

# Instructions for Form 1120-S

## 2023

### U.S. Income Tax Return for an S Corporation

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Volume 1 of 5



Department of the Treasury  
Internal Revenue Service

Instruction for Form 1120-S (Rev 2023) Catalog Number 47766Z  
Department of the Treasury Internal Revenue Service [www.irs.gov](https://www.irs.gov)



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## Future Developments

For the latest information about developments related to Form 1120-S and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form1120S](https://www.irs.gov/Form1120S).

## What's New

**Electronically filed returns.** The electronic filing threshold for corporate returns required to be filed on or after January 1, 2024, has decreased to 10 or more returns. See *Electronic Filing*, later.

**Increase in penalty for failure to file.** For tax returns required to be filed in 2024, the minimum penalty for failure to file a return that is more than 60 days late has increased to the smaller of the tax due or \$485. See *Late filing of return*, later.

**Deduction for certain energy efficient commercial building property.** For tax years beginning in 2023, corporations filing Form 1120-S and claiming the energy efficient commercial buildings deduction should report the deduction on line 19. See the instructions for line 19.

**Expiration of 100% business meal expense deduction.** The temporary 100% business meal expense deduction for food and beverages provided by a restaurant does not apply to amounts paid or incurred after 2022.

**Elective payment election.** Applicable entities and electing taxpayers can elect to treat certain credits as elective payments.



See the instructions for line 24d and the Instructions for Form 3800.

**Digital assets.** Digital assets are required to be reported. See new question 16 on Schedule B, later.

**Schedules K and K-1 reporting codes.**

Separate reporting codes are assigned to items grouped under code H for *Other income (loss)*, code S for *Other deductions*, code P for *Other credits*, and code AD for *Other information* in prior years. See the *List of Codes* in the Shareholder's Instructions for Schedule K-1 (Form 1120-S).

The following new reporting credit codes are added to line 13g.

- Code A. Zero-emission nuclear power production credit.
- Code B. Production from advanced nuclear power facilities credit.

- Code AG. Credit for military spouse participation.
- Code AX. Carbon oxide sequestration credit recapture.
- Code AY. New clean vehicle credit.
- Code BC. Eligible credits from transferor(s) under section 6418.

## **Reminder**

### **Election by a small business corporation.**

Don't file Form 1120-S unless the corporation has filed or is attaching Form 2553, Election by a Small Business Corporation. For details, see the Instructions for Form 2553.

## **Photographs of Missing Children**

The Internal Revenue Service is a proud partner with the [National Center for Missing & Exploited Children® \(NCMEC\)](#). Photographs of missing children selected by the Center may appear in instructions 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.

## **The Taxpayer Advocate Service**

The Taxpayer Advocate Service (TAS) is an ***independent*** organization within the IRS that helps taxpayers and protects taxpayer rights. TAS strives to ensure that every taxpayer is treated fairly and knows and understands their rights under the [Taxpayer Bill of Rights](#).

As a taxpayer, the corporation has rights that the IRS must abide by in its dealings with the corporation. TAS can help the corporation if:

- A problem is causing financial difficulty for the business;
- The business is facing an immediate threat of adverse action; or
- The corporation has tried repeatedly to contact the IRS but no one has

responded, or the IRS hasn't responded by the date promised.

TAS has offices in every state, the District of Columbia, and Puerto Rico. Local advocates' numbers are in their local directories and at [TaxpayerAdvocate.IRS.gov](https://www.irs.gov/taxpayeradvocate). The corporation can also call TAS at 877-777-4778.

TAS also works to resolve large-scale or systemic problems that affect many taxpayers. If the corporation knows of one of these broad issues, please report it to TAS through the Systemic Advocacy Management System at [IRS.gov/SAMS](https://www.irs.gov/SAMS).

For more information, go to [IRS.gov/Advocate](https://www.irs.gov/Advocate).

## **Direct Deposit of Refund**

To request a direct deposit of the corporation's income tax refund into an account at a U.S. bank or other financial institution, attach Form 8050, Direct Deposit

of Corporate Tax Refund. See the instructions for line 28.

## **How To Get Forms and Publications**

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

- Download forms, instructions, and publications;
- Order IRS products online;
- Research your tax questions online;
- Search publications online by topic or keyword;
- View Internal Revenue Bulletins (IRBs) published in recent years; and
- Sign up to receive local and national tax news by email.

**Tax forms and publications.** The corporation can view, print, or download all of the forms and publications it may need on

[IRS.gov/FormsPubs](https://www.irs.gov/forms-pubs). Otherwise, the corporation can go to [IRS.gov/OrderForms](https://www.irs.gov/OrderForms) to place an order and have forms mailed to it.

## **General Instructions**

### **Purpose of Form**

Use Form 1120-S to report the income, gains, losses, deductions, credits, and other information of a domestic corporation or other entity for any tax year covered by an election to be an S corporation.

### **How To Make the Election**

For details about the election, see Form 2553, Election by a Small Business Corporation, and the Instructions for Form 2553.

### **Who Must File**

A corporation or other entity must file Form 1120-S if (a) it elected to be an S corporation by filing Form 2553, (b) the IRS accepted the election, and (c) the election remains in

effect. After filing Form 2553, you should have received confirmation that Form 2553 was accepted. If you didn't receive notification of acceptance or nonacceptance of the election within 2 months of filing Form 2553 (5 months if you checked box Q1 to ask for a letter ruling), please follow up by calling 800-829-4933. Don't file Form 1120-S for any tax year before the year the election takes effect.

**Relief for late elections.** If you haven't filed Form 2553, or didn't file Form 2553 on time, you may be entitled to relief for a late-filed election to be an S corporation. See the Instructions for Form 2553 for details.

## **Termination of Election**

Once the election is made, it stays in effect until it is terminated. If the election is terminated, the corporation (or a successor corporation) can make another election on Form 2553 only with IRS consent for any tax

year before the fifth tax year after the first tax year in which the termination took effect. See Regulations section 1.1362-5 for details.

