, as well as gains and losses from the sale of investment property, see Publication 550, Investment Income and Expenses. For a discussion of gains and losses from the sale of other property, including business property, see Publication 544, Sales and Other Dispositions of Assets.

If, as the personal representative, your duties include the operation of the decedent's business, see Publication 334. That publication provides general information about the tax laws that apply to a sole proprietorship.

Income in respect of a decedent. As the personal representative of the estate, you may receive income the decedent would have reported had death not occurred. For an explanation of this income, see *Income in Respect of a Decedent* under *Other Tax Information,* earlier. An estate may qualify to claim a deduction for estate taxes if the estate must include in gross income for any tax year an amount of income in respect of a decedent. See *Estate Tax Deduction,* under *Other Tax Information,* earlier.

Gain (or loss) from sale of property. During the administration of the estate, you may find it necessary or desirable to sell all or part of the estate's assets to pay debts and expenses of administration, or to make proper distributions of the assets to the beneficiaries. While you may have the legal authority to dispose of the property, title to it may be vested (given a legal interest in the property) in one or more of the beneficiaries. This is usually true of real property. To determine whether any gain or loss must be reported by the estate or by the beneficiaries, consult local law to determine the legal owner.

Redemption of stock to pay death taxes. Under certain conditions, a distribution to a shareholder (including the estate) in redemption of stock included in the decedent's gross estate may be allowed capital gain (or loss) treatment.

Character of asset. The character of an asset in the hands of an estate determines whether gain or loss on its sale or other disposition is capital or ordinary. The asset's character depends on how the estate holds or uses it. If it was a capital asset to the decedent, it generally will be a capital asset to the estate. If it was land or depreciable property used in the decedent's business and the estate continues the business, it generally will have the same character to the estate that it had in the decedent's hands. If it was held by the decedent for sale to customers, it generally will be considered to be held for sale to customers by the estate if the decedent's business continues to operate during the administration of the estate.

CAUTION *The gain from a sale of depreciable property between an estate and a beneficiary of that estate will be treated as ordinary income, unless the sale or exchange was made to satisfy a pecuniary (cash) bequest.*

Sale of decedent's residence. If the estate is the legal owner of a decedent's residence and the personal representative sells it in the course of administration, the tax treatment of gain or loss depends on how the estate holds or uses the former residence. For example, if, as the personal representative, you intend to realize the value of the house through sale, the residence is a capital asset held for investment and gain or loss is capital gain or loss (which may be deductible). This is the case even though it was the decedent's personal residence and even if you did not rent it out. If, however, the house is not held for business or investment use (for example, if you intend to permit a beneficiary to live in the residence rent-free and then distribute it to the beneficiary to live in), and you later decide to sell the residence without first converting it to business or investment use, any gain is capital gain, but a loss is not deductible.

Holding period. An estate (or other recipient) that acquires property from a decedent and sells or otherwise disposes of it is considered to have held that property for more than 1 year, no matter how long the estate and the decedent actually held the property.

Basis of property. The basis used to figure gain or loss for property the estate receives from the decedent usually is its fair market value at the date of death. See *Basis of Inherited Property* under *Other Tax Information,* earlier, for other basis in inherited property.

If the estate purchases property after the decedent's death, the basis generally will be its cost.

The basis of certain appreciated property the estate receives from the decedent will be the decedent's adjusted basis in the property immediately before death. This applies if the property was acquired by the decedent as a gift during the 1-year period before death, the property's fair market value on the date of the gift was greater than the donor's adjusted basis, and the proceeds of the sale of the property are distributed to the donor (or the donor's spouse).

Schedule D (Form 1041). To report gains (and losses) from the sale or exchange of capital assets by the estate, file Schedule D (Form 1041), Capital Gains and Losses, with Form 1041. For additional information about the treatment of capital gains and losses, see the instructions for Schedule D (Form 1041).

Installment obligations. If an installment obligation owned by the decedent is transferred by the estate to the obligor (buyer or person obligated to pay) or is canceled at death, include the income from that event in the gross income of the estate. See *Installment obligations* under *Income in Respect of a Decedent,* earlier. See Publication 537 for information about installment sales.

Gain from sale of special-use valuation property. If you elected special-use valuation for farm or other closely held business real property and that property is sold to a qualified heir, the estate will recognize gain on the sale if the fair market value on the date of the sale exceeds the fair market value on the date of the decedent's death (or on the alternate valuation date if it was elected).

Qualified heirs. Qualified heirs include the decedent's ancestors (parents, grandparents, etc.) and spouse, the decedent's lineal descendants (children, grandchildren, etc.) and their spouses, and lineal descendants (and their spouses) of the decedent's parents or spouse.

For more information about special-use valuation, see Form 706 and its instructions.

Gain from transfer of property to a political organization. Appreciated property transferred to a political organization is treated as sold by the estate. Appreciated property is property that has a fair market value (on the date of the transfer) greater than the estate's basis. The gain recognized is the difference between the estate's basis and the fair market value on the date transferred.

A political organization is any party, committee, association, fund, or other organization formed and operated to accept contributions or make expenditures for influencing the nomination, election, or appointment of an individual to any federal, state, or local public office.

Gain or loss on distributions in kind. An estate recognizes gain or loss on a distribution of property in kind to a beneficiary only in the following situations.

1. The distribution satisfies the beneficiary's right to receive either:
   a. A specific dollar amount (whether payable in cash, in unspecified property, or in both); or
   b. A specific property other than the property distributed.
2. You elect to recognize the gain or loss on the estate's income tax return (section 643(e)(3) election).

The gain or loss is usually the difference between the fair market value of the property when distributed and the estate's basis in the property. However, see *Gain from sale of special-use valuation property,* earlier, for a limit on the gain recognized on a transfer of such property to a qualified heir.

If you elect to recognize gain or loss, the election applies to all noncash distributions during the tax year except charitable distributions and specific bequests. To make the election, report the transaction on Schedule D (Form 1041) and check the box on line 7 in the "Other Information" section of Form 1041. You must make the election by the due date (including extensions) of the estate's income tax return for the year of distribution. However, if you timely filed the return for the year without making the election, you can still make the election by filing an amended return within 6 months of the due date of the return (excluding extensions). Attach Schedule D (Form 1041) to the amended return and write "Filed pursuant to section 301.9100-2" on the form. File the amended return at the same address you filed the original return. You must get the consent of the IRS to revoke the election.

For more information, see *Property distributed in kind* under *Income Distribution Deduction,* later.

CAUTION *Under the related persons rules, you cannot claim a loss for property distributed to a beneficiary unless the distribution is in discharge of a pecuniary bequest. Also, any gain on the distribution of depreciable property is ordinary income.*

Exemption and Deductions

In figuring taxable income, an estate is generally allowed the same deductions as an individual. Special rules, however, apply to some deductions for an estate. This section includes discussions of those deductions affected by the special rules.

Exemption Deduction

An estate is allowed an exemption deduction of $600 in figuring its taxable income. No exemption for dependents is allowed to an estate. Even though the first return of an estate may be for a period of less than 12 months, the exemption is $600. If, however, the estate was given permission to change its accounting period, the exemption is $50 for each month of the short year.

Charitable Contributions

An estate qualifies for a deduction for gross income paid or permanently set aside for qualified charitable organizations. The adjusted gross income limits for individuals do not apply. However, to be deductible by an estate, the contribution must be specifically provided for in the decedent's will. If there is no will, or if the will makes no provision for the payment to a charitable organization, then a deduction will not be allowed even though all beneficiaries may agree to the gift.

You cannot deduct any contribution from income not included in the estate's gross income. If the will specifically provides that the contributions are to be paid out of the estate's gross income, the contributions are fully deductible. However, if the will contains no specific provisions, the contributions are considered to have been paid and are deductible in the same proportion as the gross income bears to the total of all classes (taxable and nontaxable) of income.

You cannot deduct a qualified conservation easement granted after the date of death and before the due date of the estate tax return. A contribution deduction is allowed to the estate for estate tax purposes.

For more information about contributions, see Publication 526, Charitable Contributions, and Publication 561, Determining the Value of Donated Property.

Losses

Generally, an estate can claim a deduction for a loss it sustains on the sale of property. This includes a loss from the sale of property (other than stock) to a personal representative of the estate, unless that person is a beneficiary of the estate.

For a discussion of an estate's recognized loss on a distribution of property in kind to a beneficiary, see *Income To Include,* earlier.

CAUTION *An estate and a beneficiary of that estate are generally treated as related persons for purposes of the disallowance of a loss on the sale of an asset between related persons. The disallowance does not apply to a sale or exchange made to satisfy a pecuniary bequest.*

Net operating loss deduction. An estate can claim a net operating loss deduction, figured in the same way as an individual's, except that it cannot take the income distribution deduction (discussed later) or the deduction for charitable contributions in figuring the loss or the loss carryover. For a discussion of the carryover of an unused net operating loss to a beneficiary upon termination of the estate, see *Termination of Estate,* later.

For information on net operating losses, see Publication 536.

Casualty and theft losses. Losses incurred from casualties and thefts during the administration of the estate can be deducted only if they have not been claimed on the federal estate tax return (Form 706). You must file a statement with the estate's income tax return waiving the deduction for estate tax purposes. See *Administration Expenses,* later.

The same rules that apply to individuals apply to the estate, except that in figuring the adjusted gross income of the estate used to figure the deductible loss, you deduct any administration expenses claimed. Use Form 4684, Casualties and Thefts, and its instructions to figure any loss deduction.

Carryover losses. Carryover losses resulting from net operating losses or capital losses sustained by the decedent before death cannot be deducted on the estate's income tax return.

Administration Expenses

Expenses of administering an estate can be deducted either from the gross estate in figuring the federal estate tax on Form 706 or from the estate's gross income in figuring the estate's income tax on Form 1041. However, these expenses cannot be claimed for both estate tax and income tax purposes. In most cases, this rule also applies to expenses incurred in the sale of property by an estate (not as a dealer).

To prevent a double deduction, amounts otherwise allowable in figuring the decedent's taxable estate for federal estate tax on Form 706 will not be allowed as a deduction in figuring the income tax of the estate or of any other person unless the personal representative files a statement, in duplicate, that the items of expense, as listed in the statement, have not been claimed as deductions for federal estate tax purposes and that all rights to claim such deductions are waived. One deduction or part of a deduction can be claimed for income tax purposes if the appropriate statement is filed, while another deduction or part is claimed for estate tax purposes. Claiming a deduction in figuring the estate income tax is not prevented when the same deduction is claimed on the estate tax return so long as the estate tax deduction is not finally allowed and the preceding statement is filed. The statement can be filed with the income tax return or at any time before the expiration of the statute of limitations that applies to the tax year for which the deduction is sought. This waiver procedure also applies to casualty losses incurred during administration of the estate.

Accrued expenses. The rules preventing double deductions do not apply to deductions for taxes, interest, business expenses, and other items accrued at the date of death. These expenses are allowable as a deduction for estate tax purposes as claims against the estate and also are allowable as deductions in respect of a decedent for income tax purposes. Deductions for interest, business expenses, and other items not accrued at the date of the decedent's death are allowable only as a deduction for administration expenses for both estate and income tax purposes and do not qualify for a double deduction.

Expenses allocable to tax-exempt income. When figuring the estate's taxable income on Form 1041, you cannot deduct administration expenses allocable to any of the estate's tax-exempt income. However, you can deduct these administration expenses when figuring the taxable estate for federal estate tax purposes on Form 706.

Interest on estate tax. Interest paid on installment payments of estate tax is not deductible for income or estate tax purposes.

Depreciation and Depletion

The allowable deductions for depreciation and depletion that accrue after the decedent's death must be apportioned between the estate and the beneficiaries, depending on the income of the estate allocable to each.

CAUTION *An estate cannot elect to treat the cost of certain depreciable business assets as an expense under section 179.*

Example. In 2010, the decedent's estate realized $3,000 of business income during the administration of the estate. The personal representative distributed $1,000 of the income to the decedent's son, Ned, and $2,000 to another son, Bill. The allowable depreciation on the business property is $300. Ned can take a deduction of $100 [($1,000 ÷ $3,000) × $300], and Bill can take a deduction of $200 [($2,000 ÷ $3,000) × $300].

Income Distribution Deduction

An estate is allowed a deduction for the tax year for any income that must be distributed currently and for other amounts that are properly paid, credited, or required to be distributed to beneficiaries. This deduction is limited to the distributable net income of the estate.

For special rules about distributions that apply in figuring the estate's income distribution deduction, see *Bequest* under *Distributions to Beneficiaries From an Estate,* later.

Distributable net income. Distributable net income (figured on Form 1041, Schedule B) is the estate's taxable income, excluding the income distribution deduction, with the following additional modifications.

Tax-exempt interest. Tax-exempt interest, including exempt-interest dividends, is included in the distributable net income but is reduced by the following items.

- Expenses not allowed in computing the estate's taxable income because they were attributable to tax-exempt interest (see *Expenses allocable to tax-exempt income* under *Administration Expenses,* earlier).
- The portion of tax-exempt interest deemed to have been used to make a charitable contribution. See *Charitable Contributions,* earlier.

The total tax-exempt interest earned by an estate must be shown in the “Other Information” section of Form 1041. The beneficiary's part of the tax-exempt interest is shown on Schedule K-1 (Form 1041).

Exemption deduction. The exemption deduction is not allowed.

Capital gains. Capital gains are not automatically included in distributable net income. However, you can include them in distributable net income if any of the following apply.

- The gain is allocated to income in the accounts of the estate or by notice to the beneficiaries under the terms of the will or by local law.
- The gain is allocated to the corpus or principal of the estate and is actually distributed to the beneficiaries during the tax year.
- The gain is used, under either the terms of the will or the practice of the personal representative, to determine the amount that is distributed or must be distributed.
- Charitable contributions are made out of capital gains.

Generally, when you determine capital gains to be included in distributable net income, the exclusion for gain from the sale or exchange of qualified small business stock is not taken into account.

Capital losses. Capital losses are excluded in figuring distributable net income unless they enter into the computation of any capital gain that is distributed or must be distributed during the year.

Separate shares rule. The separate shares rule must be used if both of the following are true.

- The estate has more than one beneficiary.
- The economic interest of a beneficiary does not affect and is not affected by the economic interest of another beneficiary.

A bequest of a specific sum of money or of property is not a separate share (see *Bequest,* later).

If the separate shares rule applies, the separate shares are treated as separate estates for the sole purpose of determining the distributable net income allocable to a share. Each share's distributable net income is based on that share's portion of gross income and any applicable deductions or losses. You must use a reasonable and equitable method to make the allocations.

Generally, gross income is allocated among the separate shares based on the income each share is entitled to under the will or applicable local law. This includes gross income not received in cash, such as a distributive share of partnership tax items.

If a beneficiary is not entitled to any of the estate's income, the distributable net income for that beneficiary is zero. The estate cannot deduct any distribution made to that beneficiary and the beneficiary does not have to include the distribution in its gross income. However, see *Income in respect of a decedent,* later in this discussion.

Example. Patrick's will directs you, the executor, to distribute ABC Corporation stock and all dividends from that stock to his son, Edward, and the residue of the estate to his son, Michael. The estate has two separate shares consisting of the dividends on the stock left to Edward and the residue of the estate left to Michael. The distribution of the ABC Corporation stock qualifies as a bequest, so it is not a separate share.

If any distributions, other than the ABC Corporation stock, are made during the year to either Edward or Michael, you must determine the distributable net income for each separate share. The distributable net income for Edward's separate share includes only the dividends attributable to the ABC Corporation stock. The distributable net income for Michael's separate share includes all other income.

Income in respect of a decedent. This income is allocated among the separate shares that could potentially be funded with these amounts, even if the share is not entitled to receive any income under the will or applicable local law. This allocation is based on the relative value of each share that could potentially be funded with these amounts.

Example 1. Frank's will directs you, the executor, to divide the residue of his estate (valued at $900,000) equally between his two children, Judy and Ann. Under the will, you must fund Judy's share first with the proceeds of Frank's traditional IRA. The $90,000 balance in the IRA was distributed to the estate during the year. This amount is included in the estate's gross income as income in respect of a decedent and is allocated to the corpus of the estate. The estate has two separate shares, one for the benefit of Judy and one for the benefit of Ann. If any distributions are made to either Judy or Ann during the year, then, for purposes of determining the distributable net income for each separate share, the $90,000 of income in respect of a decedent must be allocated only to Judy's share.

