

Real Estate

Are you in the real estate business or do you own rental property or investment property? If so, this information is for you. It is important for you to know your tax responsibilities. Click on the links below to go directly to the specific topics.

[Information for Real Estate Agents](#)

[Information for Rental Owners/Landlords/Investors](#)

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Tax Tips for Real Estate Agents:

Reporting your personal income and expenses

This section contains information on topics you need to know for your personal income taxes.

What is Taxable and Nontaxable Income? You can receive income in the form of money, property, or services. This section discusses many kinds of income that are taxable or nontaxable.

Recordkeeping Unless you are a professional bookkeeper, you probably don't like to spend valuable business time keeping records. But keeping good records can actually help you save money.

Business Expenses Business expenses are the cost of carrying on a trade or business. These expenses are usually deductible if the business is operated to make a profit.

Employees or contract labor (self-employed) It is critical that you, the employer, correctly determine whether the individuals providing services are employees or independent contractors.

Deducting Travel, Entertainment and Gift Expenses There are specific guidelines to be followed when deducting travel, entertainment and gift expenses.

Filing Late and/or Paying Late: Information You Should Know Before you decide not to file your tax return on time or not pay all of your taxes when they are due, consider this.

Reporting Information Returns Your business may be required to file information

returns to report certain types of payments made during the year.

[Self-Employment Taxes](#) The self-employment tax is a social security and Medicare tax for individuals who work for themselves.

[Estimated Tax Payments](#) Estimated tax is the method used to pay tax on income that is not subject to withholding. This includes income from self-employment, interest, dividends, alimony, rent, gains from the sale of assets, prizes and awards.

[Understanding Your IRS Notice](#) We realize that receiving a notice from the IRS can be unnerving, but if you follow these simple steps, the process for resolving the discrepancy should be straightforward.

[Real Estate Industry Fact Sheet by Criminal Investigation](#)

Through federal tax fraud investigations and money laundering charges, the Internal Revenue Service is playing a key role in the fight against real estate fraud.

[Useful Forms and Publications](#)

[Publication 525](#) Taxable and Nontaxable Income

[Publication 583](#) Starting a Business and Keeping Records

[Publication 535](#) Business Expenses

[Form SS-8](#) (PDF) Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding

[Publication 15-A](#) (PDF) The Employer's Supplemental Tax Guide has detailed guidance including information for specific industries.

[Publication 15-B](#) The Employer's Tax Guide to Fringe Benefits supplements Circular E (Pub. 15), Employer's Tax Guide, and Publication 15-A, Employer's Supplemental Tax Guide. It contains specialized and detailed information on the employment tax treatment of fringe benefits.

[Forms and associated taxes for independent contractors](#)

[Forms and associated taxes for employees](#)

[Publication 463](#), Travel, Entertainment, Gift, and Car Expenses

[2007 Form 1040 \(Schedule C\)](#) (PDF) Profit or Loss from Business

[2007 Form 1040 \(Schedule SE\)](#) (PDF) Self-Employment Tax

[Form 1040-ES](#) (PDF) Estimated Tax for Individuals

[Publication 505](#) Tax Withholding and Estimated Tax

Tax Tips for Landlords/Rental Owners/Investors

This section contains information on topics such as tax credits, rental income and expenses, and the sale of property.

Rental Income and Expenses - Real Estate Tax Tips When are you required to report rental income and expenses?

Passive Activity Losses - Real Estate Tax Tips Your losses may not be currently deductible.

Frequently Asked Questions – Rental Property Learn the answers to such questions as depreciation, deductible expenses, and selling your property.

Tax Topic 414 – Rental Income and Expenses This article addresses the various income and expenses associated with a rental property.

Audit Technique Guides - Real Estate The IRS Market Segment Specialization Program (MSSP) publishes various guides for use by IRS employees conducting audits and as information for taxpayers and practitioners.

Selling Your Property When you sell a capital asset, the difference between the amounts you sell it for and your basis, which is usually what you paid for it, is a capital gain or a capital loss.

Like-Kind Exchanges - Real Estate Tax Tips Can you defer your gain under Internal Revenue Code Section 1031?

Sale of Residence - Real Estate Tax Tips Do you qualify to exclude your gain?

Installment Sales - Real Estate Tax Tips Time is on your side. An installment sale is a sale of property where you receive at least one payment after the tax year of the sale.

Involuntary Conversions - Real Estate Tax Tips Destroyed, stolen, or condemned property?

Environmental Cleanup Costs This deduction provides businesses with

an incentive to clean up certain sites that are contaminated with hazardous substances. Refer to the section on Environmental Cleanup Costs in Publication 535, Business Expenses.

