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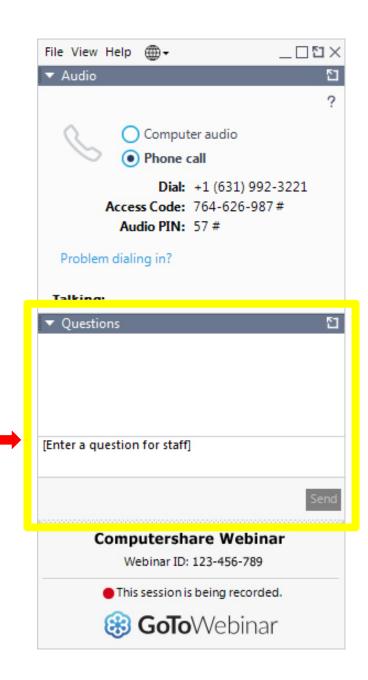
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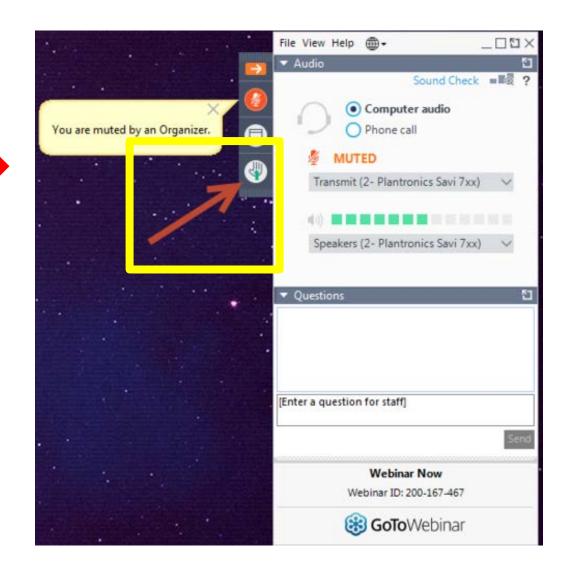
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## Today's Presenter



## Bruce Brumberg, Editor-in-Chief and Co-Founder, myStockOptions.com

- Award-winning online resource center, has received a patent and has been featured in publications ranging from the San Francisco Chronicle to Money magazine.
- Human Resource Executive magazine featured myStockOptions.com as one of the 10 Best HR Products.
- Past President of the Boston NASPP chapter
- On the NASPP Advisory Board, and contributor to the Stock Plan Advisor.
- Producer of the "Think Twice" insider trading prevention videos (www.insidertradingvideos.com).
- Write popular blog for Forbes.com
- Bruce graduated from the University of Michigan and University of Virginia School of Law.



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#### Tax Season 2020: What You Need To Know About New Reporting Rules

By The myStockOptions Editorial Team

NQSOs

Ready or not, tax-return reporting has changed yet again for the 2020 tax season. Prepare yourself with this article. Our editorial team presents the key points you need to know for your federal tax return if you had income in 2019 from stock compensation, such as stock options, restricted stock units, or an employee stock purchase plan (ESPP), or if you sold shares of company stock. Then use the resources in our Tax Center, which show you how to report this income on your tax return.





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# 12 Tax-Return Mistakes To Avoid With Stock Options And ESPPs

Puzzled by your Form W-2, 1099-B, 3921, or 3922? Need to report sales of stock on Form 8949 and Schedule D? Tax returns involving income from stock options or ESPPs can be confusing. Recent changes in IRS reporting rules haven't helped. This article explains errors and nasty surprises to avoid.



#### RESTRICTED STOCK: TAXES ADVANCED

### Restricted Stock & RSUs: 10 Mistakes To Avoid On Your Tax Return

Tax returns involving income from restricted stock and restricted stock units (RSUs) can be confusing. The potential for mistakes has been increased by recent





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### **Tax Center**

As featured in *PLANSPONSOR*, *Accounting Today*, and *CPA Practice Advisor*, the myStockOptions Tax Center explains the tax withholding, reporting, and filing for stock options, restricted stock/RSUs, performance shares, ESPPs, and SARs.



Test your knowledge with our NEW! Tax Cuts & Jobs Act quiz and interactive answer key!



Test your knowledge with our **NEW!** Tax Returns quiz and interactive answer key!