Example 2. Assume the same facts as in Example 1, except that you must fund Judy's share first with DEF Corporation stock valued at $300,000, rather than the IRA proceeds. To determine the distributable net income for each separate share, the $90,000 of income in respect of a decedent must be allocated between the two shares to the extent they could potentially be funded with that income. The maximum amount of Judy's share that could be funded with that income is $150,000 ($450,000 value of share less $300,000 funded with stock). The maximum amount of Ann's share that could be funded is $450,000. Based on the relative values, Judy's distributable net income includes $22,500 ($150,000/$600,000 X $90,000) of the income in respect of a decedent and Ann's distributable net income includes $67,500 ($450,000/$600,000 X $90,000).

Income required to be distributed currently. The income distribution deduction includes any income that, under the terms of the decedent's will or by reason of local law, must be distributed currently. This includes an amount that may be paid out of income or corpus (such as an annuity) to the extent it is paid out of income for the tax year. The deduction is allowed to the estate even if the personal representative does not make the distribution until a later year or makes no distribution until the final settlement and termination of the estate.

Any other amount paid, credited, or required to be distributed. Any other amount paid, credited, or required to be distributed is included in the income distribution deduction of the estate only in the year actually paid, credited, or distributed. If there is no specific requirement by local law or by the terms of the will that income earned by the estate during administration be distributed currently, a deduction for distributions to the beneficiaries will be allowed to the estate, but only for the actual distributions during the tax year.

If the personal representative has discretion as to when the income is distributed, the deduction is allowed only in the year of distribution.

The personal representative can elect to treat distributions paid or credited within 65 days after the close of the estate's tax year as having been paid or credited on the last day of that tax year. The election is made by completing line 6 in the "Other Information" section of Form 1041. If a tax return is not required, the election is made on a statement filed with the IRS office where the return would have been filed. The election is irrevocable for the tax year and is only effective for the year of the election.

Interest in real estate. The value of an interest in real estate owned by a decedent, title to which passes directly to the beneficiaries under local law, is not included as any other amount paid, credited, or required to be distributed.

Property distributed in kind. If an estate distributes property in kind, the estate's deduction ordinarily is the lesser of its basis in the property or the property's fair market value when distributed. However, the deduction is the property's fair market value if the estate recognizes gain on the distribution. See *Gain or loss on distributions in kind* under *Income To Include,* earlier.

Property is distributed in kind if it satisfies the beneficiary's right to receive another property or amount, such as the income of the estate or a specific dollar amount. It generally includes any noncash distribution other than the following.

- A specific bequest (unless it must be distributed in more than three installments).
- Real property, the title to which passes directly to the beneficiary under local law.

Tax-exempt income not deductible. You cannot take an income distribution deduction for any item of distributable net income not included in the estate's gross income.

Example. An estate has distributable net income of $2,000, consisting of $1,000 of dividends and $1,000 of tax-exempt interest. Distributions to the beneficiary total $1,500. Except for this rule, the income distribution deduction would be $1,500 ($750 of dividends and $750 of tax-exempt interest). However, as the result of this rule, the income distribution deduction is limited to $750, because no deduction is allowed for the tax-exempt interest distributed.

Denial of double deduction. A deduction cannot be claimed twice. If an amount is considered to have been distributed to a beneficiary of an estate in a preceding tax year, it cannot again be included in figuring the deduction for the year of the actual distribution.

Example. The decedent's will provides that the estate must distribute currently all of its income to a beneficiary. For administrative convenience, the personal representative did not make a distribution of part of the income for the tax year until the first month of the next tax year. The amount must be deducted by the estate in the first tax year, and must be included in the income of the beneficiary in that year. This amount cannot be deducted again by the estate in the following year when it is paid to the beneficiary, nor must the beneficiary again include the amount in income in that year.

Charitable contribution. Any amount allowed as a charitable deduction by the estate in figuring the estate's taxable income cannot be claimed again as a deduction for a distribution to a beneficiary.

Funeral and Medical Expenses

No deduction can be taken for funeral expenses or medical and dental expenses on the estate's income tax return, Form 1041.

Funeral expenses. Funeral expenses paid by the estate are not deductible in figuring the estate's taxable income on Form 1041. They are deductible only for determining the taxable estate for federal estate tax purposes on Form 706.

Medical and dental expenses of a decedent. The medical and dental expenses of a decedent paid by the estate are not deductible in figuring the estate's taxable income on Form 1041. You can deduct them in figuring the taxable estate for federal estate tax purposes on Form 706. If these expenses are paid within the 1-year period beginning with the day after the decedent's death, you can elect to deduct them on the decedent's income tax return (Form 1040) for the year in which they were incurred. See *Medical Expenses* under *Final Income Tax Return for Decedent—Form 1040,* earlier.

Credits, Tax, and Payments

This section includes brief discussions of some of the tax credits, types of taxes that may be owed, and estimated tax payments reported on the estate's income tax return, Form 1041.

Credits

Estates generally are allowed some of the same tax credits that are allowed to individuals. The credits generally are allocated between the estate and the beneficiaries. However, estates are not allowed the credit for the elderly or the disabled, the child tax credit, or the earned income credit discussed earlier under *Final Income Tax Return for Decedent—Form 1040.*

Foreign tax credit. The foreign tax credit is discussed in Publication 514, Foreign Tax Credit for Individuals.

General business credit. The general business credit is available to an estate involved in a business. For more information, see Publication 334.

Tax

You cannot use the Tax Table for individuals to figure the estate tax. You must use the tax rate schedule in the Instructions for Form 1041 to figure the estate tax.

Alternative minimum tax (AMT). An estate may be liable for the alternative minimum tax. To figure the alternative minimum tax, use Schedule I (Form 1041), Alternative Minimum Tax. Certain credits may be limited by any tentative minimum tax figured on Schedule I (Form 1041), Part III, line 54, even if there is no alternative minimum tax liability.

If the estate takes a deduction for distributions to beneficiaries, complete Parts I and II of Schedule I (Form 1041) even if the estate does not owe alternative minimum tax. Allocate the income distribution deduction figured on a minimum tax basis among the beneficiaries and report each beneficiary's share on Schedule K-1 (Form 1041). Also, show each beneficiary's share of any adjustments or tax preference items for depreciation, depletion, and amortization.

For more information, see the Instructions for Schedule I (Form 1041).

Payments

The estate's income tax liability must be paid in full when the return is filed. You may have to pay estimated tax, however, as explained below.

Estimated tax. Estates with tax years ending 2 or more years after the date of the decedent's death must pay estimated tax in the same manner as individuals.

If you must make estimated tax payments for 2011, use Form 1041-ES, Estimated Income Tax for Estates and Trusts, to determine the estimated tax to be paid.

Generally, you must pay estimated tax if the estate is expected to owe, after subtracting any withholding and credits, at least $1,000 in tax for 2011. You will not, however, have to pay estimated tax if you expect the withholding and credits to be at least:

1. 90% of the tax to be shown on the 2011 return, or
2. 100% of the tax shown on the 2010 return (assuming the return covered all 12 months).

The percentage in (2) above is 110% if the estate's 2010 adjusted gross income (AGI) was more than $150,000 (and less than ⅔ of gross income for 2010 or 2011 is from farming or fishing). To figure the estate's AGI, see the instructions for Form 1041, line 15b.

The general rule is that you must make the first estimated tax payment by April 18, 2011. You can either pay all of your estimated tax at that time or pay it in four equal amounts due by April 18, 2011; June 15, 2011; September 15, 2011; and January 17, 2012. For exceptions to the general rule, see the instructions for Form 1041-ES and Publication 505, Tax Withholding and Estimated Tax.

If your return is on a fiscal year basis, your due dates are the 15th day of the 4th, 6th, and 9th months of your fiscal year and the 1st month of the following fiscal year. If any of these dates fall on a Saturday, Sunday, or legal holiday, the payment must be made by the next business day.

You may be charged a penalty for not paying enough estimated tax or for not making the payment on time in the required amount (even if you have an overpayment on your tax return). You can use Form 2210, Underpayment of Estimated Tax by Individuals, Estates, and Trusts, to figure any penalty, or you can let the IRS figure the penalty.

For more information, see the instructions for Form 1041-ES and Publication 505. Also, see "Transfer of Credit for Estimated Tax Payments," later, for information regarding the transfer of the estate's estimated tax payments to the beneficiary(ies).

Name, Address, and Signature

In the top space of the name and address area of Form 1041, enter the exact name of the estate used to apply for the estate's employer identification number. In the remaining spaces, enter the name and address of the personal representative (fiduciary) of the estate.

Signature. The personal representative (or its authorized officer if the personal representative is not an individual) must sign the return. An individual who prepares the return for pay must sign the return as preparer. You can check a box in the signature area that authorizes the IRS to contact that paid preparer for certain information. See the instructions for Form 1041 for more information.

When and Where To File

When you file Form 1041 (or Form 1040NR if it applies) depends on whether you choose a calendar year or a fiscal year as the estate's accounting period. Where you file Form 1041 depends on where you, as the personal representative, live or have your principal office.

When to file. If you choose the calendar year as the estate's accounting period, the 2010 Form 1041 is due by April 18, 2011 (June 15, 2011, in the case of Form 1040NR for a nonresident alien estate that does not have an office in the United States). If you choose a fiscal year, Form 1041 is due by the 15th day of the 4th month (6th month in the case of Form 1040NR) after the end of the tax year. If the due date is a Saturday, Sunday, or legal holiday, the form must be filed by the next business day.

Extension of time to file. You can request an automatic 5-month extension of time to file Form 1041 by filing Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns. The extension is automatic, so you do not have to sign the form or provide a reason for your request. You must file Form 7004 on or before the regular due date of Form 1041. Form 7004 can be electronically filed. For additional information, see the Instructions for Form 7004.

Generally, an extension of time to file a return does not extend the time for payment of tax due. You must pay the total income tax estimated to be due on Form 1041 in full by the regular due date of the return. For additional information, see the Instructions for Form 7004.

Where to file. As the personal representative of an estate, file the estate's income tax return (Form 1041) with the Internal Revenue Service Center for the state where you live or have your principal place of business. A list of the states and addresses that apply is in the instructions for Form 1041.

You must send Form 1040NR to:

Department of the Treasury
Internal Revenue Service Center
Cincinnati, OH 45999-0048, U.S.A.

Electronic filing. Form 1041 can be filed electronically. See the instructions for more information.

Distributions to Beneficiaries From an Estate

If you are the beneficiary of an estate that is required to distribute all its income currently, you must report your share of the distributable net income, whether or not you have actually received the distribution.

If you are a beneficiary of an estate that is not required to distribute all its income currently, you must report all income that is required to be distributed to you currently (whether or not actually distributed), plus all other amounts paid, credited, or required to be distributed to you, up to your share of distributable net income. As explained earlier in *Income Distribution Deduction* under *Income Tax Return of an Estate—Form 1041*, for an amount to be income required to be distributed currently, there must be a specific requirement for current distribution either under local law or the terms of the decedent's will. If there is no such requirement, the income is reportable only when distributed.

If the estate has more than one beneficiary, the separate shares rule discussed earlier under *Income Distribution Deduction* may have to be used to determine the distributable net income allocable to each beneficiary. The beneficiaries in the examples shown next do not meet the requirements of the separate shares rule.

Income That Must Be Distributed Currently

Beneficiaries entitled to receive currently distributable income generally must include in gross income the entire amount due them. However, if the income required to be distributed currently is more than the estate's distributable net income figured without deducting charitable contributions, each beneficiary must include in gross income a ratable part of the distributable net income.

Example. Under the terms of the will of Gerald Peters, $5,000 a year is to be paid to his widow and $2,500 a year is to be paid to his daughter out of the estate's income during the period of administration. There are no charitable contributions. For the year, the estate's distributable net income is only $6,000. The distributable net income is less than the currently distributable income, so the widow must include in her gross income only $4,000 [($5,000 ÷ $7,500) × $6,000], and the daughter must include in her gross income only $2,000 [($2,500 ÷ $7,500) × $6,000].

Annuity payable out of income or corpus. Income that is required to be distributed currently includes any amount that must be paid out of income or corpus (principal of the estate) to the extent the amount is satisfied out of income for the tax year. An annuity that must be paid in all events (either out of income or corpus) would qualify as income that is required to be distributed currently to the extent there is income of the estate not paid, credited, or required to be distributed to other beneficiaries for the tax year.

Example 1. Henry Frank's will provides that $500 be paid to the local Community Chest out of income each year. It also provides that $2,000 a year is currently distributable out of income to his brother, Fred, and an annuity of $3,000 is to be paid to his sister, Sharon, out of income or corpus. Capital gains are allocable to corpus, but all expenses are to be charged against income. Last year, the estate had income of $6,000 and expenses of $3,000. The personal representative paid $500 to the Community Chest and made the distributions to Fred and Sharon as required by the will.

The estate's distributable net income (figured before the charitable contribution) is $3,000. The currently distributable income totals $2,500 ($2,000 to Fred and $500 to Sharon). The income available for Sharon's annuity is only $500 because the will requires that the charitable contribution be paid out of current income. The $2,500 treated as distributed currently is less than the $3,000 distributable net income (before the contribution), so Fred must include $2,000 in his gross income and Sharon must include $500 in her gross income.

Example 2. Assume the same facts as in *Example 1* except the estate has an additional $1,000 of administration expenses, commissions, etc., chargeable to corpus. The estate's distributable net income (figured before the charitable contribution) is now $2,000 ($3,000 − $1,000 additional expense). The amount treated as currently distributable income is still $2,500 ($2,000 to Fred and $500 to Sharon). The $2,500 treated as distributed currently is more than the $2,000 distributable net income, so Fred has to include only $1,600 [($2,000 ÷ $2,500) × $2,000] in his gross income and Sharon has to include only $400 [($500 ÷ $2,500) × $2,000] in her gross income. Fred and Sharon are beneficiaries of amounts that must be distributed currently, so they do not benefit from the reduction of distributable net income by the charitable contribution deduction.

Other Amounts Distributed

Any other amount paid, credited, or required to be distributed to the beneficiary for the tax year also must be included in the beneficiary's gross income. Such an amount is in addition to those amounts that are required to be distributed currently, as discussed earlier. It does not include gifts or bequests of specific sums of money or specific property if such sums are paid in three or fewer installments. However, amounts that can be paid only out of income are not excluded under this rule. If the sum of the income that must be distributed currently and other amounts paid, credited, or required to be distributed exceeds distributable net income, these other amounts are included in the beneficiary's gross income only to the extent distributable net income exceeds the income that must be distributed currently. If there is more than one beneficiary, each will include in gross income only a *pro rata* share of such amounts.

The personal representative can elect to treat distributions paid or credited by the estate within 65 days after the close of the estate's tax year as having been paid or credited on the last day of that tax year.

The following are examples of other amounts distributed.

- Distributions made at the discretion of the personal representative.
- Distributions required by the terms of the will when a specific event occurs.
- Annuities that must be paid in any event, but only out of corpus (principal).
- Distributions of property in kind as defined earlier in *Income Distribution Deduction* under *Income Tax Return of an Estate — Form 1041.*
- Distributions required for the support of the decedent's surviving spouse or other dependent for a limited period, but only out of corpus (principal).

If an estate distributes property in kind, the amount of the distribution ordinarily is the lesser of the estate's basis in the property or the property's fair market value when distributed. However, the amount of the distribution is the property's fair market value if the estate recognizes gain on the distribution. See *Gain or loss on distributions in kind* in the discussion *Income To Include* under *Income Tax Return of an Estate — Form 1041,* earlier.

Example. The terms of Michael Scott's will require the distribution of $2,500 of income annually to his wife, Susan. If any income remains, it may be accumulated or distributed to his two children, Joe and Alice, in amounts at the discretion of the personal representative. The personal representative also may invade the corpus (principal) for the benefit of Scott's wife and children.

Last year, the estate had income of $6,000 after deduction of all expenses. Its distributable net income is also $6,000. The personal representative distributed the required $2,500 of income to Susan. In addition, the personal representative distributed $1,500 each to Joe and Alice and an additional $2,000 to Susan.

Susan includes in her gross income the $2,500 of currently distributable income. The other amounts distributed totaled $5,000 ($1,500 + $1,500 + $2,000) and are includible in the income of Susan, Joe, and Alice to the extent of $3,500 (distributable net income of $6,000 minus currently distributable income to Susan of $2,500). Susan will include an additional $1,400 [($2,000 ÷ $5,000) × $3,500] in her gross income. Joe and Alice each will include $1,050 [($1,500 ÷ $5,000) × $3,500] in their gross incomes.