Rehabilitation Tax Credit - Real Estate Tax Tips Taking credit for history. The rehabilitation credit applies to costs you incur for rehabilitation and reconstruction of certain buildings.

Commercial Property Owners and Leaseholders Qualify for Energy Efficiency Tax Deduction New section 179D allows a deduction to a taxpayer who owns, or is a lessee of, a commercial building and installs property that satisfies energy efficiency requirement

Useful Forms and Publications

Publication 527 Residential Rental Property

Schedule E Rental Income and Expenses (PDF)

Schedule E Instructions

Publication 946 How to Depreciate Property

Form 4562 Depreciation (PDF)

Form 4562 Instructions

Pub 925 Passive Activities

Form 8582 (PDF) Passive Activity Loss Limitations

Form 8582 Instructions

Form 1040 Schedule D (PDF) Capital Gains and Losses

Form 1040 Schedule D Instructions

Form 4797 (PDF) Sales of Business Property

Form 4797 Instructions

General Real Estate Information you should know

Whether you are a landlord, investor, or real estate agent, there is additional information you may need to be aware of.

FIRPTA The Foreign Investment in Real Property Tax Act (FIRPTA) requires a **FIRPTA withholding** tax of 10% of the amount realized on the **disposition of all U.S. real property interests** by a **foreign person**. A buyer of U.S. real property interest from a foreign investor is considered the (transferee) and also the withholding agent. The transferee must find out if the transferor is a foreign person. If the transferor is a foreign person and the transferee fails to withhold, the buyer may be held liable for the tax. The seller must report that sale of the real property interests by filing a U.S. Federal Tax Form 1040-NR or Form 1120-F.

Form 8300 Workbook on Reporting Cash Payments of over \$10,000 The law requires that trades and businesses report cash payments of more than \$10,000 to the federal government by filing IRS/FinCEN Form 8300, Report of Cash Payments

Over \$10,000 Received in a Trade or Business. This workbook helps determine what transactions a business must report and how to report them and also addresses the civil and criminal penalties that might apply for noncompliance with the rules.

Foreclosures/Short Sales

- [Questions and Answers](#)
- [Cancelled Debt](#)

If your home is foreclosed or part of a debt is forgiven, you may have to include some or all of it in your income.

Tax Gap information for real estate industry

- [Like-kind exchanges under IRC section 1031](#)
- [Rental property and the tax gap](#)
- [Other tax gap fact sheets](#)

[Trends and Statistics - Real Estate](#) This site provides industry specific and general survey results that should be of interest to the small business owner.

[Related Links - Real Estate](#) This page provides you links to sites that have specific information dealing with real estate.

[Financial Resources - Real Estate](#) This section provides you with direct links to many commonly used financial resources for small businesses.

[Income Verification Express Service \(IVES\)](#) Close loan transactions much more quickly using our IVES system. Transcripts can now be delivered, electronically, through e-Services.

[New Legislation \(tax credit for homebuyers\)](#)

General Information for Businesses

[Tax Information for all Small Businesses](#) This section provides general small business information useful in all industries and professions. It includes links to small business products, employment taxes, electronic filing and paying, taxpayer burden reduction, abusive tax avoidance transactions, and many other topics.

[Worker Classification \(Independent Contractors vs. Employees\)](#) Are you or your help independent consultants or employees? Before you can know how to treat payments you make for services, you must first know the business relationship that exists between you and the person performing the services.

[Small Business Videos](#) These videos are designed to help new and existing small business owners understand and meet their federal tax obligations. Topics include:

What you need to know about federal taxes and your new business, how to set up and run your business so paying taxes isn't a hassle, federal unemployment taxes, and much more.

The Small Business Resource Guide CD-ROM

The Small Business Resource Guide (SBRG) CD-ROM is a handy, interactive CD designed to equip small business owners with the skills and knowledge needed to successfully manage a business. The CD covers a wide range of topics, from starting a business to retirement plan options. Accessible on-line 24 hours a day.

Small Business Products Online Ordering

Looking for a tool to help you meet your tax requirements? Choose from our free products, developed especially for the Small Business/Self-Employed person, and obtain updated information on existing products. Order today online or by calling (800) 829-3676.

The Tax Calendar for Small Businesses and Self-Employed (Publication 1518)

The Tax Calendar for Small Businesses and Self-Employed is filled with useful information on general business taxes, IRS and SSA customer assistance, electronic filing and paying options, retirement plans, business publications and forms, common tax filing dates, and Federal legal holidays.