Test your knowledge with our <u>Taxes</u> quiz and interactive answer key!



Want to know more? Listen to our podcast on tax return tips and mistakes!



Check out our podcast and video on the tax forms and reporting rule



Understand withholding, W-2s, and tax returns.

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#### TAX CHANGES UPDATES!

### Tax Season 2020: What You Need To Know About New Reporting Rules

The myStockOptions Editorial Team

Ready or not, tax-return reporting has changed yet again for the 2020 tax season. Prepare yourself with this article. Our editorial team presents the key points you need to know for your federal tax return if you had income in 2019 from stock compensation, such as stock options, restricted stock units, or an employee stock purchase plan (ESPP), or if you sold



# Roadmap for presentation

- What's new for the 2020 tax-return season (reporting for 2019 income)
- Review of rules for cost-basis reporting
- Common questions and errors
- Communication and education for employees, executives, and clients





# Main points about the Tax Cuts & Jobs Act Related to Stock Compensation



- 1. Flat rate used for stock compensation income withholding (supplemental wage income) is now 22%.
- 2. For amounts over \$1 million per year: 37%

### What this means:

- The 24% tax bracket starts with yearly income over \$168,400 for joint filers and over \$84,200 for singles. Most employees with stock compensation are in a higher tax bracket.
- Need to know the tax bracket for total income and assess need to put money aside or pay estimated taxes.



# Key bracket thresholds for federal income tax

Tax thresholds for 2019 ordinary income, capital gains, and dividends:

TAX RATE/IMPACT	INCOME THRESHOLD
Income taxed at 37%	<b>\$510,301</b> single <b>\$612,351</b> joint (taxable income)
Other upper income tax rates: 22%, 24%, 32%, 35%	For singles, taxable income starting at: \$39,476, \$84,201, \$160,726, \$204,101  For married joint filers, taxable income starting at: \$78,951, \$168,401, \$321,451, \$408,201
Capital gains (long-term) and dividends (qualified) taxed at 20%	<b>\$434,550</b> single <b>\$488,850</b> joint (taxable income)
3.8% Medicare surtax on investment income; additional 0.9% Medicare tax on compensation income	\$200,000 single \$250,000 joint (modified adjusted gross income)



# Underpayment of taxes

## Pay though withholding and estimated taxes amount equal to:

- 1. 90% of the current year's tax liability
- 2. 100% of last year's tax liability (110% if your adjusted gross income exceeded \$1 married filing separate return).



## 2019 Tax Season: Tax penalty changed when too little paid during year

- For 2018 taxes, the IRS lowered the 90% requirement to 80%.
- Removed the requirement that estimated tax payments be sent in four equal installments.
- August 2019: IRS announced it was automatically waiving the estimated tax penalty for the more than 400,000 eligible taxpayers who had already filed their 2018 federal income tax returns but did not claim the waiver at the lower threshold.
- The IRS is **not** expected to do the same for 2019 taxes, although the federal tax deadline is likely to get extended beyond April 15, 2020 if suffered adverse effects from the spreading virus (March 12, 2020 at 11:30 AM EST).



# Main points about Tax Cuts & Jobs Act related to stock compensation



AMT or how it applies to ISOs is not repealed. New key numbers in the <u>AMT calculation</u> (adjusted annually for inflation):

- The AMT income exemption amount rises to \$70,300 (from \$54,300) for single filers and to \$109,400 (from \$84,500) for married joint filers.
- Under the TCJA, the AMT income exemption starts to phase out begins at \$500,000 for individuals (up from \$120,700 in 2017) and \$1,000,000 (up from \$160,900) for married filers. BIG CHANGE!

What this means: These changes, plus SALT limit make it much less likely to trigger AMT from ISO exercise and hold.



## AMT: Important for ISOs

**Alternative minimum tax (AMT):** The income exemption amounts, the phaseout ranges, and the threshold for the higher 28% rate are now all indexed for inflation. The table below, prepared by myStockOptions.com, shows the 2019 figures.

Filer status	AMT income exemption amount	AMT income exemption phaseout starts	AMT income exemption phaseout ends (myStockOptions.c omcalculation)	Threshold where AMT rate rises from 26% to 28%
Single	\$71,700	\$510,300	\$797,100	\$194,800 (married filing separately: \$97,400)
Joint	\$111,700	\$1,020,600	\$1,467,400	\$194,800



# Polling Question #1

How has the Form 1040 tax return changed for this tax season?