Discharge of a Legal Obligation

If an estate, under the terms of a will, discharges a legal obligation of a beneficiary, the discharge is included in that beneficiary's income as either currently distributable income or other amount paid. This does not apply to the discharge of a beneficiary's obligation to pay alimony or separate maintenance.

The beneficiary's legal obligations include a legal obligation of support, for example, of a minor child. Local law determines a legal obligation of support.

Character of Distributions

An amount distributed to a beneficiary for inclusion in gross income retains the same character for the beneficiary that it had for the estate.

No charitable contribution made. If no charitable contribution is made during the tax year, you must treat the distributions as consisting of the same proportion of each class of items entering into the computation of distributable net income as the total of each class bears to the total distributable net income. Distributable net income was defined earlier in *Income Distribution Deduction* under *Income Tax Return of an Estate — Form 1041.* However, if the will or local law specifically provides or requires a different allocation, you must use that allocation.

Example 1. An estate has distributable net income of $3,000, consisting of $1,800 in rents and $1,200 in taxable interest. There is no provision in the will or local law for the allocation of income. The personal representative distributes $1,500 each to Jim and Ted, beneficiaries under their father's will. Each will be treated as having received $900 in rents and $600 of taxable interest.

Example 2. Assume in *Example 1* that the will provides for the payment of the taxable interest to Jim and the rental income to Ted and that the personal representative distributed the income under those provisions. Jim is treated as having received $1,200 in taxable interest and Ted is treated as having received $1,800 of rental income.

Charitable contribution made. If a charitable contribution is made by an estate and the terms of the will or local law provide for the contribution to be paid from specified sources, that provision governs. If no provision or requirement exists, the charitable contribution deduction must be allocated among the classes of income entering into the computation of the income of the estate before allocation of other deductions among the items of distributable net income. In allocating items of income and deductions to beneficiaries to whom income must be distributed currently, the charitable contribution deduction is not taken into account to the extent that it exceeds income for the year reduced by currently distributable income.

Example. The will of Harry Thomas requires a current distribution from income of $3,000 a year to his wife, Betty, during the administration of the estate. The will also provides that the personal representative, using discretion, may distribute the balance of the current earnings either to Harry's son, Tim, or to one or more certain designated charities. Last year, the estate's income consisted of $4,000 of taxable interest and $1,000 of tax-exempt interest. There were no deductible expenses. The personal representative distributed the $3,000 to Betty, made a contribution of $2,500 to the local heart association, and paid $1,500 to Tim.

The distributable net income for determining the character of the distribution to Betty is $3,000. The charitable contribution deduction to be taken into account for this computation is $2,000 (the estate's income ($5,000) minus the currently distributable income ($3,000)). The $2,000 charitable contribution deduction must be allocated: $1,600 [($4,000 ÷ $5,000) × $2,000] to taxable interest and $400 [($1,000 ÷ $5,000) × $2,000] to tax-exempt interest. Betty is considered to have received $2,400 ($4,000 − $1,600) of taxable interest and $600 ($1,000 − $400) of tax-exempt interest. She must include the $2,400 in her gross income. She must report the $600 of tax-exempt interest, but it is not taxable.

To determine the amount to be included in Tim's gross income, however, take into account the entire charitable contribution deduction. The currently distributable income is greater than the estate's income after taking into account the charitable contribution deduction, so none of the amount paid to Tim must be included in his gross income for the year.

How and When To Report

How income from the estate is reported depends on the character of the income in the hands of the estate. When the income is reported depends on whether it represents amounts credited or required to be distributed to beneficiaries or other amounts.

How to report estate income. Each item of income keeps the same character in the hands of a beneficiary as it had in the hands of the estate. If the items of income distributed or considered to be distributed include dividends, tax-exempt interest, or capital gains, they will keep the same character in the beneficiary's hands for purposes of the tax treatment given those items. Generally, a beneficiary reports dividends on Form 1040, line 9a, and capital gains on Schedule D (Form 1040). The tax-exempt interest, while not included in taxable income, must be shown on Form 1040, line 8b. Report business and other nonpassive income in Part III of Schedule E (Form 1040).

As the estate's personal representative, you must provide the beneficiary with the classification of the various items that make up his or her share of the estate income and the credits he or she takes into consideration to properly prepare his or her individual income tax return. See *Schedule K-1 (Form 1041),* later.

When to report estate income. If income from the estate is credited or must be distributed to a beneficiary for a tax year, he or she reports that income (even if not distributed) on his or her return for that year. You can elect to treat distributions paid or credited within 65 days after the close of the estate's tax year as having been paid or credited on the last day of that tax year. If this election is made, the beneficiary must report that distribution on his or her return for that year.

Other income from the estate is reported on his or her return for the year in which it was received. If the beneficiary's tax year is different from the estate's tax year, see *Different tax years,* next.

Different tax years. Each beneficiary must include his or her share of the estate income in his or her return for the tax year in which the last day of the estate's tax year falls. If the tax year of the estate is a fiscal year ending on June 30, 2010, and the beneficiary's tax year is the calendar year, the beneficiary will include in gross income for the tax year ending December 31, 2010, his or her share of the estate's distributable net income distributed or required to be distributed during the fiscal year ending the previous June 30.

Death of individual beneficiary. If an individual beneficiary dies, the beneficiary's share of the estate's distributable net income may be distributed or be considered distributed by the estate for its tax year that does not end with or within the last tax year of the beneficiary. In this case, the estate income that must be included in the gross income on the beneficiary's final return is based on the amounts distributed or considered distributed during the tax year of the estate in which his or her last tax year ended. However, for a cash basis beneficiary, the gross income of the last tax year includes only the amounts actually distributed before death. Income that must be distributed to the beneficiary but, in fact, is distributed to the beneficiary's estate after death is included in the gross income of the beneficiary's estate as income in respect of a decedent.

Termination of nonindividual beneficiary. If a beneficiary that is not an individual, for example a trust or a corporation, ceases to exist, the amount included in its gross income for its last tax year is determined as if the beneficiary were a deceased individual. However, income that must be distributed before termination, but which is actually distributed to the beneficiary's successor in interest, is included in the gross income of the nonindividual beneficiary for its last tax year.

Schedule K-1 (Form 1041). The personal representative of the estate must provide you with a copy of Schedule K-1 (Form 1041) or a substitute Schedule K-1. You should not file the form with your Form 1040, but should keep it for your personal records.

Each beneficiary (or nominee of a beneficiary) who receives a distribution from the estate for the tax year or to whom any item is allocated must receive a Schedule K-1 or substitute. The personal representative must furnish the form to each beneficiary or nominee by the date on which the Form 1041 is filed.

Nominees. A person who holds an interest in an estate as a nominee for a beneficiary must provide the estate with the name and address of the beneficiary, and any other required information. The nominee must provide the beneficiary with the information received from the estate.

Penalty. A personal representative (or nominee) who fails to provide the correct information may be subject to a $50 penalty for each failure.

Consistent treatment of items. Beneficiaries must treat estate items the same way on their individual returns as those items are treated on the estate's income tax return. If their treatment is different from the estate's treatment, the beneficiary must file Form 8082, Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR), with his or her return to identify the difference. If he or she does not file Form 8082 and the estate has filed a return, the IRS can immediately assess and collect any tax and penalties that result from adjusting the item to make it consistent with the estate's treatment.

Bequest

A bequest is the act of giving or leaving property to another through the last will and testament. Generally, any distribution of income (or property in kind) to a beneficiary is an allowable deduction to the estate and is includible in the beneficiary's gross income to the extent of the estate's distributable net income. However, a distribution will not be an allowable deduction to the estate and will not be includible in the beneficiary's gross income if the distribution meets all the following requirements.

- It is required by the terms of the will.
- It is a gift or bequest of a specific sum of money or property.
- It is paid out in three or fewer installments under the terms of the will.

Specific sum of money or property. To meet this test, the amount of money or the identity of the specific property must be determinable under the decedent's will as of the date of death. To qualify as specific property, the property must be identifiable both as to its kind and its amount.

Example 1. Dave Rogers' will provided that his son, Ed, receive Dave's interest in the Rogers-Jones partnership. Dave's daughter, Marie, would receive a sum of money equal to the value of the partnership interest given to Ed. The bequest to Ed is a gift of a specific property ascertainable at the date of Dave Rogers' death. The bequest of a specific sum of money to Marie is determinable on the same date.

Example 2. Mike Jenkins' will provided that his widow, Helen, would receive money or property to be selected by the personal representative equal in value to half of his adjusted gross estate. The identity of the property and the money in the bequest are dependent on the personal representative's discretion and the payment of administration expenses and other charges, which are not determinable at the date of Mike's death. As a result, the provision is not a bequest of a specific sum of money or of specific property, and any distribution under that provision is a deduction for the estate and income to the beneficiary (to the extent of the estate's distributable net income). The fact that the bequest will be specific sometime before distribution is immaterial. It is not ascertainable by the terms of the will as of the date of death.

Distributions not treated as bequests. The following distributions are not bequests that meet all the requirements listed earlier that allow a distribution to be excluded from the beneficiary's income and do not allow it as a deduction to the estate.

Paid only from income. An amount that can be paid only from current or prior income of the estate does not qualify even if it is specific in amount and there is no provision for installment payments.

Annuity. An annuity or a payment of money or of specific property in lieu of, or having the effect of, an annuity is not the payment of specific property or a sum of money.

Residuary estate. If the will provides for the payment of the balance or residue of the estate to a beneficiary of the estate after all expenses and other specific legacies or bequests, that residuary bequest is not a payment of specific property or a sum of money.

Gifts made in installments. Even if the gift or bequest is made in a lump sum or in three or fewer installments, it will not qualify as specific property or a sum of money if the will provides that the amount must be paid in more than three installments.

Conditional bequests. A bequest of specific property or a sum of money that may otherwise be excluded from the beneficiary's gross income will not lose the exclusion solely because the payment is subject to a condition.

Installment payments. Certain rules apply in determining whether a bequest of specific property or a sum of money has to be paid or credited to a beneficiary in more than three installments.

Personal items. Do not take into account bequests of articles for personal use, such as personal and household effects and automobiles.

Real property. Do not take into account specifically designated real property, the title to which passes under local law directly to the beneficiary.

Other property. All other bequests under the decedent's will for which no time of payment or crediting is specified and that are to be paid or credited in the ordinary course of administration of the estate are considered as required to be paid or credited in a single installment. Also, all bequests payable at any one specified time under the terms of the will are treated as a single installment.

Testamentary trust. In determining the number of installments that must be paid or credited to a beneficiary, the decedent's estate and a testamentary trust created by the decedent's will are treated as separate entities. Amounts paid or credited by the estate and by the trust are counted separately.

Termination of Estate

The termination of an estate generally is marked by the end of the period of administration and by the distribution of the assets to the beneficiaries under the terms of the will or under the laws of succession of the state if there is no will. These beneficiaries may or may not be the same persons as the beneficiaries of the estate's income.

Period of Administration

The period of administration is the time actually required by the personal representative to assemble all the decedent's assets, pay all the expenses and obligations, and distribute the assets to the beneficiaries. This may be longer or shorter than the time provided by local law for the administration of estates.

Ends if all assets distributed. If all assets are distributed except a reasonable amount set aside, in good faith, for the payment of unascertained or contingent liabilities and expenses (but not including a claim by a beneficiary, as a beneficiary), the estate will be considered terminated.

Ends if period unreasonably long. If settlement is prolonged unreasonably, the estate will be treated as terminated for federal income tax purposes. From that point on, the income, deductions, and credits of the estate are considered those of the person or persons succeeding to the property of the estate.

Transfer of Unused Deductions to Beneficiaries

If the estate has unused loss carryovers or excess deductions for its last tax year, they are allowed to those beneficiaries who succeed to the estate's property. See *Successor beneficiary,* later.

Unused loss carryovers. An unused net operating loss carryover or capital loss carryover existing upon termination of the estate is allowed to the beneficiaries succeeding to the property of the estate. That is, these deductions will be claimed on the beneficiary's tax return. This treatment occurs only if a carryover would have been allowed to the estate in a later tax year if the estate had not been terminated.

Both types of carryovers generally keep their same character for the beneficiary as they had for the estate. However, if the beneficiary of a capital loss carryover is a corporation, the corporation will treat the carryover as a short-term capital loss regardless of its status in the estate. The net operating loss carryover and the capital loss carryover are used in figuring the beneficiary's adjusted gross income and taxable income. The beneficiary may have to adjust any net operating loss carryover in figuring the alternative minimum tax.

The first tax year to which the loss is carried is the beneficiary's tax year in which the estate terminates. If the loss can be carried to more than one tax year, the estate's last tax year (whether or not a short tax year) and the beneficiary's first tax year to which the loss is carried each constitute a tax year for figuring the number of years to which a loss may be carried. A capital loss carryover from an estate to a corporate beneficiary will be treated as though it resulted from a loss incurred in the estate's last tax year (whether or not a short tax year), regardless of when the estate actually incurred the loss.

If the last tax year of the estate is the last tax year to which a net operating loss may be carried, see *No double deductions,* later. For a general discussion of net operating losses, see Publication 536. For a discussion of capital losses and capital loss carryovers, see Publication 550.

Excess deductions. If the deductions in the estate's last tax year (other than the exemption deduction or the charitable contributions deduction) are more than gross income for that year, the beneficiaries succeeding to the estate's property can claim the excess as a deduction in figuring taxable income. To establish these deductions for the beneficiaries, a return must be filed for the estate along with a schedule showing the computation of each kind of deduction and the allocation of each to the beneficiaries.

An individual beneficiary must itemize deductions to claim these excess deductions. The deduction is claimed on Schedule A (Form 1040), subject to the 2% limit on miscellaneous itemized deductions. The beneficiaries can claim the deduction only for the tax year in which or with which the estate terminates, whether the year of termination is a normal year or a short tax year.

No double deductions. A net operating loss deduction allowable to a successor beneficiary cannot be considered in figuring the excess deductions on termination. However, if the estate's last tax year is the last year in which a deduction for a net operating loss can be taken, the deduction, to the extent not absorbed in the last return of the estate, is treated as an excess deduction on termination. Any item of income or deduction, or any part thereof, taken into account in figuring a net operating loss or a capital loss carryover of the estate for its last tax year cannot be used again to figure the excess deduction on termination.

Successor beneficiary. A beneficiary entitled to an unused loss carryover or an excess deduction is the beneficiary who, upon the estate's termination, bears the burden of any loss for which a carryover is allowed or of any deductions more than gross income.

If decedent had no will. If the decedent had no will, the beneficiaries are those heirs or next of kin to whom the estate is distributed. If the estate is insolvent, the beneficiaries are those to whom the estate would have been distributed had it not been insolvent. If the decedent's spouse is entitled to a specified dollar amount of property before any distributions to other heirs and the estate is less than that amount, the spouse is the beneficiary to the extent of the deficiency.

If decedent had a will. If the decedent had a will, a beneficiary normally means the residuary beneficiaries (including residuary trusts). Those beneficiaries who receive specific property or a specific amount of money ordinarily are not considered residuary beneficiaries, except to the extent the specific amount is not paid in full.

Also, a beneficiary who is not strictly a residuary beneficiary, but whose devise or bequest is determined by the value of the estate as reduced by the loss or deduction, is entitled to the carryover or the deduction. For example, this would include the following beneficiaries.

- A beneficiary of a fraction of the decedent's net estate after payment of debts, expenses, and specific bequests.
- A nonresiduary beneficiary, when the estate is unable to satisfy the bequest in full.
- A surviving spouse receiving a fractional share of the estate in fee under a statutory right of election when the losses or deductions are taken into account in determining the share. However, such a beneficiary does not include a recipient of a dower or curtesy, or a beneficiary who receives any income from the estate from which the loss or excess deduction is carried over.

Allocation among beneficiaries. The total of the unused loss carryovers or the excess deductions on termination that may be deducted by the successor beneficiaries is to be divided according to the share of each in the burden of the loss or deduction.