Subscribe to e-News for Small Business

e-News for Small Businesses is a free electronic mail service designed to provide tax information for small business owners and self-employed individuals. It is distributed every other Wednesday.

Remember that for the genuine IRS Web site be sure to use .gov. Don't be confused by internet sites that end in .com, .net, .org or other designations instead of .gov. The address of the official IRS governmental Web site is www.irs.gov.



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What is Taxable and Nontaxable Income?

You can receive income in the form of money, property, or services. This section discusses many kinds of income that are taxable or nontaxable. It includes discussions on employee wages and fringe benefits, and income from bartering, partnerships, S corporations, and royalties. The information on this page should not be construed as all-inclusive. Other steps may be appropriate for your specific type of business.

Generally, an amount included in your income is taxable unless it is specifically exempted by law. Income that is taxable must be reported on your return and is subject to tax. Income that is nontaxable may have to be shown on your tax return but is not taxable. A list is available in [Publication 525, Taxable and Nontaxable Income](#).

Constructively-received income. You are generally taxed on income that is available to you, regardless of whether it is actually in your possession.

A valid check that you received or that was made available to you before the end of the tax year is considered income constructively received in that year, even if you do not cash the check or deposit it to your account until the next year. For example, if the postal service tries to deliver a check to you on the last day of the tax year but you are not at home to receive it, you must include the amount in your income for that tax year. If the check was mailed so that it could not possibly reach you until after the end of the tax year, and you could not otherwise get the funds before the end of the year, you include the amount in your income for the next year.

Assignment of income. Income received by an agent for you is income you constructively received in the year the agent received it. If you agree by contract that a third party is to receive income for you, you must include the amount in your income when the party receives it.

Example. You and your employer agree that part of your salary is to be paid directly to your former spouse. You must include that amount in your income when your former spouse receives it.

Prepaid income. Prepaid income, such as compensation for future services, is generally included in your income in the year you receive it. However, if you use an accrual method of accounting, you can defer prepaid income you receive for services to be performed before the end of the next tax year. In this case, you include the payment in your income as you earn it by performing the services.

Employee Compensation

Generally, you must include in gross income everything you receive in payment for personal services. In addition to wages, salaries, commissions, fees, and tips, this includes other forms of compensation such as fringe benefits and stock options.

You should receive a Form W-2, Wage and Tax Statement, from your employer showing the pay you received for your services.

Childcare providers. If you provide child care, either in the child's home or in your home or other place of business, the pay you receive must be included in your income. If you are not an employee, you are probably self-employed and must include payments for your services on Schedule C (Form 1040), Profit or Loss From Business, or Schedule C-EZ (Form 1040), Net Profit From Business. You generally are not an employee unless you are subject to the will and control of the person who employs you as to what you are to do and how you are to do it.

Babysitting. If you babysit for relatives or neighborhood children, whether on a regular basis or only periodically, the rules for childcare providers apply to you.

Fringe Benefits

Fringe benefits you receive in connection with the performance of your services are included in your income as compensation unless you pay fair market value for them or they are specifically excluded by law. Abstaining from the performance of services (for example, under a covenant not to compete) is treated as the performance of services for purposes of these rules.

Recipient of fringe benefit. You are the recipient of a fringe benefit if you perform the services for which the fringe benefit is provided. You are considered to be the recipient even if it is given to

another person, such as a member of your family. An example is a car your employer gives to your spouse for services you perform. The car is considered to have been provided to you and not your spouse.

You do not have to be an employee of the provider to be a recipient of a fringe benefit. If you are a partner, director, or independent contractor, you can also be the recipient of a fringe benefit.

Business and Investment Income

Rents from personal property. If you rent out personal property, such as equipment or vehicles, how you report your income and expenses is generally determined by:

- Whether or not the rental activity is a business, and
- Whether or not the rental activity is conducted for profit.

Generally, if your primary purpose is income or profit and you are involved in the rental activity with continuity and regularity, your rental activity is a business. See [Publication 535, Business Expenses](#), for details on deducting expenses for both business and not-for-profit activities.

Partnership Income

A partnership generally is not a taxable entity. The income, gains, losses, deductions, and credits of a partnership are passed through to the partners based on each partner's distributive share of these items. For more information, refer to [Publication 541](#).

Partner's distributive share. Your distributive share of partnership income, gains, losses, deductions, or credits generally is based on the partnership agreement. You must report your distributive share of these items on your return whether or not they actually are distributed to you. However, your distributive share of the partnership losses is limited to the adjusted basis of your partnership interest at the end of the partnership year in which the losses took place.