- a) The number of lines on main form greatly reduced
- b) New schedules have been added
- c) Schedule D capital gains totals reported on Form 1040 directly
- d) No longer itemize deductions



# Polling Question #1

How has the Form 1040 tax return changed for this tax season?

- a) The number of lines on main form greatly reduced
- b) New schedules have been added
- c) Schedule D capital gains totals reported on Form 1040 directly
- d) No longer itemize deductions



# Form 1040 changes, new schedules



- Form 1040 tax return, condensed in 2018, has been revised again for the 2019 tax year.
- The numbered schedules (supplementary forms) of Form 1040 have been reduced to three (Schedules 1, 2, 3).
- A new tax return, IRS Form 1040-SR ("US Tax Return For Seniors"), is available for taxpayers born before Jan. 2, 1955.
- On the 2019 Form 1040, total capital gain or loss on Schedule D is once again entered directly on IRS Form 1040, not on Schedule 1 as it was last year.
- The AMT calculation total on Form 6251 is entered on a different line of Schedule 2

See myStockOptions article: <u>Tax Season 2020: What You Need To Know About The New Reporting Rules</u>



### SECURE Act & Kiddie Tax

- Kiddie Tax: Informal name of a tax-code provision that applies to a child's unearned income (e.g. interest, capital gains, dividends).
- Tax applies to children under 19 (for full-time students, under 24).
- In 2019 (and 2020) the first \$1,100 of a dependent child's unearned income is tax-free (offset by the child's standard deduction), the second \$1,100 of unearned income is taxed at the child's tax rate, and any amount over \$2,200 is taxed at rate changed by SECURE Act.
- At year-end 2019, Congress repealed a provision in the TCJA that had made the rate over \$2,200 the tax rates for estates and trusts. This move restored the rate to the parents' top marginal tax rate.
- For 2019 income, and retroactively to 2018 income, taxpayers can choose which rate system to apply





# **Forbes**

Coverage of IRS Form 1040 changes in my blog at Forbes.com. Editors' Pick!

EDITORS' PICK | 33,318 views | Feb 3, 2020, 03:36pm

## IRS Restores Capital Gains Tax (To Form 1040) And Other Tax Return Changes For 2020



Bruce Brumberg Contributor ()
Retirement



The IRS has changed tax return reporting. Here's a helping hand to guide you through the key points. OFTY

Ready or not, tax return reporting has changed yet again for the 2020 tax season. In 2018, the IRS condensed Form 1040 significantly, completely revamping the prior traditional version, and introduced



# No changes in other forms for tax-return reporting this year

- Similar to last year: Form W-2, Form 1099-B, Form 8949, Schedule D
- Big change in 2020 W-4 and next year in 1099-MISC with new 1099-NEC
- Same restrictions in what brokers can report for the cost basis on Form 1099-B
- Good news: The core reporting rules for cost basis Form 8949 and Schedule D have not changed



## Ten tax-return issues and errors

- 1. Not reporting stock sales on Form 8949/Schedule D
- 2. Not reporting tax basis correctly on Form 8949
- 3. Double-counting income from W-2
- 4. Forgetting about AMT calculation or AMT credits
- 5. Sell-to-cover exercises
- 6. Share withholding for restricted stock/RSUs
- 7. Dividends with restricted stock
- 8. Not reporting ordinary income with ESPP sales
- 9. Netting of income & no longer Schedule 1 for stock sales
- 10. Extensions





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**ISO Basics** 

ISO Withholding

**ISO Tax Returns** 

**Restricted Stock** Basics

**Restricted Stock** Withholding

**Restricted Stock Tax** Returns

Section 83(b)

**ESPP Basics** 

**ESPP Withholding** 

#### Tax Center

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#### Tax Season 2020: What You Need To Know About New Reporting Rules

#### The myStockOptions Editorial Team

Ready or not, tax-return reporting has changed yet again for the 2020 tax season. Prepare yourself with this article. Our editorial team presents the key points you need to know for your federal tax return if you had income in 2019 from stock compensation, such as stock options, restricted stock units, or an employee stock purchase plan (ESPP), or if you sold shares of company stock. Then use the resources in our Tax Center, which show you how to report this income on your tax return.