Example. Under his father's will, Arthur is to receive $20,000. The remainder of the estate is to be divided equally between his brothers, Mark and Tom. After all expenses are paid, the estate has sufficient funds to pay Arthur only $15,000, with nothing to Mark and Tom. In the estate's last tax year, there are excess deductions of $5,000 and $10,000 of unused loss carryovers. The total of the excess deductions and unused loss carryovers is $15,000 and Arthur is considered a successor beneficiary to the extent of $5,000, so he is entitled to one-third of the unused loss carryover and one-third of the excess deductions. His brothers may divide the other two-thirds of the excess deductions and the unused loss carryovers between them.

Transfer of Credit for Estimated Tax Payments

When an estate terminates, the personal representative can elect to transfer to the beneficiaries the credit for all or part of the estate's estimated tax payments for the last tax year. To make this election, the personal representative must complete Form 1041-T, Allocation of Estimated Tax Payments to Beneficiaries, and file it either separately or with the estate's final Form 1041. The Form 1041-T must be filed by the 65th day after the close of the estate's tax year.

CAUTION

Filing Form 1041-T with Form 1041 does not change the due date for filing Form 1041-T. The IRS will reject a late filed election. If Form 1041-T is rejected and Form 1041 was filed based on a successful election, then the personal representative must file an amended Form 1041, including amended Schedule K-1(s).

The estimated tax allocated to each beneficiary is treated as paid or credited to the beneficiary on the last day of the estate's final tax year and must be reported in box 13, Schedule K-1 (Form 1041) using code A. If the estate terminated in 2010, this amount is treated as a payment of 2010 estimated tax made by the beneficiary on January 18, 2011.

Estate Tax Return—Form 706

Note. See the *Caution* under the *Introduction* section on page 2 of this publication.

For estate tax purposes, you may be required tot file Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return. If death occurs in 2010, Form 706 must be filed if the gross estate of the decedent is more than $5,000,000.

Generally, if you must file Form 706, the return is due within 9 months after the date of the decedent's death. However, if the decedent died after December 31, 2009, and before December 17, 2010, file Form 706 by September 19, 2011. To apply for an automatic 6-month extension of time to file, use Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

If you believe the estate tax may apply to the decedent's estate, see Publication 950, Publication 4895, and Form 8939.

Comprehensive Example

The following is an example of a typical situation. All figures on the filled-in forms have been rounded to the nearest whole dollar.

On April 9, 2010, your father, John R. Smith, died at the age of 62. He had not resided in a community property state. His will named you to serve as his executor (personal representative). Except for specific bequests to your mother, Mary, of your parents' home and your father's automobile and a bequest of $5,000 to his church, your father's will named your mother and his brother as beneficiaries.

After the court has approved your appointment as the executor, you should obtain an employer identification number for the estate. (See *Duties* under *Personal Representatives,* earlier.) Next, you use Form 56 to notify the Internal Revenue Service that you have been appointed executor of your father's estate.

Assets of the estate. Your father had the following assets when he died.

- His checking account balance was $2,550 and his savings account balance was $53,650.
- Your father inherited your parents' home from his parents on March 5, 1980. At that time it was worth $42,000, but was appraised at the time of your father's death at $150,000. The home was free of existing debts (or mortgages) at the time of his death.
- Your father owned 500 shares of ABC Company stock that cost $10.20 a share in 1984. The stock had a mean selling price (midpoint between highest and lowest selling price) of $25 a share on the day he died. He also owned 500 shares of XYZ Company stock that cost $30 a share in 1989. The stock had a mean selling price on the date of death of $22.
- The appraiser valued your father's automobile at $6,300 and the household effects at $18,500.
- Your father owned a coin collection. The coins collection was appraised at $2,800.
- Your father's employer sent a check to your mother for $11,082 ($12,000 − $918 for social security and Medicare taxes), representing unpaid salary and payment for accrued vacation time. The statement that came with the check indicated that no amount was withheld for income tax. The check was made out to the estate, so your mother gave you the check.
- The Easy Life Insurance Company gave your mother a check for $275,000 because she was the beneficiary of his life insurance policy.
- Your father was the owner of several series EE U.S. savings bonds on which he named your mother as co-owner. Your father purchased the bonds during the past several years. The cost of these bonds totaled $2,500. After referring to the appropriate table of redemption values (see *U.S. savings bonds acquired from decedent,* earlier), you determine that interest of $840 had accrued on the bonds at the date of your father's death. You must include the redemption value of these bonds at date of death, $3,340, in your father's gross estate.
- On July 1, 1996, your parents purchased a house for $90,000. They have held the property for rental purposes continuously since its purchase. Your mother paid one-third of the purchase price, or $30,000, and your father paid $60,000. They owned the property, however, as joint tenants with right of survivorship. An appraiser valued the property at $120,000. You include $60,000, one-half the value, in your father's gross estate because your parents owned the property as joint tenants with right of survivorship and they were the only joint tenants.

Your mother also gave you a Form W-2, Wage and Tax Statement, that your father's employer had sent. In examining it, you discover that your father had been paid $11,000 in salary between January 1, 2010, and April 9, 2010 (the date he died). The Form W-2 showed $11,000 in box 1 and $23,000 ($11,000 + $12,000) in boxes 3 and 5. The Form W-2 indicated $845 as federal income tax withheld in box 2. The estate received a Form 1099-MISC from the employer showing $12,000 in box 3. The estate received a Form 1099-INT for your father showing he was paid $1,900 interest on his savings account at the First S&L of Juneville in 2010, before he died.

Final Return for Decedent

From the papers in your father's files, you determine that the $11,000 paid to him by his employer (as shown on the Form W-2), rental income, and interest are the only items of income he received between January 1 and the date of his death. You will have to file an income tax return for him for the period during which he lived. (You determine that he timely filed his 2009 income tax return before he died.) The final return is not due until April 18, 2011, the same date it would have been due had your father lived during all of 2010.

The check representing unpaid salary and earned but unused vacation time was not paid to your father before he died, so the $12,000 is not reported as income on his final return. It is reported on the income tax return for the estate (Form 1041) for 2010. The only taxable income to be reported for your father will be the $11,000 salary (as shown on the Form W-2), the $1,900 interest, and his portion of the rental income that he received in 2010.

Your father was a cash basis taxpayer and did not report the interest accrued on the series EE U.S. savings bonds on prior tax returns that he filed jointly with your mother. As the personal representative of your father's estate, you choose to report the interest earned on these bonds before your father's death ($840) on the final income tax return.

The rental property was leased the entire year of 2010 for $1,000 per month. Under local law, your parents (as joint tenants) each had a half interest in the income from the property. Your father's will, however, stipulates that the entire rental income is to be paid directly to your mother. None of the rental income will be reported on the income tax return for the estate. Instead, your mother will report all the rental income and expenses on Form 1040. Checking the records and prior tax returns of your parents, you find that they previously elected to use the alternative depreciation system (ADS) with the mid-month convention. Under ADS, the rental house is depreciated using the straight-line method over a 40-year recovery period. They allocated $15,000 of the cost to the land (which is never depreciable) and $75,000 to the rental house. Salvage value was disregarded for the depreciation computation. Before 2010, $23,359 had been allowed as depreciation. (For information on ADS, see Publication 946.)

Deductions. During the year, you received a bill from the hospital for $615 and bills from your father's doctors totaling $475. You paid these bills as they were presented. In addition, you find other bills from his doctors totaling $185 that your father paid in 2010 and receipts for prescribed drugs he purchased totaling $536. The funeral home presented you a bill for $6,890 for the expenses of your father's funeral, which you paid.

The medical expenses you paid from the estate's funds ($615 and $475) were for your father's care and were paid within 1 year after his death. They will not be used to figure the taxable estate so you can treat them as having been paid by your father when he received the medical services. See *Medical Expenses* under *Final Income Tax Return for Decedent—Form 1041,* earlier. However, you cannot deduct the funeral expenses either on your father's final return or on the estate's income tax return. They are deductible only on the federal estate tax return (Form 706).

In addition, after going over other receipts and canceled checks for the tax year with your mother, you determine that the following items are deductible on your parents' 2010 income tax return.

Health insurance	$4,250
State income tax paid	891
Real estate tax on home	2,600
Contributions to church	3,830

Rental expenses included real estate taxes of $700 and mortgage interest of $410. In addition, insurance premiums of $260 and painting and repair expenses for $350 were paid. These rental expenses totaled $1,720 and are reflected on Schedule E (Form 1040).

Your mother and father owned the property as joint tenants with right of survivorship and they were the only joint tenants, so her basis in this property upon your father's death is $93,047. This is figured by adding the $60,000 value of the half interest included in your father's gross estate to your mother's $45,000 share of the cost basis and subtracting your mother's $11,953 share of depreciation (including 2010 depreciation for the period before your father's death), as explained next.

For 2010, you must make the following computations to figure the depreciation deduction.

1. For the period before your father's death, depreciate the property using the same method, basis, and life used by your parents in previous years. They used the mid-month convention, so the amount deductible for three and a half months is $547. (This brings the total depreciation to $23,906 ($23,359 + $547) at the time of your father's death.)
2. For the period after your father's death, you must make two computations.
   a. Your mother's cost basis ($45,000) minus one-half of the amount allocated to the land ($7,500) is her depreciable basis ($37,500) for half of the property. She continues to use the same life and depreciation method as was originally used for the property. The amount deductible for the remaining eight and a half months is $664.
   b. The other half of the property must be depreciated using a depreciation method that is acceptable for property placed in service in 2010. You chose to use ADS with the mid-month convention. The value included in the estate ($60,000) less the value allocable to the land ($10,000) is the depreciable basis ($50,000) for this half of the property. The amount deductible for this half of the property is $886 ($50,000 × .01771). See chapter 4 and *Table A-13* in Publication 946.

Show the total of the amounts in (1) and (2)(a), above, on line 17 of Form 4562, Depreciation and Amortization. Show the amount in (2)(b) on line 20c. The total depreciation deduction allowed for the year is $2,097.

Filing status. After December 31, 2010, when your mother determines the amount of her income, you and your mother must decide whether you will file a joint return or separate returns for your parents for 2010. Your mother has rental income and $400 of interest income from her savings account at the Mayflower Bank of Juneville, so it appears to be to her advantage to file a joint return.

Tax computation. The illustrations of Form 1040 and related schedules appear near the end of this publication. These illustrations are based on information in this example. The tax refund is $1,194. The computation is as follows:

Income:		
Salary (per Form W-2)	$11,000	
Interest income	3,140	
Net rental income	8,183	
Adjusted gross income		$22,323
Minus: Itemized deductions		11,708
Balance		$10,615
Minus: Exemptions (2)		7,300
Taxable income		$3,315
Income tax from tax table		$333
Minus: Tax withheld	$845	
Sch. M credits	682	
Total payments		$1,527
Refund of taxes		**$1,194**

Income Tax Return of an Estate—Form 1041

The illustrations of Form 1041 and the related schedules for 2010 appear near the end of this publication. These illustrations are based on the information that follows.

2010 income tax return. Having determined the tax liability for your father's final return, you now figure the estate's taxable income. You decide to use the calendar year and the cash method of accounting to report the estate's income. This return also is due by April 18, 2011.

In addition to the amount you received from your father's employer for unpaid salary and for vacation pay ($12,000) entered on line 8 (Form 1041), you received a dividend check from the XYZ Company on June 17, 2010. The check was for $750 and you enter it on line 2a (Form 1041). The amount is a qualified dividend and you show the allocation to the beneficiaries and the estate on line 2b. The amount allocated to the beneficiary ($121) is based on the distributable dividend income before any deductions. The estate received a Form 1099-INT showing $2,250 interest paid by the bank on the savings account in 2010 after your father died. Show this amount on line 1 (Form 1041).

In September, a local coin collector offered you $3,000 for your father's coin collection. Your mother was not interested in keeping the collection, so you accepted the offer and sold him the collection on September 23, 2010.

You will have to report the sale on Schedule D (Form 1041) when you file the income tax return of the estate. The estate has a capital gain of $200 from the sale of the coins. The gain is the excess of the sale price, $3,000, over the value of the collection at the date of your father's death, $2,800. See *Gain (or loss) from sale of property* under *Income Tax Return of an Estate—Form 1041* and its discussion, *Income To Include,* earlier.

Deductions. In November 2010, you received a bill for the real estate taxes on your parents' home. The bill was for $2,250, which you paid. Include real estate taxes on line 11 (Form 1041).

You paid $325 for attorney's fees in connection with administration of the estate. This is an expense of administration and is deducted on line 14 (Form 1041). You must, however, file with the return a statement in duplicate that such expense has not been claimed as a deduction from the gross estate for figuring the federal estate tax on Form 706, and that all rights to claim that deduction on Form 706 are waived.

Distributions. You made a distribution of $2,000 to your father's brother, James. The distribution was made from current income of the estate under the terms of the will.

The income distribution deduction ($2,000) is figured on Schedule B of Form 1041 and deducted on line 18 (Form 1041).

You characterized the $2,000 that is included in income and reported it on Schedule K-1 (Form 1041) as follows:

Step 1
Allocation of Income & Deductions

Type of Income	Amount	Deductions	Distributable Net Income
Interest (15%)	$ 2,250	(386)	$ 1,864
Dividends (5%)	750	(129)	621
Other Income (80%)	12,000	(2,060)	9,940
Total	**$15,000**	**(2,575)**	**$12,425**

Step 2
Allocation of Distribution
(Report on the Schedule K-1 for James)

Line 1 – Interest	
$2,000 × (1,864 ÷ 12,425)	$300
Line 2b – Total dividends	
$2,000 × (621 ÷ 12,425)	100
Line 5 – Other income	
$2,000 × (9,940 ÷12,425)	1,600
Total Distribution	**$2,000**

The estate took an income distribution deduction, so you must prepare Schedule I (Form 1041), Alternative Minimum Tax, regardless of whether the estate is liable for the alternative minimum tax.

The other distribution you made out of the assets of the estate in 2010 was the transfer of the automobile to your mother on July 1. This is included in the bequest of property, so it is not taken into account in computing the distributions of income to the beneficiary. The life insurance proceeds of $275,000 paid directly to your mother by the insurance company are not an asset of the estate.

Tax computation. The taxable income of the estate for 2010 is $10,025, figured as follows:

Gross income:		
Income in respect of a decedent		$12,000
Dividends		750
Interest		2,250
Capital gain		200
		$15,200
Minus: Deductions and income distribution		
Real estate taxes	$2,250	
Attorney's fee	325	
Exemption	600	
Distribution	2,000	5,175
Taxable income		**$10,025**

The estate had a net capital gain, which includes 28% rate gain, and taxable income, so you use the Schedule D Tax Worksheet to figure the tax, $2,384, for 2010.

Note. For purpose of this example, we have illustrated the filled-in worksheet. You would not file the worksheet with the return. You would keep the worksheet for your records.

2011 income tax return for estate. On January 7, 2011, you receive a dividend check from the XYZ Company for $500. You also have interest posted to the savings account in January totaling $350. On January 28, 2011, you make a final accounting to the court and obtain permission to close the estate. In the accounting, you list $1,650 as the balance of the expense of administering the estate.

You advise the court that you plan to pay $5,000 to Hometown Church under the provisions of the will, and that you will distribute the balance of the property to your mother, the remaining beneficiary.

Gross income. After making the distributions already described, you can wind up the affairs of the estate. The gross income of the estate for 2011 is more than $600, so you must file a final income tax return, Form 1041, for 2011 (not shown). The estate's gross income for 2011 is $850 (dividends $500 and interest $350).

Deductions. After making the following computations, you determine that none of the distributions made to your mother must be included in her taxable income for 2011.

Gross income for 2011:	
Dividends	$500
Interest	350
	$850
Less deductions:	
Administration expense	$1,650
Loss	**($800)**

Note that because the contribution of $5,000 to Hometown Church was not required under the terms of the will to be paid out of the gross income of the estate, it is not deductible and was not included in the computation.

The estate had no distributable net income in 2011, so none of the distributions made to your mother have to be included in her gross income. Furthermore, because the estate in the year of termination had deductions in excess of its gross income, the excess of $800 will be allowed as a miscellaneous itemized deduction subject to the 2%-of-adjusted-gross-income limit to your mother on her individual return for the year 2011, if she itemizes deductions.

DECEASED John R. Smith -- April 9, 2010

Form **1040** Department of the Treasury—Internal Revenue Service
U.S. Individual Income Tax Return 2010 (99) IRS Use Only—Do not write or staple in this space.

For the year Jan. 1–Dec. 31, 2010, or other tax year beginning , 2010, ending , 20 OMB No. 1545-0074

Name, Address, and SSN

See separate instructions.