An election terminates automatically in any of the following cases.

1. The corporation is no longer a small business corporation as defined in section 1361(b). This kind of termination of an election is effective as of the day the corporation no longer meets the definition of a small business corporation. Attach to Form 1120-S for the final year of the S corporation a statement notifying the IRS of the termination and the date it occurred.
2. For each of 3 consecutive tax years, the corporation (a) has accumulated earnings and profits (AE&P), and (b) derives more than 25% of its gross receipts from passive investment income as defined in section



1362(d)(3)(C). The election terminates on the first day of the 1st tax year beginning after the 3rd consecutive tax year. The corporation must pay a tax for each year it has excess net passive income. See the line 23a instructions for details on how to figure the tax.

3. The election is revoked. An election can be revoked only with the consent of shareholders who, at the time the revocation is made, hold more than 50% of the number of issued and outstanding shares of stock (including nonvoting stock). The revocation can specify an effective revocation date that is on or after the day the revocation is filed. If no date is specified, the revocation is effective at the start of the tax year if the revocation is made on or before the 15th day of the 3rd month of that tax

year. If no date is specified and the revocation is made after the 15th day of the 3rd month of the tax year, the revocation is effective at the start of the next tax year.

To revoke the election, the corporation must file a statement with the appropriate service center listed under *Where To File* in the Instructions for Form 2553. In the statement, the corporation must notify the IRS that it is revoking its election to be an S corporation. The statement must be signed by each shareholder who consents to the revocation and contain the information required by Regulations section 1.1362-6(a)(3).

A revocation can be rescinded before it takes effect. See Regulations section 1.1362-6(a)(4) for details.

For rules on allocating income and deductions between an S corporation's short year and a C corporation's short year and other special rules that apply when an election is

terminated, see section 1362(e) and Regulations section 1.1362-3.

If an election was terminated under (1) or (2) above and the corporation believes the termination was inadvertent, the corporation can ask for permission from the IRS to continue to be treated as an S corporation. See Regulations section 1.1362-4 for the specific requirements that must be met to qualify for inadvertent termination relief.

## **Electronic Filing**

S corporations can generally electronically file (e-file) Form 1120-S, related forms, schedules, statements, and attachments; Form 7004 (automatic extension of time to file); and Forms 940, 941, and 944 (employment tax returns). Form 1099 and other information returns can also be electronically filed. The option to e-file doesn't, however, apply to certain returns.

For returns filed on or after January 1, 2024, S corporations that file 10 or more returns are required to e-file Form 1120-S. See Regulations section 301.6037-2. However, these corporations can request a waiver of the electronic filing requirements.

For more information on e-filing, see [\*E-file for Business and Self Employed Taxpayers\*](#) on IRS.gov.

## **Exclusions From Electronic Filing Requirement**

**Waivers.** The IRS may waive the electronic filing rules if the S corporation demonstrates that a hardship would result if it were required to file its return electronically. A corporation interested in requesting a waiver of the mandatory electronic filing requirement must file a written request, and request one in the manner prescribed by the IRS. All written requests for waivers should be mailed to:

Internal Revenue Service  
Ogden Submission Processing Center  
Attn: Form 1120 e-file Waiver Request  
Mail Stop 1057  
Ogden, UT 84201

If using a delivery service, requests for waivers should be mailed to:

Internal Revenue Service  
Ogden Submission Processing Center  
Attn: Form 1120 e-file Waiver Request  
Mail Stop 1057  
1973 N. Rulon White Blvd.  
Ogden, UT 84404

Waiver requests can also be faxed to 877-477-0575. Contact the e-Help Desk at 866-255-0654 for questions regarding the waiver procedures or process.

**Exemptions.** The IRS may provide exemptions from the requirements to electronically file. If using the technology required to electronically file conflicts with

religious beliefs, the corporation is exempt from the requirement. Clearly indicate the exemption on the corporation's return. Write "Religious Exemption" at the top of the Form 1120-S. File the return at the applicable IRS address. See *Where To File*, later. For more information, see [\*Notice 2024-18\*](#).

## **When To File**

Generally, an S corporation must file Form 1120-S by the 15th day of the 3rd month after the end of its tax year. For calendar year corporations, the due date is March 15, 2024. A corporation that has dissolved must generally file by the 15th day of the 3rd month after the date it dissolved.

If the due date falls on a Saturday, Sunday, or legal holiday, the corporation can file on the next day that isn't a Saturday, Sunday, or legal holiday.

If the S corporation election was terminated during the tax year and the corporation reverts to a C corporation, file Form 1120-S for the S corporation's short year by the due date (including extensions) of the C corporation's short year return.

## **Private Delivery Services**

Corporations can use certain private delivery services (PDS) designated by the IRS to meet the "timely mailing as timely filing" rule for tax returns. Go to [IRS.gov/PDS](https://www.irs.gov/PDS) for the current list of designated services.

The PDS can tell you how to get written proof of the mailing date.

For the IRS mailing address to use if you are using a PDS, go to [IRS.gov/PDSStreetAddresses](https://www.irs.gov/PDSStreetAddresses).



*Private delivery services can't deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any* **CAUTION**  
*item to an IRS P.O. box address.*

## **Extension of Time To File**

File Form 7004, Application for Automatic Extension of Time To

File Certain Business Income Tax, Information, and Other Returns, to ask for an extension of time to file. Generally, the corporation must file Form 7004 by the regular due date of the return. See the Instructions for Form 7004.

## **Who Must Sign**

The return must be signed and dated by:

- The president, vice president, treasurer, assistant treasurer, chief accounting officer; or
- Any other corporate officer (such as tax officer) authorized to sign.

If a return is filed on behalf of a corporation by a receiver, trustee, or assignee, the fiduciary must sign the return instead of the corporate officer. Returns and forms signed



by a receiver or trustee in bankruptcy on behalf of a corporation must be accompanied by a copy of the order or instructions of the court authorizing signing of the return or form.