# Polling Question #2

If employees sold stock during the calendar year, which tax forms do they file with their IRS Form 1040 to report the sale?

- a) Form 1099-B and Schedule A
- b) Form 8949 and Schedule D
- c) Form 6251, Schedule C, Schedule 1
- d) Form 1099-MISC and Schedule D



# Polling Question #2

If employees sold stock during the calendar year, which tax forms do they file with their IRS Form 1040 to report the sale?

- a) Form 1099-B and Schedule A
- b) Form 8949 and Schedule D
- c) Form 6251, Schedule C, Schedule 1
- d) Form 1099-MISC and Schedule D



# 1. Not reporting stock sales on Form 8949 and Schedule D

- **Event:** Sell all stock at exercise (i.e. a cashless exercise), restricted stock/RSU vesting, or ESPP purchase.



- **Employee may think**: No "gains" beyond what's on W-2 for ordinary income. May not realize there are **two reportable events**.
- **Result of incorrect thinking:** employee does not report sale on Form 8949/Schedule D.
- IRS gets 1099-B from broker. IRS computers note no Form 8949/Schedule D reporting for it.
- **Result**: IRS sends notice for unreported income (CP-2000). For response to IRS, see the instructions at <a href="http://www.irs.gov/taxtopics/tc652.html">http://www.irs.gov/taxtopics/tc652.html</a>



# 1. Not reporting stock sales on Form 8949 and Schedule D

- Company and broker meet certain conditions: employee may not receive a Form 1099-B.
- Employee must still file Form 8949/Schedule D to report sale.
- Employee may even have small gains or losses for any commissions and fees for the stock sale.



# 1. Not reporting stock sales on Form 8949 and Schedule D

**Example:** Exercised options and sold 2,000 shares on August 14.

Exercise price	\$10 per share (\$20,000 total)
Stock price at exercise/sale: \$35	\$70,000 proceeds, minus \$500 commission (\$69,500 net on Form 1099-B
What appears on Form W-2	\$50,000 income on exercise spread [(\$35 - \$10) x 2,000]
Tax basis	\$70,000 (\$20,000 + \$50,000). But what is on 1099-B? \$20,000 or \$70,000?
Schedule D (Part 1)	Included as a \$500 short-term capital loss

If sale is not reported, IRS gets 1099-B with the \$70,000 proceeds and sends employee letter looking for taxes on that full amount!



### **NQSO: Cashless Exercise**

Form 8949

#### Sales and Other Dispositions of Capital Assets

► Information about Form 8949 and its separate instructions is at www.irs.gov/form8949.
► File with your Schedule D to list your transactions for lines 1b, 2, 3, 8b, 9, and 10 of Schedule D.

Attachment Sequence No. 12A

OMB No. 1545-0074

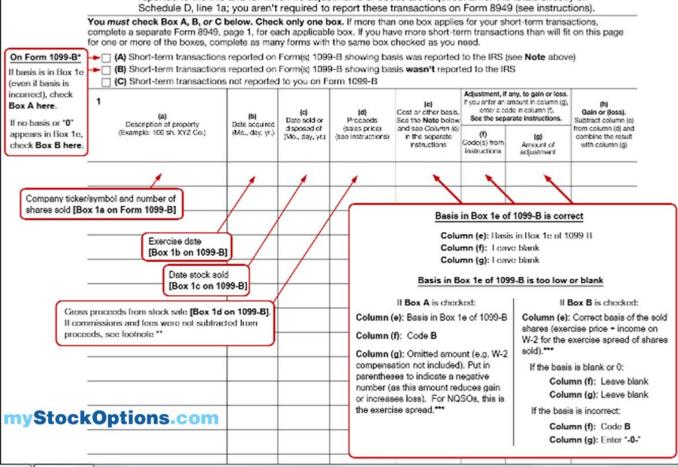
Department of the Treasury Internal Revenue Service Name(s) shown on return