PRINT CLEARLY

Your first name and initial: John R.	Last name: Smith	**Your social security number** 234 00 7890
If a joint return, spouse's first name and initial: Mary L.	Last name: Smith	**Spouse's social security number** 567 00 0123
Home address (number and street). If you have a P.O. box, see instructions.: 6406 Mayflower St.	Apt. no.	▲ Make sure the SSN(s) above and on line 6c are correct.
City, town or post office, state, and ZIP code. If you have a foreign address, see instructions.: Juneville, ME 00000		Checking a box below will not change your tax or refund.

Presidential Election Campaign ▶ Check here if you, or your spouse if filing jointly, want $3 to go to this fund . . . . . . ▶ ☐ You ☐ Spouse

Filing Status

Check only one box.

1 ☐ Single
2 ☑ Married filing jointly (even if only one had income)
3 ☐ Married filing separately. Enter spouse's SSN above and full name here. ▶
4 ☐ Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶
5 ☐ Qualifying widow(er) with dependent child

Exemptions

6a ☑ **Yourself.** If someone can claim you as a dependent, **do not** check box 6a . . . . . | Boxes checked on 6a and 6b: 2
b ☑ **Spouse**

c **Dependents:**

(1) First name Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) ✓ if child under age 17 qualifying for child tax credit (see page 15)
			☐
			☐
			☐
			☐

If more than four dependents, see instructions and check here ▶ ☐

No. of children on 6c who:
• lived with you
• did not live with you due to divorce or separation (see instructions)
Dependents on 6c not entered above

d Total number of exemptions claimed . . . . Add numbers on lines above ▶ 2

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 20.

Enclose, but do not attach, any payment. Also, please use **Form 1040-V.**

7	Wages, salaries, tips, etc. Attach Form(s) W-2			7	11,000
8a	**Taxable** interest. Attach Schedule B if required			8a	3,140
b	**Tax-exempt** interest. **Do not** include on line 8a	8b			
9a	Ordinary dividends. Attach Schedule B if required			9a	
b	Qualified dividends	9b			
10	Taxable refunds, credits, or offsets of state and local income taxes			10	
11	Alimony received			11	
12	Business income or (loss). Attach Schedule C or C-EZ			12	
13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐			13	
14	Other gains or (losses). Attach Form 4797			14	
15a	IRA distributions	15a	b Taxable amount	15b	
16a	Pensions and annuities	16a	b Taxable amount	16b	
17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E			17	8,183
18	Farm income or (loss). Attach Schedule F			18	
19	Unemployment compensation			19	
20a	Social security benefits	20a	b Taxable amount	20b	
21	Other income. List type and amount			21	
22	Combine the amounts in the far right column for lines 7 through 21. This is your **total income** ▶			22	22,323

Adjusted Gross Income

23	Educator expenses	23			
24	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	24			
25	Health savings account deduction. Attach Form 8889	25			
26	Moving expenses. Attach Form 3903	26			
27	One-half of self-employment tax. Attach Schedule SE	27			
28	Self-employed SEP, SIMPLE, and qualified plans	28			
29	Self-employed health insurance deduction	29			
30	Penalty on early withdrawal of savings	30			
31a	Alimony paid b Recipient's SSN ▶	31a			
32	IRA deduction	32			
33	Student loan interest deduction	33			
34	Tuition and fees. Attach Form 8917	34			
35	Domestic production activities deduction. Attach Form 8903	35			
36	Add lines 23 through 31a and 32 through 35			36	
37	Subtract line 36 from line 22. This is your **adjusted gross income** ▶			37	22,323

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 11320B Form **1040** (2010)

Tax and Credits	38	Amount from line 37 (adjusted gross income)			38	22,323
	39a	Check if: ☐ **You** were born before January 2, 1946, ☐ Blind. ☐ **Spouse** was born before January 2, 1946, ☐ Blind. **Total boxes checked** ▶ **39a** ☐				
	b	If your spouse itemizes on a separate return or you were a dual-status alien, check here ▶ **39b** ☐				
	40	**Itemized deductions** (from Schedule A) **or** your **standard deduction** (see instructions)			40	11,708
	41	Subtract line 40 from line 38			41	10,615
	42	**Exemptions.** Multiply $3,650 by the number on line 6d			42	7,300
	43	**Taxable income.** Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-			43	3,315
	44	**Tax** (see instructions). Check if any tax is from: **a** ☐ Form(s) 8814 **b** ☐ Form 4972			44	333
	45	**Alternative minimum tax** (see instructions). Attach Form 6251			45	
	46	Add lines 44 and 45 ▶			46	333
	47	Foreign tax credit. Attach Form 1116 if required	47			
	48	Credit for child and dependent care expenses. Attach Form 2441	48			
	49	Education credits from Form 8863, line 23	49			
	50	Retirement savings contributions credit. Attach Form 8880	50			
	51	Child tax credit (see instructions)	51			
	52	Residential energy credits. Attach Form 5695	52			
	53	Other credits from Form: **a** ☐ 3800 **b** ☐ 8801 **c** ☐ ______	53			
	54	Add lines 47 through 53. These are your **total credits**			54	
	55	Subtract line 54 from line 46. If line 54 is more than line 46, enter -0- ▶			55	333
Other Taxes	56	Self-employment tax. Attach Schedule SE			56	
	57	Unreported social security and Medicare tax from Form: **a** ☐ 4137 **b** ☐ 8919			57	
	58	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required			58	
	59	**a** ☐ Form(s) W-2, box 9 **b** ☐ Schedule H **c** ☐ Form 5405, line 16			59	
	60	Add lines 55 through 59. This is your **total tax** ▶			60	333
Payments	61	Federal income tax withheld from Forms W-2 and 1099	61	845		
	62	2010 estimated tax payments and amount applied from 2009 return	62			
If you have a qualifying child, attach Schedule EIC.	63	Making work pay credit. Attach Schedule M	63	682		
	64a	**Earned income credit (EIC)**	64a			
	b	Nontaxable combat pay election **64b**				
	65	Additional child tax credit. Attach Form 8812	65			
	66	American opportunity credit from Form 8863, line 14	66			
	67	First-time homebuyer credit from Form 5405, line 10	67			
	68	Amount paid with request for extension to file	68			
	69	Excess social security and tier 1 RRTA tax withheld	69			
	70	Credit for federal tax on fuels. Attach Form 4136	70			
	71	Credits from Form: **a** ☐ 2439 **b** ☐ 8839 **c** ☐ 8801 **d** ☐ 8885	71			
	72	Add lines 61, 62, 63, 64a, and 65 through 71. These are your **total payments** ▶			72	1,527
Refund	73	If line 72 is more than line 60, subtract line 60 from line 72. This is the amount you **overpaid**			73	1,194
	74a	Amount of line 73 you want **refunded to you.** If Form 8888 is attached, check here ▶ ☐			74a	1,194
Direct deposit? See instructions. ▶	b	Routing number ▶ **c** Type: ☐ Checking ☐ Savings				
▶	d	Account number				
	75	Amount of line 73 you want **applied to your 2011 estimated tax** ▶	75			
Amount You Owe	76	**Amount you owe.** Subtract line 72 from line 60. For details on how to pay, see instructions ▶			76	
	77	Estimated tax penalty (see instructions)	77			

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

Joint return? See page 12. Keep a copy for your records.

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	Daytime phone number
Charles R. Smith, Executor	3-25-11		
Spouse's signature. If a joint return, **both** must sign.	Date	Spouse's occupation	
Mary L. Smith	3-25-11		

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.	

Form **1040** (2010)

SCHEDULE A (Form 1040) Department of the Treasury Internal Revenue Service (99)	**Itemized Deductions** ▶ Attach to Form 1040. ▶ See Instructions for Schedule A (Form 1040).	OMB No. 1545-0074 2010 Attachment Sequence No. 07

Name(s) shown on Form 1040: John R. (Deceased) & Mary L. Smith

Your social security number: 234-00-7890

Medical and Dental Expenses		**Caution.** Do not include expenses reimbursed or paid by others.				
	1	Medical and dental expenses (see instructions)	1	6,061		
	2	Enter amount from Form 1040, line 38 [2] 22,323				
	3	Multiply line 2 by 7.5% (.075)	3	1,674		
	4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-			4	4,387
Taxes You Paid	5	State and local **(check only one box):** a ☑ Income taxes, **or** b ☐ General sales taxes	5	891		
	6	Real estate taxes (see instructions)	6	2,600		
	7	New motor vehicle taxes from line 11 of the worksheet on back (for certain vehicles purchased in 2009). Skip this line if you checked box 5b	7			
	8	Other taxes. List type and amount ▶	8			
	9	Add lines 5 through 8			9	3,491
Interest You Paid **Note.** Your mortgage interest deduction may be limited (see instructions).	10	Home mortgage interest and points reported to you on Form 1098	10			
	11	Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see instructions and show that person's name, identifying no., and address ▶	11			
	12	Points not reported to you on Form 1098. See instructions for special rules	12			
	13	Mortgage insurance premiums (see instructions)	13			
	14	Investment interest. Attach Form 4952 if required. (See instructions.)	14			
	15	Add lines 10 through 14			15	
Gifts to Charity If you made a gift and got a benefit for it, see instructions.	16	Gifts by cash or check. If you made any gift of $250 or more, see instructions	16	3,830		
	17	Other than by cash or check. If any gift of $250 or more, see instructions. You **must** attach Form 8283 if over $500	17			
	18	Carryover from prior year	18			
	19	Add lines 16 through 18			19	3,830
Casualty and Theft Losses	20	Casualty or theft loss(es). Attach Form 4684. (See instructions.)			20	
Job Expenses and Certain Miscellaneous Deductions	21	Unreimbursed employee expenses—job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. (See instructions.) ▶	21			
	22	Tax preparation fees	22			
	23	Other expenses—investment, safe deposit box, etc. List type and amount ▶	23			
	24	Add lines 21 through 23	24			
	25	Enter amount from Form 1040, line 38 [25]				
	26	Multiply line 25 by 2% (.02)	26			
	27	Subtract line 26 from line 24. If line 26 is more than line 24, enter -0-			27	
Other Miscellaneous Deductions	28	Other—from list in instructions. List type and amount ▶			28	
Total Itemized Deductions	29	Add the amounts in the far right column for lines 4 through 28. Also, enter this amount on Form 1040, line 40			29	11,708
	30	If you elect to itemize deductions even though they are less than your standard deduction, check here ▶ ☐				

For Paperwork Reduction Act Notice, see Form 1040 instructions. Cat. No. 17145C **Schedule A (Form 1040) 2010**

SCHEDULE B
(Form 1040A or 1040)

Department of the Treasury
Internal Revenue Service (99)

Interest and Ordinary Dividends

▶ **Attach to Form 1040A or 1040.** ▶ **See instructions on back.**

OMB No. 1545-0074

2010

Attachment Sequence No. **08**

Name(s) shown on return: John R. (Deceased) & Mary L. Smith

Your social security number: 234-00-7890

Part I Interest

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

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

			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 instructions on back and list this interest first. Also, show that buyer's social security number and address ▶	1	
	First S&L of Juneville		1,900
	Mayflower Bank of Juneville		400
	Series EE U.S. Saving Bonds --Interest includible Before Decedent's Death		840
2	Add the amounts on line 1	2	3,140
3	Excludable interest on series EE and I U.S. savings bonds issued after 1989. Attach Form 8815	3	-0-
4	Subtract line 3 from line 2. Enter the result here and on Form 1040A, or Form 1040, line 8a ▶	4	3,140

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

Part II Ordinary Dividends

(See instructions on back and the instructions for Form 1040A, or Form 1040, line 9a.)

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 1040A, or Form 1040, line 9a ▶	6	

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

Part III Foreign Accounts and Trusts

(See instructions on back.)

	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 2010, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See instructions on back for exceptions and filing requirements for Form TD F 90-22.1		√
b	If "Yes," enter the name of the foreign country ▶		
8	During 2010, 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 on back		√

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 17146N **Schedule B (Form 1040A or 1040) 2010**

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, 1040NR, or Form 1041. ▶ See Instructions for Schedule E (Form 1040).

OMB No. 1545-0074

2010

Attachment Sequence No. **13**

Name(s) shown on return	Your social security number
John R. (Deceased) & Mary L. Smith	234-00-7890

Part I **Income or Loss From Rental Real Estate and Royalties** **Note.** If you are in the business of renting personal property, use **Schedule C** or **C-EZ** (see page E-3). If you are an individual, report farm rental income or loss from **Form 4835** on page 2, line 40.

1	List the type and address of each **rental real estate property:**
A	House, 137 Main Street Juneville, ME 00000
B	
C	

2 For each rental real estate property listed on line 1, did you or your family use it during the tax year for personal purposes for more than the greater of:
- 14 days **or**
- 10% of the total days rented at fair rental value?

(See page E-3)

	Yes	No
A		√
B		
C		

Income:		Properties A	Properties B	Properties C		Totals (Add columns A, B, and C.)
3 Rents received	3	12,000			3	12,000
4 Royalties received	4				4	
Expenses:						
5 Advertising	5					
6 Auto and travel (see page E-4)	6					
7 Cleaning and maintenance	7					
8 Commissions	8					
9 Insurance	9	260				
10 Legal and other professional fees	10					
11 Management fees	11					
12 Mortgage interest paid to banks, etc. (see page E-5)	12	410			12	410
13 Other interest	13					
14 Repairs	14	350				
15 Supplies	15					
16 Taxes	16	700				
17 Utilities	17					
18 Other (list) ▶	18					
19 Add lines 5 through 18	19	1,720			19	1,720
20 Depreciation expense or depletion (see page E-5)	20	2,097			20	2,097
21 Total expenses. Add lines 19 and 20	21	3,817				
22 Income or (loss) from rental real estate or royalty properties. Subtract line 21 from line 3 (rents) or line 4 (royalties). If the result is a (loss), see page E-6 to find out if you must file **Form 6198**	22	8,183				
23 Deductible rental real estate loss. **Caution.** Your rental real estate loss on line 22 may be limited. See page E-6 to find out if you must file **Form 8582.** Real estate professionals **must** complete line 43 on page 2	23	( )	( )	( )		

24 **Income.** Add positive amounts shown on line 22. **Do not** include any losses	24	8,183
25 **Losses.** Add royalty losses from line 22 and rental real estate losses from line 23. 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 Form 1040, line 17, or Form 1040NR, line 18. Otherwise, include this amount in the total on line 41 on page 2	26	8,183

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 11344L **Schedule E (Form 1040) 2010**

Form **4562**

Department of the Treasury
Internal Revenue Service (99)

Depreciation and Amortization
(Including Information on Listed Property)

▶ See separate instructions. ▶ Attach to your tax return.

OMB No. 1545-0172

2010

Attachment Sequence No. **67**

Name(s) shown on return	Business or activity to which this form relates	Identifying number
John R. (Deceased) & Mary L. Smith		234-00-7890

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 2009 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 do not enter more than line 11	12	
13	Carryover of disallowed deduction to 2011. Add lines 9 and 10, less line 12 ▶	13	

Note: *Do not use Part II or Part III below for listed property. Instead, use Part V.*

Part II Special Depreciation Allowance and Other Depreciation (Do not 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	

Part III MACRS Depreciation (Do not include listed property.**)** (See instructions.)

Section A

17	MACRS deductions for assets placed in service in tax years beginning before 2010	17	1,211
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 2010 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 2010 Tax Year Using the Alternative Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
20a Class life					S/L	
b 12-year			12 yrs.		S/L	
c 40-year	4-10	50,000	40 yrs.	MM	S/L	886

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	2,097
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	

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 12906N Form **4562** (2010)

SCHEDULE M (Form 1040A or 1040)

Department of the Treasury Internal Revenue Service (99)

Making Work Pay Credit

▶ Attach to Form 1040A or 1040. ▶ See separate instructions.

OMB No. 1545-0074

2010

Attachment Sequence No. 166

Name(s) shown on return	Your social security number
John R. (Deceased) & Mary L. Smith	234-00-7890

To take the making work pay credit, you must include your social security number (if filing a joint return, the number of either you or your spouse) on your tax return. A social security number does not include an identification number issued by the IRS. Only the Social Security Administration issues social security numbers.

You cannot take the making work pay credit if you can be claimed as someone else's dependent or if you are a nonresident alien.

Important: Check the "**No**" box on line 1a and see the instructions if:

(a) You have a net loss from a business,
(b) You received a taxable scholarship or fellowship grant not reported on a Form W-2,
(c) Your wages include pay for work performed while an inmate in a penal institution,
(d) You received a pension or annuity from a nonqualified deferred compensation plan or a nongovernmental section 457 plan, or
(e) You are filing Form 2555 or 2555-EZ.