If an employee of the corporation completes Form 1120-S, the paid preparer space should remain blank. Anyone who prepares Form 1120-S but doesn't charge the corporation shouldn't complete that section. Generally, anyone who is paid to prepare the return must sign it and fill in the "Paid Preparer Use Only" area.

The paid preparer must complete the required preparer information and:

- Sign the return in the space provided for the preparer's signature,
- Include their Preparer Tax Identification Number (PTIN), and
- Give a copy of the return to the taxpayer.



*A paid preparer may sign original or amended returns by rubber stamp, mechanical device, or computer software program.*

## **Paid Preparer Authorization**

If the corporation wants to allow the IRS to discuss its 2023 tax return with the paid preparer who signed it, check the “Yes” box in the signature area of the return. This authorization applies only to the individual whose signature appears in the “Paid Preparer

Use Only” section of the return. It doesn't apply to the firm, if any, shown in that section.

# Where To File

File the corporation's return at the applicable IRS address listed below.

If the corporation's principal business, office, or agency is located in:	And the total assets at the end of the tax year (Form 1120-S, page 1, item F) are:	Use the following address:
Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin	Less than \$10 million and Schedule M-3 isn't filed	Department of the Treasury Internal Revenue Service Center Kansas City, MO 64999-0013
	\$10 million or more, or less than \$10 million and Schedule M-3 is filed	Department of the Treasury Internal Revenue Service Center Ogden, UT 84201-0013
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming	Any amount	Department of the Treasury Internal Revenue Service Center Ogden, UT 84201-0013
A foreign country or U.S. territory	Any amount	Internal Revenue Service Center P.O. Box 409101 Ogden, UT 84409

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If the "Yes" box is checked, the corporation is authorizing the IRS to call the paid preparer to answer any questions that may arise during the processing of its return. The corporation is also authorizing the paid preparer to:

- Give the IRS any information that is missing from the return;
- Call the IRS for information about the processing of the return or the status of any related refund or payment(s); and
- Respond to certain IRS notices about math errors, offsets, and return preparation.

The corporation isn't authorizing the paid preparer to receive any refund check, bind the corporation to anything (including any additional tax liability), or otherwise represent the corporation before the IRS.

The authorization will automatically end no later than the due date (excluding extensions) for filing the corporation's 2024 tax return. If the corporation wants to expand the paid preparer's authorization or revoke the authorization before it ends, see Pub. 947, Practice Before the IRS and Power of Attorney.

## **Assembling the Return**

To ensure that the corporation's tax return is correctly processed, attach all schedules and other forms after page 5 of Form 1120-S in the following order.

1. Schedule N (Form 1120), Foreign Operations of U.S. Corporations.
2. Schedule D (Form 1120-S), Capital Gains and Losses and Built-in Gains.
3. Form 4797, Sales of Business Property.

4. Form 8949, Sales and Other Dispositions of Capital Assets.
5. Form 8996, Qualified Opportunity Fund.
6. Form 8825, Rental Real Estate Income and Expenses of a Partnership or an S Corporation.
7. Form 1125-A, Cost of Goods Sold.
8. Form 8050, Direct Deposit of Corporate Tax Refund.
9. Form 4136, Credit for Federal Tax Paid on Fuels.
10. Form 8941, Credit for Small Employer Health Insurance Premiums.
11. Form 3800, General Business Credit.
12. Form 8997, Initial and Annual Statement of Qualified Opportunity Fund (QOF) Investments.
13. Form 6252, Installment Sale Income.

14. Schedule A (Form 8936), Clean Vehicle Credit Amount.
15. Schedules K-1 (Form 1120-S), Shareholder's Share of Income, Deductions, Credits, etc.
16. Form 8938, Statement of Specified Foreign Financial Assets.
17. Additional schedules in alphabetical order, including Schedule K-2 (Form 1120-S), Shareholders' Pro Rata Share Items—International, and Schedules K-3 (Form 1120-S), Shareholder's Share of Income, Deductions, Credits, etc.—International.
18. Additional forms in numerical order.

Complete every applicable entry space on Form 1120-S and Schedule K-1. Don't enter "See Attached" or "Available Upon Request" instead of completing the entry spaces. If more space is needed on the forms or



schedules, attach separate sheets using the same size and format as the printed forms.

If there are supporting statements and attachments, arrange them in the same order as the schedules or forms they support and attach them last. Show the totals on the printed forms. Enter the corporation's name and EIN on each supporting statement or attachment.

## **Tax Payments**

Generally, the corporation must pay any tax due in full no later than the due date for filing its tax return (not including extensions). See the instructions for line 26. If the due date falls on a Saturday, Sunday, or legal holiday, the payment is due on the next day that isn't a Saturday, Sunday, or legal holiday.

## **Electronic Deposit Requirement**

Corporations must use electronic funds transfers to make all federal tax deposits

(such as deposits of employment, excise, and corporate income tax). Generally, electronic funds transfers are made using the Electronic Federal Tax Payment System (EFTPS).

However, if the corporation doesn't want to use EFTPS, it can arrange for its tax professional, financial institution, payroll service, or other trusted third party to make deposits on its behalf. Also, it may arrange for its financial institution to submit a same-day wire payment (discussed below) on its behalf. EFTPS is a free service provided by the Department of the Treasury. Services provided by a tax professional, financial institution, payroll service, or other third party may have a fee.

To get more information about EFTPS or to enroll in EFTPS, visit [www.EFTPS.gov](http://www.EFTPS.gov) or call 800-555-4477. To contact EFTPS using the Telecommunications Relay Services (TRS), for people who are deaf, hard of hearing, or have a speech disability, dial 711 and provide the

TRS assistant the 800-555-4477 number above or 800-733-4829.

**Depositing on time.** For any deposit made by EFTPS to be on time, the corporation must submit the deposit by 8 p.m. Eastern time the day before the date the deposit is due. If the corporation uses a third party to make deposits on its behalf, they may have different cutoff times.