Social security number or taxpayer identification number

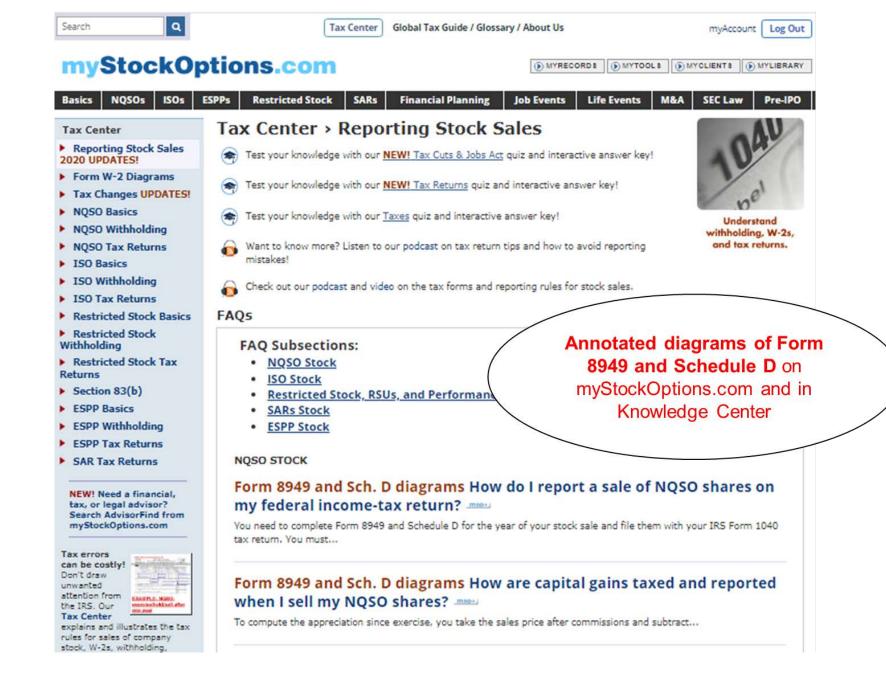
Before you check Box A, B, or C below, see whether you received any Form(s) 1099-B or substitute statement(s) from your broker. A substitute statement will have the same information as Form 1099-B. Either will show whether your basis (usually your cost) was reported to the IRS by your broker and may even tell you which box to check.

Part I Short-Term. Transactions involving capital assets you held 1 year or less are short term. For long-term transactions, see page 2.

Note: You may aggregate all short-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS and for which no adjustments or codes are required. Enter the totals directly on Schedule D, line 1a; you aren't required to report these transactions on Form 8949 (see instructions).









# 2. Not Reporting Cost Basis Correctly:

Cost basis (also called the tax basis) is the total cost of acquiring security:

Price paid to acquire shares

+

compensation recognized for acquiring them (reported on W-2)

When you sell a security, you **need to know the cost basis** to determine: whether you have a capital gain or a capital loss for tax purposes.

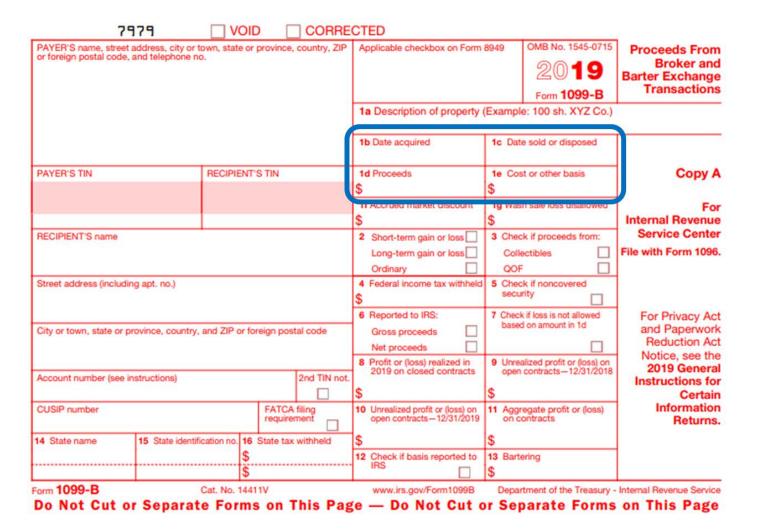
**NET PROCEEDS – COST BASIS = CAPITAL GAIN OR LOSS** 

Cost basis too low: you overpay taxes





# Cost Basis Reporting: IRS Form 1099-B core boxes (brokers use substitute statement with columns)





# Cost-basis reporting for IRS tax returns

- Compensation income is not included in the basis reported on Form 1099-B for grants made starting 1/2014
- Compensation income not recognized: The cost-basis value is incomplete in just about every scenario
- **Need to know**: How will the broker report the cost basis of shares acquired between 2011 (when expanded 1099-B started) and the end of 2013?
- Trend is standardization: not adding W-2 income to basis for option exercises, RSA/RSU vesting or ESPP purchases during this period
- Brokers provide supplemental information on basis and tax guides to help with tax-return reporting