1a	Do you (and your spouse if filing jointly) have 2010 wages of more than $6,451 ($12,903 if married filing jointly)? ☐ **Yes.** Skip lines 1a through 3. Enter $400 ($800 if married filing jointly) on line 4 and go to line 5. ☑ **No.** Enter your earned income (see instructions)	1a	11,000		
b	Nontaxable combat pay included on line 1a (see instructions) **1b**				
2	Multiply line 1a by 6.2% (.062)	2	682		
3	Enter $400 ($800 if married filing jointly)	3	800		
4	Enter the **smaller** of line 2 or line 3 (unless you checked "Yes" on line 1a)			4	682
5	Enter the amount from Form 1040, line 38*, or Form 1040A, line 22 . .	5	22,323		
6	Enter $75,000 ($150,000 if married filing jointly)	6	150,000		
7	Is the amount on line 5 more than the amount on line 6? ☑ **No.** Skip line 8. Enter the amount from line 4 on line 9 below. ☐ **Yes.** Subtract line 6 from line 5	7			
8	Multiply line 7 by 2% (.02)			8	
9	Subtract line 8 from line 4. If zero or less, enter -0-			9	682
10	Did you (or your spouse, if filing jointly) receive an economic recovery payment in **2010**? You may have received this payment in 2010 if you did not receive an economic recovery payment in 2009 but you received social security benefits, supplemental security income, railroad retirement benefits, or veterans disability compensation or pension benefits in November 2008, December 2008, or January 2009 (see instructions). ☑ **No.** Enter -0- on line 10 and go to line 11. ☐ **Yes.** Enter the total of the payments you (and your spouse, if filing jointly) received in **2010**. Do not enter more than $250 ($500 if married filing jointly)			10	-0-
11	**Making work pay credit.** Subtract line 10 from line 9. If zero or less, enter -0-. Enter the result here and on Form 1040, line 63; or Form 1040A, line 40			11	682

*If you are filing Form 2555, 2555-EZ, or 4563 or you are excluding income from Puerto Rico, see instructions.

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 52903Q **Schedule M (Form 1040A or 1040) 2010**

Form **1041** Department of the Treasury—Internal Revenue Service

U.S. Income Tax Return for Estates and Trusts 2010

OMB No. 1545-0092

A Type of entity (see instr.):
- [x] 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

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

For calendar year 2010 or fiscal year beginning , 2010, and ending , 20

Name of estate or trust (If a grantor type trust, see page 15 of the instructions.)
Estate of John R. Smith

C Employer identification number 10-0123456

Name and title of fiduciary
Charles R. Smith, Executor

D Date entity created 4-9-10

Number, street, and room or suite no. (If a P.O. box, see page 15 of the instructions.)
6406 Mayflower St.

City or town, state, and ZIP code
Juneville, ME 00000

E Nonexempt charitable and split-interest trusts, check applicable boxes (see page 16 of the instr.):
- [ ] Described in section 4947(a)(1)
- [ ] Not a private foundation
- [ ] Described in section 4947(a)(2)

F Check applicable boxes:
- [x] Initial return
- [ ] Final return
- [ ] Amended return
- [ ] 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 . . . . ▶ ☐

Income	1	Interest income	1	2,250
	2a	Total ordinary dividends	2a	750
	b	Qualified dividends allocable to: (1) Beneficiaries 121 (2) Estate or trust 629		
	3	Business income or (loss). Attach Schedule C or C-EZ (Form 1040)	3	
	4	Capital gain or (loss). Attach Schedule D (Form 1041)	4	200
	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 IRD Salary and Vacation Pay	8	12,000
	9	**Total income.** Combine lines 1, 2a, and 3 through 8 ▶	9	15,200
Deductions	10	Interest. Check if Form 4952 is attached ▶ ☐	10	
	11	Taxes	11	2,250
	12	Fiduciary fees	12	
	13	Charitable deduction (from Schedule A, line 7)	13	
	14	Attorney, accountant, and return preparer fees	14	325
	15a	Other deductions **not** subject to the 2% floor (attach schedule)	15a	
	b	Allowable miscellaneous itemized deductions subject to the 2% floor	15b	
	16	Add lines 10 through 15b ▶	16	2,575
	17	Adjusted total income or (loss). Subtract line 16 from line 9 — 17: 12,625		
	18	Income distribution deduction (from Schedule B, line 15). Attach Schedules K-1 (Form 1041)	18	2,000
	19	Estate tax deduction including certain generation-skipping taxes (attach computation)	19	
	20	Exemption	20	600
	21	Add lines 18 through 20 ▶	21	2,600
Tax and Payments	22	Taxable income. Subtract line 21 from line 17. If a loss, see page 23 of the instructions	22	10,025
	23	**Total tax** (from Schedule G, line 7)	23	2,384
	24	**Payments: a** 2010 estimated tax payments and amount applied from 2009 return	24a	
	b	Estimated tax payments allocated to beneficiaries (from Form 1041-T)	24b	
	c	Subtract line 24b from line 24a	24c	
	d	Tax paid with Form 7004 (see page 24 of the instructions)	24d	
	e	Federal income tax withheld. If any is from Form(s) 1099, check ▶ ☐	24e	
		Other payments: **f** Form 2439 ; **g** Form 4136 ; Total ▶	24h	
	25	**Total payments.** Add lines 24c through 24e, and 24h ▶	25	
	26	Estimated tax penalty (see page 24 of the instructions)	26	
	27	**Tax due.** If line 25 is smaller than the total of lines 23 and 26, enter amount owed	27	2,384
	28	**Overpayment.** If line 25 is larger than the total of lines 23 and 26, enter amount overpaid	28	
	29	Amount of line 28 to be: **a Credited to 2011 estimated tax** ▶ ; **b Refunded** ▶	29	

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.

Charles R. Smith — 3-24-11 ▶

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 instr.)? ☐ 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** (2010)

Schedule A **Charitable Deduction.** Do not complete for a simple trust or a pooled income fund.

1	Amounts paid or permanently set aside for charitable purposes from gross income (see page 25)	1	
2	Tax-exempt income allocable to charitable contributions (see page 25 of the instructions)	2	
3	Subtract line 2 from line 1	3	
4	Capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes	4	
5	Add lines 3 and 4	5	
6	Section 1202 exclusion allocable to capital gains paid or permanently set aside for charitable purposes (see page 25 of the instructions)	6	
7	**Charitable deduction.** Subtract line 6 from line 5. Enter here and on page 1, line 13	7	

Schedule B **Income Distribution Deduction**

1	Adjusted total income (see page 25 of the instructions)	1	12,625
2	Adjusted tax-exempt interest	2	
3	Total net gain from Schedule D (Form 1041), line 15, column (1) (see page 26 of the instructions)	3	
4	Enter amount from Schedule A, line 4 (minus any allocable section 1202 exclusion)	4	
5	Capital gains for the tax year included on Schedule A, line 1 (see page 26 of the instructions)	5	
6	Enter any gain from page 1, line 4, as a negative number. If page 1, line 4, is a loss, enter the loss as a positive number	6	(200)
7	**Distributable net income.** Combine lines 1 through 6. If zero or less, enter -0-	7	12,425
8	If a complex trust, enter accounting income for the tax year as determined under the governing instrument and applicable local law — 8		
9	Income required to be distributed currently	9	
10	Other amounts paid, credited, or otherwise required to be distributed	10	2,000
11	Total distributions. Add lines 9 and 10. If greater than line 8, see page 26 of the instructions	11	2,000
12	Enter the amount of tax-exempt income included on line 11	12	
13	Tentative income distribution deduction. Subtract line 12 from line 11	13	2,000
14	Tentative income distribution deduction. Subtract line 2 from line 7. If zero or less, enter -0-	14	12,425
15	**Income distribution deduction.** Enter the smaller of line 13 or line 14 here and on page 1, line 18	15	2,000

Schedule G **Tax Computation** (see page 27 of the instructions)

1	**Tax: a** Tax on taxable income (see page 27 of the instructions)	1a	2,384		
	b Tax on lump-sum distributions. Attach Form 4972	1b			
	c Alternative minimum tax (from Schedule I (Form 1041), line 56)	1c	-0-		
	d **Total.** Add lines 1a through 1c ▶			1d	2,384
2a	Foreign tax credit. Attach Form 1116	2a			
b	General business credit. Attach Form 3800	2b			
c	Credit for prior year minimum tax. Attach Form 8801	2c			
d	Bond credits. Attach Form 8912	2d			
3	**Total credits.** Add lines 2a through 2d ▶			3	
4	Subtract line 3 from line 1d. If zero or less, enter -0-			4	2,384
5	Recapture taxes. Check if from: ☐ Form 4255 ☐ Form 8611			5	-0-
6	Household employment taxes. Attach Schedule H (Form 1040)			6	-0-
7	**Total tax.** Add lines 4 through 6. Enter here and on page 1, line 23 ▶			7	2,384

	Other Information	**Yes**	**No**
1	Did the estate or trust receive tax-exempt income? If "Yes," attach a computation of the allocation of expenses. Enter the amount of tax-exempt interest income and exempt-interest dividends ▶ $		√
2	Did the estate or trust receive all or any part of the earnings (salary, wages, and other compensation) of any individual by reason of a contract assignment or similar arrangement?		√
3	At any time during calendar year 2010, did the estate or trust have an interest in or a signature or other authority over a bank, securities, or other financial account in a foreign country?		√
	See page 29 of the instructions for exceptions and filing requirements for Form TD F 90-22.1. If "Yes," enter the name of the foreign country ▶		
4	During the tax year, did the estate or trust receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If "Yes," the estate or trust may have to file Form 3520. See page 29 of the instructions		√
5	Did the estate or trust receive, or pay, any qualified residence interest on seller-provided financing? If "Yes," see page 29 for required attachment		√
6	If this is an estate or a complex trust making the section 663(b) election, check here (see page 29) ▶ ☐		
7	To make a section 643(e)(3) election, attach Schedule D (Form 1041), and check here (see page 29) ▶ ☐		
8	If the decedent's estate has been open for more than 2 years, attach an explanation for the delay in closing the estate, and check here ▶ ☐		
9	Are any present or future trust beneficiaries skip persons? See page 29 of the instructions		√

Form **1041** (2010)

SCHEDULE I (Form 1041)

Department of the Treasury
Internal Revenue Service

Alternative Minimum Tax—Estates and Trusts

► Attach to Form 1041. See the separate instructions for Schedule I (Form 1041).

OMB No. 1545-0092

2010

Name of estate or trust	Employer identification number
Estate of John R. Smith	10-0123456

Part I Estate's or Trust's Share of Alternative Minimum Taxable Income

1	Adjusted total income or (loss) (from Form 1041, line 17)	1	12,625
2	Interest	2	
3	Taxes	3	2,250
4	Miscellaneous itemized deductions (from Form 1041, line 15b)	4	
5	Refund of taxes	5	( )
6	Depletion (difference between regular tax and AMT)	6	
7	Net operating loss deduction. Enter as a positive amount	7	
8	Interest from specified private activity bonds exempt from the regular tax	8	
9	Qualified small business stock (see page 2 of the instructions)	9	
10	Exercise of incentive stock options (excess of AMT income over regular tax income)	10	
11	Other estates and trusts (amount from Schedule K-1 (Form 1041), box 12, code A)	11	
12	Electing large partnerships (amount from Schedule K-1 (Form 1065-B), box 6)	12	
13	Disposition of property (difference between AMT and regular tax gain or loss)	13	
14	Depreciation on assets placed in service after 1986 (difference between regular tax and AMT)	14	
15	Passive activities (difference between AMT and regular tax income or loss)	15	
16	Loss limitations (difference between AMT and regular tax income or loss)	16	
17	Circulation costs (difference between regular tax and AMT)	17	
18	Long-term contracts (difference between AMT and regular tax income)	18	
19	Mining costs (difference between regular tax and AMT)	19	
20	Research and experimental costs (difference between regular tax and AMT)	20	
21	Income from certain installment sales before January 1, 1987	21	( )
22	Intangible drilling costs preference	22	
23	Other adjustments, including income-based related adjustments	23	
24	Alternative tax net operating loss deduction (See the instructions for the limitation that applies.)	24	( )
25	Adjusted alternative minimum taxable income. Combine lines 1 through 24	25	14,875
	Note: *Complete Part II below before going to line 26.*		
26	Income distribution deduction from Part II, line 44 — 26: 2,000		
27	Estate tax deduction (from Form 1041, line 19) — 27:		
28	Add lines 26 and 27	28	2,000
29	Estate's or trust's share of alternative minimum taxable income. Subtract line 28 from line 25	29	12,875

If line 29 is:

- $22,500 or less, stop here and enter -0- on Form 1041, Schedule G, line 1c. The estate or trust is not liable for the alternative minimum tax.
- Over $22,500, but less than $165,000, go to line 45.
- $165,000 or more, enter the amount from line 29 on line 51 and go to line 52.

Part II Income Distribution Deduction on a Minimum Tax Basis

30	Adjusted alternative minimum taxable income (see page 6 of the instructions)	30	14,875
31	Adjusted tax-exempt interest (other than amounts included on line 8)	31	
32	Total net gain from Schedule D (Form 1041), line 15, column (1). If a loss, enter -0-	32	
33	Capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes (from Form 1041, Schedule A, line 4)	33	
34	Capital gains paid or permanently set aside for charitable purposes from gross income (see page 6 of the instructions)	34	
35	Capital gains computed on a minimum tax basis included on line 25	35	(200)
36	Capital losses computed on a minimum tax basis included on line 25. Enter as a positive amount	36	
37	Distributable net alternative minimum taxable income (DNAMTI). Combine lines 30 through 36. If zero or less, enter -0-	37	14,675
38	Income required to be distributed currently (from Form 1041, Schedule B, line 9)	38	
39	Other amounts paid, credited, or otherwise required to be distributed (from Form 1041, Schedule B, line 10)	39	2,000
40	Total distributions. Add lines 38 and 39	40	2,000
41	Tax-exempt income included on line 40 (other than amounts included on line 8)	41	
42	Tentative income distribution deduction on a minimum tax basis. Subtract line 41 from line 40	42	2,000

For Paperwork Reduction Act Notice, see the Instructions for Form 1041. Cat. No. 51517Q **Schedule I (Form 1041) (2010)**

Part II Income Distribution Deduction on a Minimum Tax Basis *(continued)*

43	Tentative income distribution deduction on a minimum tax basis. Subtract line 31 from line 37. If zero or less, enter -0-			43	14,675	
44	**Income distribution deduction on a minimum tax basis.** Enter the smaller of line 42 or line 43. Enter here and on line 26			44	2,000	

Part III Alternative Minimum Tax

45	Exemption amount				45	$22,500	00
46	Enter the amount from line 29	46					
47	Phase-out of exemption amount	47	$75,000	00			
48	Subtract line 47 from line 46. If zero or less, enter -0-	48					
49	Multiply line 48 by 25% (.25)				49		
50	Subtract line 49 from line 45. If zero or less, enter -0-				50		
51	Subtract line 50 from line 46				51		
52	Go to Part IV of Schedule I to figure line 52 if the estate or trust has qualified dividends or has a gain on lines 14a and 15 of column (2) of Schedule D (Form 1041) (as refigured for the AMT, if necessary). Otherwise, if line 51 is— • $175,000 or less, multiply line 51 by 26% (.26). • Over $175,000, multiply line 51 by 28% (.28) and subtract $3,500 from the result				52		
53	Alternative minimum foreign tax credit (see page 7 of the instructions)				53		
54	Tentative minimum tax. Subtract line 53 from line 52				54		
55	Enter the tax from Form 1041, Schedule G, line 1a (minus any foreign tax credit from Schedule G, line 2a)				55		
56	**Alternative minimum tax.** Subtract line 55 from line 54. If zero or less, enter -0-. Enter here and on Form 1041, Schedule G, line 1c				56		

Part IV Line 52 Computation Using Maximum Capital Gains Rates

Caution: *If you did not complete Part V of Schedule D (Form 1041), the Schedule D Tax Worksheet, or the Qualified Dividends Tax Worksheet, see page 8 of the instructions before completing this part.*

57	Enter the amount from line 51				57		
58	Enter the amount from Schedule D (Form 1041), line 22, line 13 of the Schedule D Tax Worksheet, or line 4 of the Qualified Dividends Tax Worksheet, whichever applies (as refigured for the AMT, if necessary)	58					
59	Enter the amount from Schedule D (Form 1041), line 14b, column (2) (as refigured for the AMT, if necessary). If you did not complete Schedule D for the regular tax or the AMT, enter -0-	59					
60	If you did not complete a Schedule D Tax Worksheet for the regular tax or the AMT, enter the amount from line 58. Otherwise, add lines 58 and 59 and enter the **smaller** of that result or the amount from line 10 of the Schedule D Tax Worksheet (as refigured for the AMT, if necessary)	60					
61	Enter the **smaller** of line 57 or line 60				61		
62	Subtract line 61 from line 57				62		
63	If line 62 is $175,000 or less, multiply line 62 by 26% (.26). Otherwise, multiply line 62 by 28% (.28) and subtract $3,500 from the result ▶				63		
64	Maximum amount subject to the 0% rate	64	$2,300	00			
65	Enter the amount from line 23 of Schedule D (Form 1041), line 14 of the Schedule D Tax Worksheet, or line 5 of the Qualified Dividends Tax Worksheet on page 27 of the Instructions for Form 1041, whichever applies (as figured for the regular tax). If you did not complete Schedule D or either worksheet for the regular tax, enter -0-	65					
66	Subtract line 65 from line 64. If zero or less, enter -0-	66					
67	Enter the **smaller** of line 57 or line 58	67					
68	Enter the **smaller** of line 66 or line 67	68					
69	Subtract line 68 from line 67	69					
70	Multiply line 69 by 15% (.15) ▶				70		
	If line 59 is zero or blank, skip lines 71 and 72 and go to line 73. Otherwise, go to line 71.						
71	Subtract line 67 from line 61	71					
72	Multiply line 71 by 25% (.25) ▶				72		
73	Add lines 63, 70, and 72				73		
74	If line 57 is $175,000 or less, multiply line 57 by 26% (.26). Otherwise, multiply line 57 by 28% (.28) and subtract $3,500 from the result				74		
75	Enter the **smaller** of line 73 or line 74 here and on line 52				75		

Schedule I (Form 1041) (2010)

SCHEDULE D (Form 1041)

Department of the Treasury
Internal Revenue Service

Capital Gains and Losses

▶ Attach to Form 1041, Form 5227, or Form 990-T. See the Instructions for Schedule D (Form 1041) (also for Form 5227 or Form 990-T, if applicable).