**Same-day wire payment option.** If the corporation fails to submit a deposit transaction on EFTPS by 8 p.m. Eastern time the day before the date a deposit is due, it can still make its deposit on time by using the Federal Tax Collection Service (FTCS). To use the same-day wire payment method, the corporation will need to make arrangements with its financial institution ahead of time regarding availability, deadlines, and costs. Financial institutions may charge a fee for payment made this way. To learn more about the information the corporation will need to

provide to its financial institution to make a same-day wire payment, go to [IRS.gov/SameDayWire](https://www.irs.gov/SameDayWire).

## **Estimated Tax Payments**

Generally, the corporation must make installment payments of estimated tax for the following taxes if the total of these taxes is \$500 or more: (a) the tax on built-in gains, (b) the excess net passive income tax, and (c) the investment credit recapture tax, each discussed later.

The amount of estimated tax required to be paid annually is the smaller of (a) the total of the above taxes shown on the return for the tax year (or if no return is filed, the total of these taxes for the year), or (b) the sum of (i) the investment credit recapture tax and the built-in gains tax shown on the return for the tax year (or if no return is filed, the total of these taxes for the tax year), and (ii) any excess net passive income tax shown on the

corporation's return for the preceding tax year. If the preceding tax year was less than 12 months, the estimated tax must be determined under (a).

The estimated tax is generally payable in four equal installments. However, the corporation may be able to lower the amount of one or more installments by using the annualized income installment method or adjusted seasonal installment method under section 6655(e).

For a calendar year corporation, the payments are due for 2024 by April 15, June 15, September 15, and December 15. For a fiscal year corporation, they are due by the 15th day of the 4th, 6th, 9th, and 12th months of the year. If any date falls on a Saturday, Sunday, or legal holiday, the installment is due on the next day that isn't a Saturday, Sunday, or legal holiday.

The corporation must make the payments using electronic funds transfers as described earlier.

For information on penalties that may apply if the corporation fails to make required payments, see the Instructions for Form 2220.

## Interest and Penalties



*If the corporation receives a notice about penalties after it files its return, send the IRS an explanation and we will determine if the corporation meets reasonable-cause criteria. **Don't** attach an explanation when the corporation's return is filed.*

**Interest.** Interest is charged on taxes paid late even if an extension of time to file is granted. Interest is also charged on penalties imposed for failure to file, negligence, fraud, substantial valuation misstatements,

substantial understatements of tax, and reportable transaction understatements from the due date (including extensions) to the date of payment. The interest charge is figured at a rate determined under section 6621.

**Late filing of return.** A penalty may be assessed if the return is filed after the due date (including extensions) or the return doesn't show all the information required, unless each failure is due to reasonable cause. See Caution, earlier. For returns on which no tax is due, the penalty is \$235 for each month or part of a month (up to 12 months) the return is late or doesn't include the required information, multiplied by the total number of persons who were shareholders in the corporation during any part of the corporation's tax year for which the return is due. If tax is due, the penalty is the amount stated above plus 5% of the unpaid tax for each month or part of a month

the return is late, up to a maximum of 25% of the unpaid tax. The minimum penalty for a tax return required to be filed in 2024 that is more than 60 days late is the smaller of the tax due or \$485.

**Late payment of tax.** A corporation that doesn't pay the tax when due may generally be penalized  $\frac{1}{2}$  of 1% of the unpaid tax for each month or part of a month the tax isn't paid, up to a maximum of 25% of the unpaid tax. The penalty won't be imposed if the corporation can show that the failure to pay on time was due to reasonable cause. See Caution, earlier.

**Failure to furnish information timely.** For each failure to furnish Schedule K-1 (and Schedule K-3, if applicable) to a shareholder when due and each failure to include on Schedule K-1 (and Schedule K-3, if applicable) all the information required to be shown (or the inclusion of incorrect information), a \$310 penalty may be imposed



with respect to each Schedule K-1 (and Schedule K-3, if applicable) for which a failure occurs. If the requirement to report correct information is intentionally disregarded, each \$310 penalty is increased to \$630 or, if greater, 10% of the aggregate amount of items required to be reported. See sections 6722 and 6724 for more information.

The penalty won't be imposed if the corporation can show that not furnishing information timely was due to reasonable cause. See Caution, earlier.

**Trust fund recovery penalty.** This penalty may apply if certain excise, income, social security, and Medicare taxes that must be collected or withheld aren't collected or withheld, or these taxes aren't paid. These taxes are generally reported on:

- Form 720, Quarterly Federal Excise Tax Return;

- Form 941, Employer's QUARTERLY Federal Tax Return;
- Form 943, Employer's Annual Federal Tax Return for
- Agricultural Employees;
- Form 944, Employer's ANNUAL Federal Tax Return; or
- Form 945, Annual Return of Withheld Federal Income Tax.

The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to have been responsible for collecting, accounting for, or paying over these taxes, and who acted willfully in not doing so. The penalty is equal to the full amount of the unpaid trust fund tax. See the Instructions for Form 720, Pub. 15 (Circular E), Employer's Tax

Guide, or Pub. 51 (Circular A), Agricultural Employer's Tax Guide, for details, including the definition of "responsible persons."

**Other penalties.** Other penalties can be imposed for negligence, substantial understatement of tax, reportable transaction understatements, and fraud. See sections 6662, 6662A, and 6663.

## **Accounting Methods**

Figure income using the method of accounting regularly used in keeping the corporation's books and records. The method used must clearly reflect income. Permissible methods include cash, accrual, or any other method authorized by the Internal Revenue Code.

The following rules apply.

- Generally, an S corporation can't use the cash method of accounting if it's a tax shelter (as defined in section 448(d)(3)). See section 448 for details.