# 2. Not reporting tax basis correctly

# Cost-basis reporting is now more complex, confusing, and vulnerable to errors in over reporting the gain



## **Error by type of grant that leads to OVERPAYING TAXES:**

- Mistake with NQSOs, SARs, or ISO (DD): Using exercise price only
- **Mistake with ESPP:** Using purchase price only
- Mistake with Restricted stock/RSUs and Performance shares:
   Using purchase price of (usually \$0).

Grant type	Mistake with reporting basis
NQSOs, SARs, ISOs (DD)	Exercise price only
ESPP	Purchase price only
Restricted Stock/RSUs	\$0 as no purchase price



# Risk of overpaying taxes

There are **only three disposition scenarios** in which the cost basis will *not* be understated:

RISK RISK

- 1. qualifying dispositions of ISOs (all capital gain)
- 2. disqualifying dispositions of ISOs, with shares sold at a loss (all capital loss)
- 3. qualifying dispositions of ESPPs, with shares sold at a loss (all capital loss)

In other scenarios, the cost basis will be understated or omitted (i.e. the box will be blank). Unless participants and tax professionals are aware of this, taxpayers risk:

- overreport capital gains
- pay more taxes than they owe!



# Amount of **ordinary income** recognized: reported on Form W-2 and part of basis

Grant type	Income reported on W-2	
NQSOs	Spread at exercise	
Restricted stock, RSUs, performance shares	Value at vesting and share delivery	
Section 423 (qualified) ESPP	Depends on holding period	
ISO in disqualifying disposition	Depends on the sales price relative to the market price at exercise	



## Cost-basis confusion: three situations

- 1. Stock purchases before 2011: **No cost basis reported to IRS**.
- 2. Securities not purchased with cash (restricted stock or RSUs): **No cost basis** reported to IRS.



3. Compensation part of cost basis for stock compensation: Cannot be part of basis reported to IRS for stock acquired or granted starting 1/2014.

## What to do on Form 8949 if...

# The cost basis on Form 1099-B is too low

# The cost-basis box on Form 1099-B is blank

- 1. Basis from 1099-B in column (e)
- 2. Adjustment in column (g)
- 3. Code B in column (f)
- 4. Check Box (A) or (D) near top

- 1. Put correct basis in column (e)
- 2. Check Box (B) or (E) near top
- 3. No adjustments or codes in other columns needed



# Cost-basis example: restricted stock units

	Per share	Total (1000 shares)
Vesting date price	\$10	\$10,000
Compensation income reported on Form W-2	\$10	\$10,000
Purchase price	<b>\$0</b>	<b>\$0</b>
Cost basis	\$10	\$10,000 (but \$0 on the 1099-B)
Sale price	\$15	\$15,000
Taxable gain and capital gains tax	\$15 - \$10 = <b>\$5</b>	\$15,000 - \$10,000 = <b>\$5000</b> \$5000 x 15% = <b>\$750</b>
Capital Gain: Overpaying using wrong cost basis	\$15-\$0 = <b>\$15</b>	\$15,000 - \$0= <b>\$15,000</b> \$15000 x 15% = <b>\$2250</b>



# Polling Question #3

What is the column on Form 8949 for cost basis?

- a) 3
- b) (e)
- c) (g)
- d) CB



# Polling Question #3

What is the column on Form 8949 for cost basis?

- a) 3
- b) (e)
- c) (g)
- d) CB



### myStockOptions.com

Form **8949** 

### Sales and Other Dispositions of Capital Assets

► Information about Form 8949 and its separate instructions is at www.irs.gov/form8949.

File with your Schedule D to list your transactions for lines 1b, 2, 3, 8b, 9, and 10 of Schedule D.

OMB No. 1545	-0074
Sequence No.	12A

Internal Revenue Service	е
Name(s) shown on ref	un

Department of the Treasury

Social security number or taxpayer identification number

Before you check Box A, B, or C below, see whether you received any Form(s) 1099-B or substitute statement(s) from your broker. A substitute statement will have the same information as Form 1099-B. Either may show your basis (usually your cost) even if your broker did not report it to the IRS. Brokers must report basis to the IRS for most stock you bought in 2011 or later (and for certain debt instruments you bought in 2014 or later).