OMB No. 1545-0092

2010

Name of estate or trust	Employer identification number
Estate of John R. Smith	10-0123456

Note: *Form 5227 filers need to complete **only** Parts I and II.*

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

	(a) Description of property (Example: 100 shares 7% preferred of "Z" Co.)	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Sales price	(e) Cost or other basis (see instructions)	(f) Gain or (loss) for the entire year Subtract (e) from (d)
1a						

b	Enter the short-term gain or (loss), if any, from Schedule D-1, line 1b	1b	
2	Short-term capital gain or (loss) from Forms 4684, 6252, 6781, and 8824	2	
3	Net short-term gain or (loss) from partnerships, S corporations, and other estates or trusts	3	
4	Short-term capital loss carryover. Enter the amount, if any, from line 9 of the 2009 Capital Loss Carryover Worksheet	4	( )
5	**Net short-term gain or (loss).** Combine lines 1a through 4 in column (f). Enter here and on line 13, column (3) on the back ▶	5	

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

	(a) Description of property (Example: 100 shares 7% preferred of "Z" Co.)	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Sales price	(e) Cost or other basis (see instructions)	(f) Gain or (loss) for the entire year Subtract (e) from (d)
6a	Coin Collection	4-9-10	9-23-10	3,000	2,800	200

b	Enter the long-term gain or (loss), if any, from Schedule D-1, line 6b	6b	
7	Long-term capital gain or (loss) from Forms 2439, 4684, 6252, 6781, and 8824	7	
8	Net long-term gain or (loss) from partnerships, S corporations, and other estates or trusts	8	
9	Capital gain distributions	9	
10	Gain from Form 4797, Part I	10	
11	Long-term capital loss carryover. Enter the amount, if any, from line 14 of the 2009 Capital Loss Carryover Worksheet	11	( )
12	**Net long-term gain or (loss).** Combine lines 6a through 11 in column (f). Enter here and on line 14a, column (3) on the back ▶	12	200

For Paperwork Reduction Act Notice, see the Instructions for Form 1041. Cat. No. 11376V **Schedule D (Form 1041) 2010**

Part III **Summary of Parts I and II**
Caution: *Read the instructions* ***before*** *completing this part.*

			(1) Beneficiaries' (see instr.)	(2) Estate's or trust's	(3) Total
13	**Net short-term gain or (loss)**	13			
14	**Net long-term gain or (loss):**				
a	Total for year	14a		200	200
b	Unrecaptured section 1250 gain (see line 18 of the wrksht.)	14b			
c	28% rate gain	14c		200	200
15	**Total net gain or (loss).** Combine lines 13 and 14a ▶	15		200	200

Note: *If line 15, column (3), is a net gain, enter the gain on Form 1041, line 4 (or Form 990-T, Part I, line 4a). If lines 14a and 15, column (2), are net gains, go to Part V, and* ***do not*** *complete Part IV. If line 15, column (3), is a net loss, complete Part IV and the* ***Capital Loss Carryover Worksheet,*** *as necessary.*

Part IV **Capital Loss Limitation**

16	Enter here and enter as a (loss) on Form 1041, line 4 (or Form 990-T, Part I, line 4c, if a trust), the **smaller** of:		
a	The loss on line 15, column (3) **or b** $3,000	16	( )

Note: *If the loss on line 15, column (3), is more than $3,000,* ***or*** *if Form 1041, page 1, line 22 (or Form 990-T, line 34), is a loss, complete the* ***Capital Loss Carryover Worksheet*** *on page 7 of the instructions to figure your capital loss carryover.*

Part V **Tax Computation Using Maximum Capital Gains Rates**

Form 1041 filers. Complete this part **only** if both lines 14a and 15 in column (2) are gains, or an amount is entered in Part I or Part II and there is an entry on Form 1041, line 2b(2), **and** Form 1041, line 22, is more than zero.

Caution: *Skip this part and complete the worksheet on page 8 of the instructions if:*

- *Either line 14b, col. (2) or line 14c, col. (2) is more than zero, or*
- *Both Form 1041, line 2b(1), and Form 4952, line 4g are more than zero.*

Form 990-T trusts. Complete this part **only** if both lines 14a and 15 are gains, or qualified dividends are included in income in Part I of Form 990-T, **and** Form 990-T, line 34, is more than zero. Skip this part and complete the worksheet on page 8 of the instructions if either line 14b, col. (2) or line 14c, col. (2) is more than zero.

17	Enter taxable income from Form 1041, line 22 (or Form 990-T, line 34)		17		
18	Enter the **smaller** of line 14a or 15 in column (2) but not less than zero	18			
19	Enter the estate's or trust's qualified dividends from Form 1041, line 2b(2) (or enter the qualified dividends included in income in Part I of Form 990-T)	19			
20	Add lines 18 and 19	20			
21	If the estate or trust is filing Form 4952, enter the amount from line 4g; otherwise, enter -0- ▶	21			
22	Subtract line 21 from line 20. If zero or less, enter -0-		22		
23	Subtract line 22 from line 17. If zero or less, enter -0-		23		
24	Enter the **smaller** of the amount on line 17 or $2,300		24		
25	Is the amount on line 23 equal to or more than the amount on line 24? ☐ **Yes.** Skip lines 25 and 26; go to line 27 and check the "No" box. ☐ **No.** Enter the amount from line 23		25		
26	Subtract line 25 from line 24		26		
27	Are the amounts on lines 22 and 26 the same? ☐ **Yes.** Skip lines 27 thru 30; go to line 31. ☐ **No.** Enter the **smaller** of line 17 or line 22		27		
28	Enter the amount from line 26 (If line 26 is blank, enter -0-)		28		
29	Subtract line 28 from line 27		29		
30	Multiply line 29 by 15% (.15)			30	
31	Figure the tax on the amount on line 23. Use the 2010 Tax Rate Schedule for Estates and Trusts (see the Schedule G instructions in the instructions for Form 1041)			31	
32	Add lines 30 and 31			32	
33	Figure the tax on the amount on line 17. Use the 2010 Tax Rate Schedule for Estates and Trusts (see the Schedule G instructions in the instructions for Form 1041)			33	
34	**Tax on all taxable income.** Enter the **smaller** of line 32 or line 33 here and on Form 1041, Schedule G, line 1a (or Form 990-T, line 36)			34	

Schedule D (Form 1041) 2010

661110

☐ Final K-1 ☐ Amended K-1 OMB No. 1545-0092

Schedule K-1 (Form 1041)
Department of the Treasury
Internal Revenue Service

2010

For calendar year 2010,
or tax year beginning ________, 2010,
and ending ________, 20 ____

Beneficiary's Share of Income, Deductions, Credits, etc.

▶ See back of form and instructions.

Part I Information About the Estate or Trust

A Estate's or trust's employer identification number

10-0123456

B Estate's or trust's name

Estate of John R. Smith

C Fiduciary's name, address, city, state, and ZIP code

Charles R. Smith, Executor
6406 Mayflower Street
Juneville, ME 00000

D ☐ Check if Form 1041-T was filed and enter the date it was filed ________

E ☐ Check if this is the final Form 1041 for the estate or trust

Part II Information About the Beneficiary

F Beneficiary's identifying number

123-00-6789

G Beneficiary's name, address, city, state, and ZIP code

James Smith
6407 Mayflower Street
Juneville, ME 00000

H ☑ Domestic beneficiary ☐ Foreign beneficiary

Part III Beneficiary's Share of Current Year Income, Deductions, Credits, and Other Items

1	Interest income	300
2a	Ordinary dividends	100
2b	Qualified dividends	100
3	Net short-term capital gain	
4a	Net long-term capital gain	
4b	28% rate gain	
4c	Unrecaptured section 1250 gain	
5	Other portfolio and nonbusiness income	1,600
6	Ordinary business income	
7	Net rental real estate income	
8	Other rental income	
9	Directly apportioned deductions	
10	Estate tax deduction	
11	Final year deductions	
12	Alternative minimum tax adjustment	
13	Credits and credit recapture	
14	Other information	

*See attached statement for additional information.

Note. A statement must be attached showing the beneficiary's share of income and directly apportioned deductions from each business, rental real estate, and other rental activity.

For IRS Use Only

For Paperwork Reduction Act Notice, see the Instructions for Form 1041. Cat. No. 11380D **Schedule K-1 (Form 1041) 2010**

Schedule D Tax Worksheet

Keep for Your Records

Complete this worksheet only if:

- On Schedule D, line 14b, column (2), **or** line 14c, column (2), is more than zero, **or**
- Both line 2b(1) of Form 1041 **and** line 4g of Form 4952 are more than zero.

Exception: Do not use this worksheet to figure the estate's or trust's tax if line 14a, column (2), or line 15, column (2), of Schedule D or Form 1041, line 22 is zero or less; instead, see the instructions for Schedule G, line 1a of Form 1041.

1. Enter the estate's or trust's taxable income from Form 1041, line 22 . . . . . **1.** 10,025
2. Enter qualified dividends, if any, from Form 1041, line 2b(2) **2.** 629
3. Enter the amount from Form 4952, line 4g . . . . . **3.** ________
4. Enter the amount from Form 4952, line 4e* . . . . . **4.** ________
5. Subtract line 4 from line 3. If zero or less, enter -0- . . . . . **5.** -0-
6. Subtract line 5 from line 2. If zero or less, enter -0- **6.** 629
7. Enter the **smaller** of line 14a, col. (2) or line 15, col. (2) from Sch. D **7.** 200
8. Enter the **smaller** of line 3 or line 4 . . . . . **8.** -0-
9. Subtract line 8 from line 7. If zero or less, enter -0- **9.** 200
10. Add lines 6 and 9 . . . . . **10.** 829
11. Add lines 14b, column (2) and 14c, column (2) from Schedule D **11.** 200
12. Enter the **smaller** of line 9 or line 11 . . . . . **12.** 200
13. Subtract line 12 from line 10. . . . . . **13.** 629
14. Subtract line 13 from line 1. If zero or less, enter -0-. **14.** 9,396
15. Enter the **smaller** of line 1 or $2,300 . . . . . **15.** 2,300
16. Enter the **smaller** of line 14 or line 15 . . . . . **16.** 2,300
17. Subtract line 10 from line 1. If zero or less, enter -0- **17.** 9,196
18. Enter the **larger** of line 16 or line 17 . . . . . ▶ **18.** 9,196
    If lines 15 and 16 are the same, skip line 19 and go to line 20. Otherwise, go to line 19.
19. Subtract line 16 from line 15 . . . . . ▶ **19.** ________
    If lines 1 and 15 are the same, skip lines 20 through 32 and go to line 33. Otherwise, go to line 20.
20. Enter the **smaller** of line 1 or line 13 . . . . . **20.** 629
21. Enter the amount from line 19 (if line 19 is blank, enter -0-) . . . . . **21.** -0-
22. Subtract line 21 from line 20. If zero or less, enter -0- . . . . . ▶ **22.** 629
23. Multiply line 22 by 15% (.15) **23.** 94
    If Schedule D, line 14b, column (2) is zero or blank, skip lines 24 through 29 and go to line 30. Otherwise, go to line 24.
24. Enter the **smaller** of line 9 (above) or line 14b, col. (2) (from Schedule D) . . . . . **24.** ________
25. Add lines 10 and 18 . . . . . **25.** ________
26. Enter the amount from line 1 above . . . . . **26.** ________
27. Subtract line 26 from line 25. If zero or less, enter -0- . . . . . **27.** ________
28. Subtract line 27 from line 24. If zero or less, enter -0- . . . . . ▶ **28.** ________
29. Multiply line 28 by 25% (.25) . . . . . **29.** ________
    If Schedule D, line 14c, column (2) is zero or blank, skip lines 30 through 32 and go to line 33. Otherwise, go to line 30.
30. Add lines 18, 19, 22, and 28 . . . . . **30.** 9,825
31. Subtract line 30 from line 1 . . . . . **31.** 200
32. Multiply line 31 by 28% (.28) **32.** 56
33. Figure the tax on the amount on line 18. Use the 2010 Tax Rate Schedule in the Instructions for Form 1041 . . . . . **33.** 2,234
34. Add lines 23, 29, 32, and 33 . . . . . **34.** 2,384
35. Figure the tax on the amount on line 1. Use the 2010 Tax Rate Schedule in the Instructions for Form 1041 . . . . . **35.** 2,508
36. **Tax on all taxable income (including capital gains and qualified dividends).** Enter the **smaller** of line 34 or line 35 here **and** on line 1a of Sch. G, Form 1041 . . . . . **36.** 2,384

*If applicable, enter instead the smaller amount entered on the dotted line next to line 4e of Form 4952.

Table A. Checklist of Forms and Due Dates For Executor, Administrator, or Personal Representative

Form No.	Title	Due Date**
SS-4	Application for Employer Identification Number	As soon as possible. The identification number must be included in returns, statements, and other documents.
56	Notice Concerning Fiduciary Relationship	As soon as all necessary information is available.*
706	United States Estate (and Generation-Skipping Transfer) Tax Return	9 months after date of decedent's death. However, if the decedent died after December 31, 2009, and before December 17, 2010, then file by September 19, 2011.
706-A	United States Additional Estate Tax Return	6 months after cessation or disposition of special-use valuation property.
706-GS(D)	Generation-Skipping Transfer Tax Return for Distributions	See form instructions.
706-GS(D-1)	Notification of Distribution From a Generation-Skipping Trust	See form instructions.
706-GS(T)	Generation-Skipping Transfer Tax Return for Terminations	See form instructions.
706-NA	United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States	9 months after date of decedent's death.
712	Life Insurance Statement	Part I to be filed with estate tax return.
1040	U.S. Individual Income Tax Return	Generally, April 15th of the year after death.**
1040NR	U.S. Nonresident Alien Income Tax Return	See form instructions.
1041	U.S. Income Tax Return for Estates and Trusts	15th day of 4th month after end of estate's tax year.**
1041-T	Allocation of Estimated Tax Payments to Beneficiaries	65th day after end of estate's tax year.
1041-ES	Estimated Income Tax for Estates and Trusts	Generally, April 15, June 15, Sept. 15, and Jan. 15 for calendar-year filers.**
1042	Annual Withholding Tax Return for U.S. Source Income of Foreign Persons	March 15th.**
1042-S	Foreign Person's U.S. Source Income Subject to Withholding	March 15th.**
4768	Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes	See form instructions.
4810	Request for Prompt Assessment Under Internal Revenue Code Section 6501(d)	As soon as possible after filing Form 1040 or Form 1041.
4868	Application for Automatic Extension of Time To File U.S. Individual Income Tax Return	April 15th.**
5495	Request for Discharge From Personal Liability Under Internal Revenue Code Section 2204 or 6905	See form instructions.
7004	Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns	15th day of 4th month after end of estate's tax year.**
8300	Report of Cash Payments Over $10,000 Received in a Trade or Business	15th day after the date of the transaction.
8822	Change of Address	As soon as the address is changed.