- A corporation must use an accrual method for sales and purchases of inventory items unless it is a small business taxpayer (defined later). See the Form 1125-A instructions. If you are a small business taxpayer, you can adopt or change your accounting method to account for inventories (i) in the same manner as materials and supplies that are non-incidental, or (ii) to conform to the taxpayer's treatment of inventories in an applicable financial statement (as defined in section 451(b)(3)) or, if the taxpayer doesn't have an applicable financial statement, the method of accounting used in the taxpayer's books and records prepared in accordance with the taxpayer's accounting procedures. Generally, IRS consent is required for changes in accounting methods. See Rev. Proc. 2018-40 for the procedures by which a small business taxpayer may obtain automatic consent to change its method of

accounting to reflect the statutory changes made in this area. Also, see *Change in accounting method*, later.

- Special rules apply to long-term contracts. See section 460.
- Generally, dealers in securities must use the mark-to-market accounting method. Dealers in commodities and traders in securities and commodities can elect to use the mark-to-market accounting method. See section 475.

**Small business taxpayer.** A small business taxpayer is a taxpayer that (a) has average annual gross receipts of \$29 million or less for the 3 prior tax years, and (b) isn't a tax shelter (as defined in section 448(d)(3)).

**Change in accounting method.** Generally, the corporation must get IRS consent to change either an overall method of accounting or the accounting treatment of any material item for income tax purposes. To

obtain consent, the corporation must generally file Form 3115, Application for Change in Accounting Method, during the tax year for which the change is requested. See the Instructions for Form 3115 and Pub. 538, Accounting Periods and Methods, for more information and exceptions. See also the Instructions for Form 3115 for procedures that may apply for obtaining automatic consent to change certain methods of accounting, non-automatic change procedures, and reduced Form 3115 filing requirements.

## **Accounting Period**

A corporation must figure its income on the basis of a tax year. A tax year is the annual accounting period a corporation uses to keep its records and report its income and expenses. An S corporation must use one of the following tax years.

- A tax year ending December 31.

- A natural business year.
- An ownership tax year.
- A tax year elected under section 444.
- A 52-53-week tax year that ends with reference to a year listed above.
- Any other tax year (including a 52-53-week tax year) for which the corporation establishes a business purpose.

A new S corporation must use Form 2553 to elect a tax year. To later change the corporation's tax year, see Form 1128, Application To Adopt, Change, or Retain a Tax Year, and its instructions (unless the corporation is making an election under section 444, discussed next).

### **Electing a tax year under section 444.**

Under the provisions of section 444, an S corporation can elect to have a tax year other than a required year, but only if the deferral period of the tax year isn't longer than the

shorter of 3 months or the deferral period of the tax year being changed. This election is made by filing Form 8716, Election To Have a Tax Year Other Than a Required Tax Year.

An S corporation may not make or continue an election under section 444 if it is a member of a tiered structure, other than a tiered structure that consists entirely of partnerships and S corporations that have the same tax year. For the S corporation to have a section 444 election in effect, it must make the payments required by section 7519. See Form 8752, Required Payment or Refund Under Section 7519. A section 444 election ends if an S corporation:

- Changes its accounting period to a calendar year or some other permitted year,
- Is penalized for willfully failing to comply with the requirements of section 7519, or



- Terminates its S election (unless it immediately becomes a personal service corporation).

If the termination results in a short tax year, enter at the top of the first page of Form 1120-S for the short tax year, "SECTION 444 ELECTION TERMINATED."

## **Rounding Off to Whole Dollars**

The corporation may enter decimal points and cents when completing its return. However, the corporation should round off cents to whole dollars on its return, forms, and schedules to make completing its return easier. The corporation must either round off all amounts on its return to whole dollars, or use cents for all amounts. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, \$8.40 rounds to \$8 and \$8.50 rounds to \$9.

If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

## **Recordkeeping**

Keep the corporation's records for as long as they may be needed for the administration of any provision of the Internal Revenue Code. Usually, records that support an item of income, deduction, or credit on the return must be kept for 3 years from the date each shareholder's return is due or filed, whichever is later. Keep records that verify the corporation's basis in property for as long as they are needed to figure the basis of the original or replacement property.

The corporation should keep copies of all filed returns. They help in preparing future and amended returns.

## **Amended Return**

To correct a previously filed Form 1120-S, file an amended Form 1120-S and check box H(4) on page 1. Attach a statement that identifies the line number of each amended item, the corrected amount or treatment of the item, and an explanation of the reasons for each change.

If the income, deductions, credits, or other information provided to any shareholder on Schedule K-1 or K-3 is incorrect, file an amended Schedule K-1 or K-3 (Form 1120-S) for that shareholder with the amended Form 1120-S. Also give a copy of the amended Schedule K-1 or K-3 to that shareholder. Check the "Amended K-1" or "Amended K-3" box at the top of the Schedule K-1 or K-3 to indicate that it is an amended Schedule K-1 or K-3.

A change to the corporation's federal return may affect its state return. This includes changes made as the result of an IRS examination. For more information, contact the state tax agency for the state(s) in which the corporation's return was filed.

## **Other Forms and Statements That May Be Required**

**Reportable transaction disclosure statement.** Disclose information for each reportable transaction in which the corporation participated. Form 8886, Reportable Transaction Disclosure Statement, must be filed for each tax year the corporation participated in the transaction. The corporation may have to pay a penalty if it is required to file Form 8886 and doesn't do so. The following are reportable transactions.

1. Any listed transaction, which is a transaction that is the same as or substantially similar to one of the

types of transactions that the IRS has determined to be a tax avoidance transaction and identified by notice, regulation, or other published guidance as a listed transaction.

2. Any transaction offered under conditions of confidentiality for which the corporation (or a related party) paid an advisor a fee of at least \$50,000.
3. Certain transactions for which the corporation (or a related party) has contractual protection against disallowance of the tax benefits.
4. Certain transactions resulting in a loss of at least \$2 million in any single year or \$4 million in any combination of years.
5. Any transaction identified by the IRS by notice, regulation, or other

published guidance as a “transaction of interest.”