### Part I

**Short-Term.** Transactions involving capital assets you held 1 year or less are short term. For long-term transactions, see page 2.

**Note.** You may aggregate all short-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS and for which no adjustments or codes are required. Enter the total directly on Schedule D, line 1a; you are not required to report these transactions on Form 8949 (see instructions).

You must check Box A, B, or C below. Check only one box. If more than one box applies for your short-term transactions, complete a separate Form 8949, page 1, for each applicable box. If you have more short-term transactions than will fit on this page for one or more of the boxes, complete as many forms with the same box checked as you need.

- (A) Short-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS (see Note above)
- (B) Short-term transactions reported on Form(s) 1099-B showing basis was not reported to the IRS
- (C) Short-term transactions not reported to you on Form 1099-B

1 (a)	(b)	(c) Date sold or			If you enter an enter a co	any, to gain or loss. amount in column (g), ode in column (f). arate instructions.	(h) Gain or (loss). Subtract column (e)
Description of property (Example: 100 sh. XYZ Co.)	Date acquired (Mo., day, yr.)	disposed (Mo., day, yr.)	(sales price) (see instructions)	and see Column (e) in the separate instructions	(f) Code(s) from instructions	(g) Amount of adjustment	from column (d) and combine the result with column (g)
1000 Shares XYZ			15,000	0			15,000
CT!							
1000 Shares XYZ			15,000	10,000		Parant tha	5,000
						Report the ual cost basis	



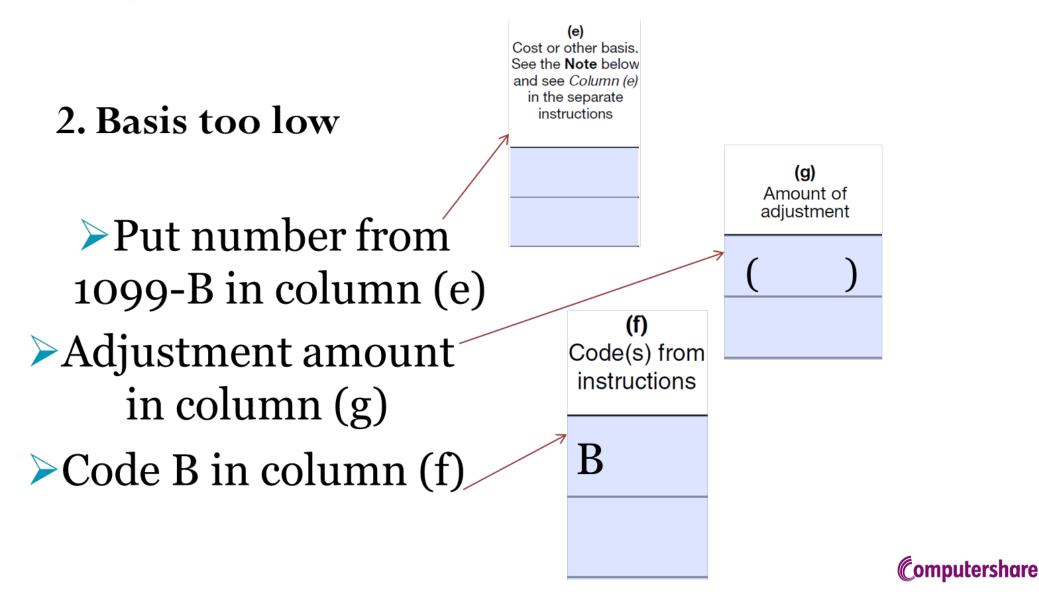
Review: Reporting cost basis on Form 8949 depends on 1099-B

1. Basis just right

Put number from 1099-B in column (e) (e)
Cost or other basis.
See the **Note** below and see *Column* (e) in the separate instructions



# Review: Reporting cost basis on Form 8949 depends on 1099-B



# Review: Reporting cost basis on Form 8949 depends on 1099-B

# 3. Basis blank

Put correct basis
In column (e),
including W-2
income (columns
(f) and (g) left blank)

(e) Cost or other basis. See the **Note** below and see Column (e) in the separate instructions

# 2. Not reporting tax basis correctly: commission

- 1099-B does not subtract commissions or other fees from the proceeds (see what's checked in Box 6).
- Do not add it to your cost basis on Form 8949
- What to do: adjustment on Form 8949 in column (g) and add Code E in column (f).
- Starting with 2014 stock sales, less of an issue: IRS requires reporting sales proceeds net of transaction fees after January 1, 2013.