* A personal representative must report the termination of the estate, in writing, to the Internal Revenue Service. Form 56 can be used for this purpose.
** If the due date falls on a Saturday, Sunday, or legal holiday, file on the next business day.

Table B. Worksheet To Reconcile Amounts Reported in Name of Decedent on Information Returns (Forms W-2, 1099-INT, 1099-DIV, etc.)

Keep for Your Records

Name of Decedent	**Date of Death**	**Decedent's Social Security Number**
Name of Personal Representative, Executor, or Administrator		**Estate's Employer Identification Number (If Any)**

Source (list each payer)	**A** Enter total amount shown on information return	**B** Enter part of amount in column A reportable on decedent's final return	**C** Amount reportable on estate's or beneficiary's income tax return (column A minus column B)	**D** Part of column C that is *income in respect of a decedent*
1. Wages				
2. Interest income				
3. Dividends				
4. State income tax refund				
5. Capital gains				
6. Pension income				
7. Rents, royalties				
8. Taxes withheld*				
9. Other items, such as social security, business and farm income or loss, unemployment compensation, etc.				

* List each withholding agent (employer, etc.)

How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

Contacting your Taxpayer Advocate. The Taxpayer Advocate Service (TAS) is an independent organization within the IRS. We help taxpayers who are experiencing economic harm, such as not being able to provide necessities like housing, transportation, or food; taxpayers who are seeking help in resolving tax problems with the IRS; and those who believe that an IRS system or procedure is not working as it should. Here are seven things every taxpayer should know about TAS:

- The Taxpayer Advocate Service is your voice at the IRS.
- Our service is free, confidential, and tailored to meet your needs.
- You may be eligible for our help if you have tried to resolve your tax problem through normal IRS channels and have gotten nowhere, or you believe an IRS procedure just isn't working as it should.
- We help taxpayers whose problems are causing financial difficulty or significant cost, including the cost of professional representation. This includes businesses as well as individuals.
- Our employees know the IRS and how to navigate it. If you qualify for our help, we'll assign your case to an advocate who will listen to your problem, help you understand what needs to be done to resolve it, and stay with you every step of the way until your problem is resolved.
- We have at least one local taxpayer advocate in every state, the District of Columbia, and Puerto Rico. You can call your local advocate, whose number is in your phone book, in Pub. 1546, Taxpayer Advocate Service—Your Voice at the IRS, and on our website at www.irs.gov/advocate. You can also call our toll-free line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.
- You can learn about your rights and responsibilities as a taxpayer by visiting our online tax toolkit at www.taxtoolkit.irs.gov. You can get updates on hot tax topics by visiting our YouTube channel at www.youtube.com/tasnta and our Facebook page at www.facebook.com/YourVoiceAtIRS, or by following our tweets at www.twitter.com/YourVoiceAtIRS.

Low Income Taxpayer Clinics (LITCs). The Low Income Taxpayer Clinic program serves individuals who have a problem with the IRS and whose income is below a certain level. LITCs are independent from the IRS. Most LITCs can provide representation before the IRS or in court on audits, tax collection disputes, and other issues for free or a small fee. If an individual's native language is not English, some clinics can provide multilingual information about taxpayer rights and responsibilities. For more information, see Publication 4134, Low Income Taxpayer Clinic List. This publication is available at IRS.gov, by calling 1-800-TAX-FORM (1-800-829-3676), or at your local IRS office.

Free tax services. Publication 910, IRS Guide to Free Tax Services, is your guide to IRS services and resources. Learn about free tax information from the IRS, including publications, services, and education and assistance programs. The publication also has an index of over 100 TeleTax topics (recorded tax information) you can listen to on the telephone. The majority of the information and services listed in this publication are available to you free of charge. If there is a fee associated with a resource or service, it is listed in the publication.

Accessible versions of IRS published products are available on request in a variety of alternative formats for people with disabilities.

Free help with your return. Free help in preparing your return is available nationwide from IRS-trained volunteers. The Volunteer Income Tax Assistance (VITA) program is designed to help low-income taxpayers and the Tax Counseling for the Elderly (TCE) program is designed to assist taxpayers age 60 and older with their tax returns. Many VITA sites offer free electronic filing and all volunteers will let you know about credits and deductions you may be entitled to claim. To find the nearest VITA or TCE site, call 1-800-829-1040.

As part of the TCE program, AARP offers the Tax-Aide counseling program. To find the nearest AARP Tax-Aide site, call 1-888-227-7669 or visit AARP's website at www.aarp.org/money/taxaide.

For more information on these programs, go to IRS.gov and enter keyword "VITA" in the upper right-hand corner.

Internet. You can access the IRS website at IRS.gov 24 hours a day, 7 days a week to:

- *E-file* your return. Find out about commercial tax preparation and *e-file* services available free to eligible taxpayers.
- Check the status of your 2010 refund. Go to IRS.gov and click on *Where's My Refund*. Wait at least 72 hours after the IRS acknowledges receipt of your e-filed return, or 3 to 4 weeks after mailing a paper return. If you filed Form 8379 with your return, wait 14 weeks (11 weeks if you filed electronically). Have your 2010 tax return available so you can provide your social security number, your filing status, and the exact whole dollar amount of your refund.
- Download forms, including talking tax forms, instructions, and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- Use the online Internal Revenue Code, regulations, or other official guidance.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Figure your withholding allowances using the withholding calculator online at www.irs.gov/individuals.
- Determine if Form 6251 must be filed by using our Alternative Minimum Tax (AMT) Assistant.
- Sign up to receive local and national tax news by email.
- Get information on starting and operating a small business.

Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call 1-800-TAX -FORM (1-800-829-3676) to order current-year forms, instructions, and publications, and prior-year forms and instructions. You should receive your order within 10 days.
- *Asking tax questions.* Call the IRS with your tax questions at 1-800-829-1040.
- *Solving problems.* You can get face-to-face help solving tax problems every business day in IRS Taxpayer Assistance Centers. An employee can explain IRS letters, request adjustments to your account, or help you set up a payment plan. Call your local Taxpayer Assistance Center for an appointment. To find the number, go to www.irs.gov/localcontacts or look in the phone book under *United States Government, Internal Revenue Service*.
- *TTY/TDD equipment.* If you have access to TTY/TDD equipment, call 1-800-829-4059 to ask tax questions or to order forms and publications.
- *TeleTax topics.* Call 1-800-829-4477 to listen to pre-recorded messages covering various tax topics.
- *Refund information.* To check the status of your 2010 refund, call 1-800-829-1954 or 1-800-829-4477 (automated refund information 24 hours a day, 7 days a week). Wait at least 72 hours after the IRS acknowledges receipt of your e-filed return, or 3 to 4 weeks after mailing a paper return. If you filed Form 8379 with your return, wait 14 weeks (11 weeks if you filed electronically). Have your 2010 tax return available so you can provide your social security number, your filing status, and the exact whole dollar amount of your refund. If you check the status of your refund and are not given the date it will be issued, please wait until the next week before checking back.
- *Other refund information.* To check the status of a prior-year refund or amended return refund, call 1-800-829-1040.

Evaluating the quality of our telephone services. To ensure IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to listen in on or record random telephone calls. Another is to ask some callers to complete a short survey at the end of the call.

Walk-in. Many products and services are available on a walk-in basis.

- *Products.* You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, grocery stores, copy centers, city and county government offices, credit unions, and office supply stores have a collection of products available to print from a CD or photocopy from reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.
- *Services.* You can walk in to your local Taxpayer Assistance Center every business day for personal, face-to-face tax help. An employee can explain IRS letters, request adjustments to your tax account, or help you set up a payment plan. If you need to resolve a tax problem, have questions about how the tax law applies to your individual tax return, or you are more comfortable talking with someone in person, visit your local Taxpayer Assistance Center where you can spread out your records and talk with an IRS representative face-to-face. No appointment is necessary—just walk in. If you prefer, you can call your local Center and leave a message requesting an appointment to resolve a tax account issue. A representative will call you back within 2 business days to schedule an in-person appointment at your convenience. If you have an ongoing, complex tax account problem or a special need, such as a disability, an appointment can be requested. All other issues will be handled without an appointment. To find the number of your local office, go to *www.irs.gov/localcontacts* or look in the phone book under *United States Government, Internal Revenue Service*.

Mail. You can send your order for forms, instructions, and publications to the address below. You should receive a response within 10 days after your request is received.

Internal Revenue Service
1201 N. Mitsubishi Motorway
Bloomington, IL 61705-6613

DVD for tax products. You can order Publication 1796, IRS Tax Products DVD, and obtain:

- Current-year forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Tax Map: an electronic research tool and finding aid.
- Tax law frequently asked questions.
- Tax Topics from the IRS telephone response system.
- Internal Revenue Code—Title 26 of the U.S. Code.
- Fill-in, print, and save features for most tax forms.
- Internal Revenue Bulletins.
- Toll-free and email technical support.
- Two releases during the year.
  – The first release will ship the beginning of January 2011.
  – The final release will ship the beginning of March 2011.

Purchase the DVD from National Technical Information Service (NTIS) at *www.irs.gov/cdorders* for $30 (no handling fee) or call 1-877-233-6767 toll free to buy the DVD for $30 (plus a $6 handling fee).

Index

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.

■

Tax Publications for Individual Taxpayers

See *How To Get Tax Help* for a variety of ways to get publications, including by computer, phone, and mail.

General Guides

1 Your Rights as a Taxpayer
17 Your Federal Income Tax For Individuals
334 Tax Guide for Small Business (For Individuals Who Use Schedule C or C-EZ)
509 Tax Calendars for 2011
910 IRS Guide to Free Tax Services

Specialized Publications

3 Armed Forces' Tax Guide
54 Tax Guide for U.S. Citizens and Resident Aliens Abroad
225 Farmer's Tax Guide
463 Travel, Entertainment, Gift, and Car Expenses
501 Exemptions, Standard Deduction, and Filing Information
502 Medical and Dental Expenses (Including the Health Coverage Tax Credit)
503 Child and Dependent Care Expenses
504 Divorced or Separated Individuals
505 Tax Withholding and Estimated Tax
514 Foreign Tax Credit for Individuals
516 U.S. Government Civilian Employees Stationed Abroad
517 Social Security and Other Information for Members of the Clergy and Religious Workers
519 U.S. Tax Guide for Aliens
521 Moving Expenses
523 Selling Your Home
524 Credit for the Elderly or the Disabled
525 Taxable and Nontaxable Income
526 Charitable Contributions
527 Residential Rental Property (Including Rental of Vacation Homes)
529 Miscellaneous Deductions
530 Tax Information for Homeowners
531 Reporting Tip Income
535 Business Expenses
536 Net Operating Losses (NOLs) for Individuals, Estates, and Trusts
537 Installment Sales
541 Partnerships
544 Sales and Other Dispositions of Assets
547 Casualties, Disasters, and Thefts
550 Investment Income and Expenses (Including Capital Gains and Losses)
551 Basis of Assets
552 Recordkeeping for Individuals
554 Tax Guide for Seniors
555 Community Property
556 Examination of Returns, Appeal Rights, and Claims for Refund
559 Survivors, Executors, and Administrators
561 Determining the Value of Donated Property
570 Tax Guide for Individuals With Income From U.S. Possessions
571 Tax-Sheltered Annuity Plans (403(b) Plans) For Employees of Public Schools and Certain Tax-Exempt Organizations
575 Pension and Annuity Income
584 Casualty, Disaster, and Theft Loss Workbook (Personal-Use Property)
587 Business Use of Your Home (Including Use by Daycare Providers)
590 Individual Retirement Arrangements (IRAs)
593 Tax Highlights for U.S. Citizens and Residents Going Abroad
594 The IRS Collection Process
596 Earned Income Credit (EIC)
721 Tax Guide to U.S. Civil Service Retirement Benefits
901 U.S. Tax Treaties
907 Tax Highlights for Persons with Disabilities
908 Bankruptcy Tax Guide
915 Social Security and Equivalent Railroad Retirement Benefits
919 How Do I Adjust My Tax Withholding?
925 Passive Activity and At-Risk Rules
926 Household Employer's Tax Guide For Wages Paid in 2011
929 Tax Rules for Children and Dependents
936 Home Mortgage Interest Deduction
946 How To Depreciate Property
947 Practice Before the IRS and Power of Attorney
950 Introduction to Estate and Gift Taxes
967 The IRS Will Figure Your Tax
969 Health Savings Accounts and Other Tax-Favored Health Plans
970 Tax Benefits for Education
971 Innocent Spouse Relief
972 Child Tax Credit
1542 Per Diem Rates (For Travel Within the Continental United States)
1544 Reporting Cash Payments of Over $10,000 (Received in a Trade or Business)
1546 Taxpayer Advocate Service – Your Voice at the IRS

Spanish Language Publications

1SP Derechos del Contribuyente
17(SP) El Impuesto Federal sobre los Ingresos Para Personas Fisicas
547(SP) Hechos Fortuitos Desastres y Robos
584(SP) Registro de Pérdidas por Hechos Fortuitos (Imprevistos), Desastres y Robos (Propiedad de Uso Personal)
594SP El Proceso de Cobro del IRS
596SP Crédito por Ingreso del Trabajo
850(EN/SP) English-Spanish Glossary of Words and Phrases Used in Publications Issued by the Internal Revenue Service
1544(SP) Informe de Pagos en Efectivo en Exceso de $10,000 (Recibidos en una Ocupación o Negocio)

Commonly Used Tax Forms

See *How To Get Tax Help* for a variety of ways to get forms, including by computer, phone, and mail.

Form Number	Title
1040	U.S. Individual Income Tax Return
Sch A	Itemized Deductions
Sch B	Interest and Ordinary Dividends
Sch C	Profit or Loss From Business
Sch C-EZ	Net Profit From Business
Sch D	Capital Gains and Losses
Sch D-1	Continuation Sheet for Schedule D
Sch E	Supplemental Income and Loss
Sch EIC	Earned Income Credit
Sch F	Profit or Loss From Farming
Sch H	Household Employment Taxes
Sch J	Income Averaging for Farmers and Fishermen
Sch L	Standard Deduction for Certain Filers
Sch M	Making Work Pay
Sch R	Credit for the Elderly or the Disabled
Sch SE	Self-Employment Tax
1040A	U.S. Individual Income Tax Return
1040EZ	Income Tax Return for Single and Joint Filers With No Dependents
1040-ES	Estimated Tax for Individuals
1040X	Amended U.S. Individual Income Tax Return
2106	Employee Business Expenses
2106-EZ	Unreimbursed Employee Business Expenses
2210	Underpayment of Estimated Tax by Individuals, Estates, and Trusts
2441	Child and Dependent Care Expenses
2848	Power of Attorney and Declaration of Representative
2848(SP)	Poder Legal y Declaración del Representante
3903	Moving Expenses
4562	Depreciation and Amortization
4868	Application for Automatic Extension of Time To File U.S. Individual Income Tax Return
4868(SP)	Solicitud de Prórroga Automática para Presentar la Declaración del Impuesto sobre el Ingreso Personal de los Estados Unidos
4952	Investment Interest Expense Deduction
5329	Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts
6251	Alternative Minimum Tax—Individuals
8283	Noncash Charitable Contributions
8582	Passive Activity Loss Limitations
8606	Nondeductible IRAs
8812	Additional Child Tax Credit
8822	Change of Address
8829	Expenses for Business Use of Your Home
8863	Education Credits (American Opportunity, and Lifetime Learning Credits)
9465	Installment Agreement Request
9465(SP)	Solicitud para un Plan de Pagos a Plazos