For more information, see Regulations section 1.6011-4. Also see the Instructions for Form 8886.

***Penalties.*** The corporation may have to pay a penalty if it is required to disclose a reportable transaction under section 6011 and fails to properly complete and file Form 8886. Penalties may also apply under section 6707A if the corporation fails to file Form 8886 with its corporate return, fails to provide a copy of Form 8886 to the Office of Tax Shelter Analysis (OTSA), or files a form that fails to include all the information required (or includes incorrect information). Other penalties, such as an accuracy-related penalty under section 6662A, may also apply. See the Instructions for Form 8886 for details on these and other penalties.

**Reportable transactions by material advisors.** Material advisors to any reportable transaction must disclose certain information about the reportable transaction by filing Form 8918, Material Advisor Disclosure Statement, with the IRS. For details, see the Instructions for Form 8918.

**Transfers to a corporation controlled by the transferor.** Every significant transferor (as defined in Regulations section 1.351-3(d)) that receives stock of a corporation in exchange for property in a nonrecognition event must include the statement required by Regulations section 1.351-3(a) on or with the transferor's tax return for the tax year of the exchange. The transferee corporation must include the statement required by Regulations section 1.351-3(b) on or with its return for the tax year of the exchange, unless all the required information is included in any statement(s) provided by a significant

transferor that is attached to the same return for the same section 351 exchange.

**Election to reduce basis under section 362(e)(2)(C).** If property is transferred to a corporation subject to section 362(e) (2), the transferor and the acquiring corporation may elect, under section 362(e)(2)(C), to reduce the transferor's basis in the stock received instead of reducing the acquiring corporation's basis in the property transferred. Once made, the election is irrevocable. For more information, see section 362(e)(2) and Regulations section 1.362-4. If an election is made, a statement must be filed in accordance with Regulations section 1.362-4(d)(3).

**Regulations section 1.1411-10(g) (section 1411 election with respect to CFCs and QEFs).** A corporation that directly or indirectly owns stock of a controlled foreign corporation (CFC) (within the meaning of section 953(c)(1)(B) or section 957(a)) or a



passive foreign investment company (within the meaning of section 1297(a)) that the corporation treats as a qualified electing fund (QEF) under section 1293 may make the election provided in Regulations section 1.1411-10(g). The election must be made no later than the first tax year beginning after 2013 during which the corporation (i) includes an amount in gross income for chapter 1 purposes under section 951(a) or section 1293(a) for the CFC or QEF, and (ii) has a direct or indirect owner that is subject to tax under section 1411 or would have been if the election were made. This election must be made on an entity-by-entity basis, and applies only to the particular CFCs and QEFs for which an election is made. In general, for purposes of section 1411, if an election is in effect for a CFC or QEF, the amounts included in income under section 951 and section 1293 derived from the CFC or QEF are included in net investment income, and distributions described in section 959(d) or section 1293(c)

are excluded from net investment income. Additionally, if the corporation elected to be treated as owning stock of a foreign corporation within the meaning of section 958(a) under Proposed Regulations section 1.958-1(e)(2), and an election under Regulations section 1.1411-10(g) is in effect for a CFC, the amount of global intangible low-taxed income included in income under section 951A is included in net investment income to the extent that it is allocated to the CFC under section 951A(f) (2). An election that is made under Regulations section 1.1411-10(g) can't be revoked. For more information regarding this election, see Regulations section 1.1411-10(g).

The election must be made in a statement that is filed with the corporation's original or amended return for the tax year in which the election is made. An election can be made on an amended return only if the tax year for which the election is made, and all tax years

affected by the election, aren't closed by the period of limitations on assessments under section 6501. The statement must include:

- The name and EIN of the corporation making the election;
- A declaration that all of its shareholders consent to each election made in the statement;
- A declaration that the corporation elects under Regulations section 1.1411-10(g) to apply the rules in Regulations section 1.1411-10(g) to the CFCs and QEFs identified in the statement; and
- The following information for each CFC and QEF for which an election is made (i) the name of the CFC or QEF; and (ii) either the EIN of the CFC or QEF, or, if the CFC or QEF doesn't have an EIN, the reference ID number of the CFC or QEF.

In addition, for each CFC or QEF held by the corporation for which an election under Regulations section 1.1411-10(g) has already been made by the corporation, the statement should include (i) the name of the CFC or QEF; and (ii) either the EIN of the CFC or QEF, or, if the CFC or QEF doesn't have an EIN, the reference ID number of the CFC or QEF.

**Annual information reporting by specified domestic entities under section 6038D.**

Certain domestic corporations that are formed or availed of to hold specified foreign financial assets ("specified domestic entities") must file Form 8938, Statement of Specified Foreign Financial Assets. Form 8938 must be filed each year the value of the corporation's specified foreign financial assets meets or exceeds the reporting threshold. For more information on domestic corporations that are specified domestic entities and the types of foreign financial assets that must be

reported, see the Instructions for Form 8938, generally, and in particular, *Who Must File, Specified Domestic Entity, Types of Reporting Thresholds, Specified Foreign Financial*

*Assets, Interests in Specified Foreign Financial Assets, Assets Not Required To Be Reported, and Exceptions to Reporting.*

In addition, a domestic corporation required to file Form 8938 with its Form 1120-S for the tax year should check “Yes” to Schedule N (Form 1120), question 8, and also include that schedule with its Form 1120-S.

**Certification as a qualified opportunity fund.** If the corporation is organized to invest in qualified opportunity zone property, it must attach Form 8996 to Form 1120-S to self-certify as a QOF. In addition, the corporation files Form 8996 annually to report that the QOF meets the investment standard of section 1400Z-2 or to figure the penalty if it fails to meet the investment standard. The corporation must also complete line 15 of

Schedule B. For more information, see the Instructions for Form 8996.