Partnership return. Although a partnership generally pays no tax, it must file an information return on Form 1065, U.S. Return of Partnership Income. This shows the result of the partnership's operations for its tax year and the items that must be passed through to the partners.

S Corporation Income

In general, an S corporation does not pay tax on its income. Instead, the income, losses, deductions, and credits of the corporation are passed through to the shareholders based on each shareholder's pro

rata share. You must report your share of these items on your return. Generally, the items passed through to you will increase or decrease the basis of your S corporation stock as appropriate.

S corporation return. An S corporation must file a return on Form 1120S, U.S. Income Tax Return for an S Corporation. This shows the results of the corporation's operations for its tax year and the items of income, losses, deductions, or credits that affect the shareholders' individual income tax returns. For additional information, see the Instructions for [Form 1120S](#).

Royalties

Royalties from copyrights, patents, and oil, gas and mineral properties are taxable as ordinary income.

You generally report royalties in Part I of Schedule E (Form 1040), Supplemental Income and Loss. However, if you hold an operating oil, gas, or mineral interest or are in business as a self-employed writer, inventor, artist, etc., report your income and expenses on Schedule C or Schedule C-EZ.

For additional information, refer to [Publication 525, Taxable and Nontaxable Income](#).

Bartering

Bartering is an exchange of property or services. You must include in your income, at the time received, the fair market value of property or services you receive in bartering. For additional information, Refer to [Tax Topic 420 - Bartering Income](#) and [Barter Exchanges](#).

References/Related Topics

- [Operating a Business](#)
- Business Income ([Video](#), [Transcript](#))

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Deducting Travel, Entertainment and Gift Expenses

FS-2007-10, January 2007

(Updated 2/14/07)

WASHINGTON—The Internal Revenue Service reminds taxpayers that there are specific guidelines to be followed when deducting travel, entertainment and gift expenses.

In order to educate taxpayers regarding their filing obligations, this fact sheet, the eighth in a series, explains the rules for deducting these expenses. Travel, entertainment and gift expenses account for just part of the overstated adjustments, deductions, exemptions and credits that add up to \$30 billion per year in unpaid taxes, according to IRS estimates.

In general, taxpayers may deduct ordinary and necessary business-related expenses for traveling away from home, entertaining clients and customers and giving gifts to customers, employees and others with whom they have a business association. An ordinary expense is an expense that is common and accepted in the taxpayer's trade or business. A necessary expense is one that is appropriate for the business.

Taxpayers who deduct these expenses must exclude personal expenses when computing their

deductions and must have documentation for the expense, including statement of the business purpose, names of the persons being entertained, date and location. In addition, generally only 50 percent of business meal and entertainment expenses can be deducted.

Travel

Taxpayers who travel away from home on business may deduct related expenses, including the cost of reaching their destination, the cost of lodging and meals and other ordinary and necessary expenses. Taxpayers are considered “traveling away from home” if their duties require them to be away from home substantially longer than an ordinary day’s work and they need to sleep or rest to meet the demands of their work. The actual cost of meals and incidental expenses may be deducted or the taxpayer may use a standard meal allowance and reduced recordkeeping requirements. Regardless of the method used, meal deductions are generally limited to 50 percent as stated earlier. Only actual costs for lodging may be claimed as an expense and receipts must be kept for documentation. Expenses must be reasonable and appropriate; deductions for extravagant expenses are not allowable. More information is available in Publication 463, Travel, Entertainment, Gift, and Car Expenses.

Entertainment

Expenses for entertaining clients, customers or employees may be deducted if they are both ordinary and necessary and meet one of the following tests:

- Directly-related test: The main purpose of the entertainment activity is the conduct of business, business was actually conducted during the activity and the taxpayer had more than a general expectation of getting income or some other specific business benefit at some future time.
- Associated test: The entertainment was associated with the active conduct of the taxpayer’s trade or business and occurred directly before or after a substantial business discussion.

Publication 463 provides more extensive explanation of these tests as well as other limitations and requirements for deducting entertainment expenses.

Gifts

Taxpayers may deduct some or all of the cost of gifts given in the course of their trade or business. In general, the deduction is limited to \$25 for gifts given directly or indirectly to any one person during the tax year. More discussion of the rules and limitations can be found in Publication 463.

Links:

- [Publication 463](#), Travel, Entertainment, Gift, and Car Expenses
- [Publication 535](#), Business Expenses
- [Publication 552](#), Recordkeeping for Individuals
- [The Tax Gap](#)

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