**Qualified opportunity fund investment.** If the corporation deferred a capital gain in a qualified opportunity fund (QOF), the corporation must file its return with Schedule D (Form 1120-S), Form 8949, and Form 8997 attached. The corporation will need to file Form 8997 annually until it disposes of the investment. See the instructions for Form 8997 for details.

**Form 8975, Country-by-Country Report.**

Certain U.S. persons that are the ultimate parent entity of a U.S. multinational enterprise group with annual revenue for the preceding reporting period of \$850 million or more are required to file Form 8975. For more information, see the Instructions for Form 8975.

**Other forms and statements.** See Pub. 542, Corporations, for a list of other forms and statements a corporation may need to file

in addition to the forms and statements discussed throughout these instructions.

## **At-Risk Limitations**

In general, section 465 limits the amount of deductible net losses shareholders can claim from certain activities. The at-risk limitations don't apply to the corporation, but instead apply to each shareholder's share of net losses attributable to each activity. Because the treatment of each shareholder's share of corporate net losses depends on the nature of the activity that generated it, the corporation must report the items of income, loss, and deduction separately for each activity. See Pub. 925, *Passive Activity and At-Risk Rules*, for additional information.

## **Activities Covered by the At-Risk Rules**

If the S corporation is involved in one of the following activities as a trade or business or for the production of income, the shareholder may be subject to the at-risk rules.

1. Holding, producing, or distributing motion picture films or video tapes.
2. Farming.
3. Leasing section 1245 property, including personal property and certain other tangible property that is depreciable or amortizable.
4. Exploring for, or exploiting, oil and gas.
5. Exploring for, or exploiting, geothermal deposits (for wells started after September 1978).
6. Any other activity not included in (1) through (5) that is carried on as a trade or business or for the production of income.

## **Aggregation of Activities**

Activities described in (6) under Activities Covered by the At-Risk Rules, earlier, that



constitute a trade or business are treated as one activity if:

- You actively participate in the management of the trade or business, or
- The trade or business is carried on by a partnership or S corporation and 65% or more of its losses for the tax year are allocable to persons who actively participate in the management of the trade or business.

Similar rules apply to activities described in (1) through (5) of that earlier discussion. For more information, see Pub. 925. If you aggregate your activities under these rules for section 465 purposes, check the appropriate box in item J.

## **At-Risk Activity Reporting Requirements**

If the corporate items of income, loss, or deduction reported on Schedule K-1 are from more than one activity covered by the at-risk

rules, the corporation must report information separately for each activity.

The following information must be provided on an attachment to Schedule K-1 for each activity.

- A statement that the information is a breakdown of the items of income, loss, or deduction by at-risk activity.
- The identity of the at-risk activity; the items of income, loss, or deduction for the activity; other items of income, loss, or deduction; and any other information that relates to the activity (that is, distributions, shareholder loans, etc.).

## **Passive Activity Limitations**

In general, section 469 limits the amount of losses, deductions, and credits that shareholders can claim from “passive activities.” The passive activity limitations don't apply to the corporation. Instead, they

apply to each shareholder's share of any income or loss and credit attributable to a passive activity. Because the treatment of each shareholder's share of corporate income or loss and credit depends on the nature of the activity that generated it, the corporation must report income or loss and credits separately for each activity.

The following instructions and the instructions for Schedules K and K-1, later, explain the applicable passive activity limitation rules and specify the type of information the corporation must provide to its shareholders for each activity. If the corporation had more than one activity, it must report information for each activity on an attachment to Schedules K and K-1.

Generally, passive activities include (a) activities that involve the conduct of a trade or business if the shareholder doesn't materially participate in the activity, and (b) all rental activities (defined later) regardless

of the shareholder's participation. For exceptions, see Activities That Are Not Passive Activities, later. The level of each shareholder's participation in an activity must be determined by the shareholder.

The passive activity rules provide that losses and credits from passive activities can generally be applied only against income and tax (respectively) from passive activities. Thus, passive losses can't be applied against income from salaries, wages, professional fees, or a business in which the shareholder materially participates or against "portfolio income" (defined later). Passive credits can't be applied against the tax related to any of these types of income.

Special rules require that net income from certain activities that would otherwise be treated as passive income must be recharacterized as nonpassive income for purposes of the passive activity limitations.

See Recharacterization of Passive Income, later.

To allow each shareholder to correctly apply the passive activity limitations, the corporation must report income or loss and credits separately by activity for each of the following.

- Trade or business activities.
- Rental real estate activities.
- Rental activities other than rental real estate.
- Portfolio income.

## **Activities That Are Not Passive Activities**

The following aren't passive activities.

1. Trade or business activities in which the shareholder materially participated for the tax year.
2. Any rental real estate activity in which the shareholder materially participated

if the shareholder met both of the following conditions for the tax year.

- a. More than half of the personal services the shareholder performed in trades or businesses were performed in real property trades or businesses in which the shareholder materially participated.
- b. The shareholder performed more than 750 hours of services in real property trades or businesses in which the shareholder materially participated.

For purposes of this rule, each interest in rental real estate is a separate activity unless the shareholder elects to treat all interests in rental real estate as one activity.

If the shareholder is married filing jointly, either the shareholder or the shareholder's spouse must separately meet both of the above conditions, without taking into account services performed by the other spouse.

A real property trade or business is any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.

Services the shareholder performed as an employee aren't treated as performed in a real property trade or business unless the shareholder owned more than 5% of the stock in the employer.

3. The rental of a dwelling unit used by a shareholder for personal purposes during the year for more than the greater of 14 days or 10% of the number of days that the residence was rented at fair rental value.

4. An activity of trading personal property for the account of owners of interests in the activity. For purposes of this rule, personal property means property that is actively traded, such as stocks, bonds, and other securities. See Temporary Regulations section 1.469-1T(e)(6).



*The section 469(c)(3) exception for a working interest in oil and gas properties doesn't apply to an S corporation because state law generally limits the liability of shareholders.*

## **Trade or Business Activities**

A trade or business activity is an activity (other than a rental activity or an activity treated as incidental to an activity of holding property for investment) that:

1. Involves the conduct of a trade or business (within the meaning of section 162),



2. Is conducted in anticipation of starting a trade or business, or
3. Involves research or experimental expenditures under section 174.

If the shareholder doesn't materially participate in the activity, a trade or business activity of the corporation is a passive activity for the shareholder.

Each shareholder must determine if he or she materially participated in an activity. As a result, while the corporation's ordinary business income (loss) is reported on page 1 of Form 1120-S, the specific income and deductions from each separate trade or business activity must be reported on attachments to Form 1120-S. Similarly, while each shareholder's allocable share of the corporation's ordinary business income (loss) is reported in box 1 of Schedule K-1, each shareholder's allocable share of the income and deductions from each trade or business activity must be reported on statements

attached to each Schedule K-1. See Passive Activity Reporting Requirements, later, for more information.

## **Rental Activities**

Generally, except as noted below, if the gross income from an activity consists of amounts paid principally for the use of real or personal tangible property held by the corporation, the activity is a rental activity.

There are several exceptions to this general rule. Under these exceptions, an activity involving the use of real or personal tangible property isn't a rental activity if any of the following apply.

- The average period of customer use (defined later) for such property is 7 days or less.
- The average period of customer use for such property is 30 days or less and significant personal services (defined

later) are provided by or on behalf of the corporation.

- Extraordinary personal services (defined later) are provided by or on behalf of the corporation.
- The rental of such property is treated as incidental to a nonrental activity of the corporation under Regulations section 1.469-1(e)(3)(vi).
- The corporation customarily makes the property available during defined business hours for nonexclusive use by various customers.
- The corporation provides property for use in a nonrental activity of a partnership in its capacity as an owner of an interest in such partnership. Whether the corporation provides property used in an activity of a partnership in the corporation's capacity as an owner of an interest in the

partnership is determined on the basis of all the facts and circumstances.

In addition, a guaranteed payment described in section 707(c) is never income from a rental activity.

**Average period of customer use.** Figure the average period of customer use for a class of property by dividing the total number of days in all rental periods by the number of rentals during the tax year. If the activity involves renting more than one class of property, multiply the average period of customer use of each class by the ratio of the gross rental income from that class to the activity's total gross rental income. The activity's average period of customer use equals the sum of these class-by-class average periods weighted by gross income. See Regulations section 1.469-1(e)(3)(iii).

**Significant personal services.** Personal services include only services performed by individuals. To determine if personal services

are significant personal services, consider all the relevant facts and circumstances.

Relevant facts and circumstances include:

- How often the services are provided,
- The type and amount of labor required to perform the services, and
- The value of the services in relation to the amount charged for use of the property.
- The following services aren't considered in determining whether personal services are significant.
- Services necessary to permit the lawful use of the rental property.
- Services performed in connection with improvements or repairs to the rental property that extend the useful life of the property substantially beyond the average rental period.
- Services provided in connection with the use of any improved real property that are

similar to those commonly provided in connection with long-term rentals of high-grade commercial or residential property. Examples include cleaning and maintenance of common areas, routine repairs, trash collection, elevator service, and security at entrances.

**Extraordinary personal services.** Services provided in connection with making rental property available for customer use are extraordinary personal services only if the services are performed by individuals and the customers' use of the rental property is incidental to their receipt of the services.

For example, a patient's use of a hospital room is generally incidental to the care received from the hospital's medical staff. Similarly, a student's use of a dormitory room in a boarding school is incidental to the personal services provided by the school's teaching staff.

**Rental activity incidental to a nonrental activity.** An activity isn't a rental activity if the rental of the property is incidental to a nonrental activity, such as the activity of holding property for investment, a trade or business activity, or the activity of dealing in property.

- Rental of property is incidental to an activity of holding property for investment if both of the following apply.
- The main purpose for holding the property is to realize a gain from the appreciation of the property.
- The gross rental income from such property for the tax year is less than 2% of the smaller of the property's unadjusted basis or its fair market value (FMV).

Rental of property is incidental to a trade or business activity if all of the following apply.

- The corporation owns an interest in the trade or business at all times during the year.
- The rental property was mainly used in the trade or business activity during the tax year or during at least 2 of the 5 preceding tax years.
- The gross rental income from the property for the tax year is less than 2% of the smaller of the property's unadjusted basis or its FMV.

If the corporation sells or exchanges property that is also rented during the tax year (in which the gain or loss is recognized), the rental is treated as incidental to the activity of dealing in property if, at the time of the sale or exchange, the property was held primarily for sale to customers in the ordinary course of the corporation's trade or business.



See Temporary Regulations section 1.469-1T(e)(3) and Regulations section 1.469-1(e)(3) for more information on the definition of rental activities for purposes of the passive activity limitations.

**Reporting of rental activities.** In reporting the corporation's income or losses and credits from rental activities, the corporation must separately report rental real estate activities and rental activities other than rental real estate activities.

Shareholders who actively participate in a rental real estate activity may be able to deduct part or all of their rental real estate losses (and the deduction equivalent of rental real estate credits) against income (or tax) from nonpassive activities. Generally, the combined amount of rental real estate losses and the deduction equivalent of rental real estate credits from all sources (including rental real estate activities not held through

the corporation) that may be claimed is limited to \$25,000.

Report rental real estate activity income (loss) on Form 8825 and line 2 of Schedule K and box 2 of Schedule K-1, rather than on page 1 of Form 1120-S. Report credits related to rental real estate activities on lines 13c and 13d of Schedule K (box 13, codes E and F, of Schedule K-1) and low-income housing credits on lines 13a and 13b of Schedule K (box 13, codes C and D of Schedule K-1).

Report income (loss) from rental activities other than rental real estate on line 3 of Schedule K and credits related to rental activities other than rental real estate on line 13e of Schedule K and in box 13, code G, of Schedule K-1.