## 3. Double-counting income from W-2 in Box 12 or 14

W-2 income in Box 1 already includes stock comp income, along with salary, wages. Put amount in Box 1 as part of income on line 1 of Form 1040 for "Salary, wages..."

	(1)	Wages, salaries, tips, etc. Attach For	m(s) W	-2	,	1	
	2a	Tax-exempt interest	2a		b Taxable interest. Attach Sch. B if required	2b	
Standard	3a	Qualified dividends	3a		b Ordinary dividends. Attach Sch. B if required	3b	
Deduction for—	4a	IRA distributions	4a		b Taxable amount	4b	
Single or Married filing separately,	С	Pensions and annuities	4c		d Taxable amount	4d	
\$12,200	5a	Social security benefits	5a		b Taxable amount	5b	

Mistake: Using the amount in Box 12 (NQSOs) or Box 14 to report income on the line for "Other income" (line 8) of Schedule 1 (no longer on Form 1040 directly).

7 Unemployment compensation	6	Farm income or (loss). Attach Schedule F	 6
	7	Unemployment compensation	 7
	8		

### Alert: If you do this, you pay tax on income twice as ordinary income.

Use Line 8 of Schedule 1 only when the company mistakenly omits stock comp income from W-2, no W-2c sent, and Form 4852 not used. Can happen for sales of ESPP stock in qualifying disposition.



#### ESPP income included EXAMPLE: W-2: ESPP reporting for tax-qualified Section 423 ESPPs a Employee's social security number For Official Use Only ▶ myStockOptions.com 55555 Vold OMB No. 1545-0008 b Employer Identification number (EIN) 1 Wages, tips, other compensation 2 Federal income tax withheld Note: with ESPPs, no income c Employer's name, address, and ZIP code 3 Social security wages 4 Social security tax withheld should be added to boxes for Social Security or Medicare, and 5 Medicare wages and tips 6 Medicare tax withheld no withholding should be included in any boxes (unless the company 8 Allocated tips 7 Social security tips has voluntary withholding). 9 Advance EIC payment 10 Dependent care benefits d Control number e Employee's first name and initial Last name Suff. 11 Nonqualified plans 12a See Instructions for box 12 13 Statutory employee Retirement Third-party sick pay 12b ESPP income included if 14 Other 12c state/local tax applies Note: Your company may 12d voluntarily report the ESPP income in this box. f Employee's address and ZIP code Employer's state ID number 16 State wages, tips, etc. 17 State Income tax 18 Local wages, tips, etc. 19 Local income tax 20 Locality name

W-2 Wage and Tax Statement

Copy A For Social Security Administration - Send this

Department of the Treasury-Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see back of Copy D.



# Remind employees about what they need for tax-return reporting

IRS Forms to gather	Additional Information & Forms
Form W-2 if shares were sold at exercise/vesting/purchase	Exercise/vesting/purchase income reported on <b>Form 1040</b> if shares were acquired in a prior year. (Helps with cost-basis calculation.)
Form 1099-B from broker or transfer agent	<b>Supplemental information</b> (if any) provided by the broker to help with the cost basis.
Form 3921 for ISO exercises; Form 3922 for ESPP purchases	Exercise, purchase, vesting, and/or trade <b>confirmations</b> from the company or the stock plan provider.



Alert: Understand how the basis is reported on the substitute statement and to the IRS (**not the same**). Taxpayer's responsibility to make adjustments on Form 8949.



### 4. AMT calculation and credits

• For AMT purposes, always complete **IRS Form 6251** Line 2i (no longer line 14) when ISOs are exercised & held through calendar year of exercise (not on W-2).

h	Qualified small business stock, see instructions	2h	
i	Exercise of incentive stock options (excess of AMT income over regular tax income)	2i	
j	Estates and trusts (amount from Schedule K-1 (Form 1041), box 12, code A)	2j	
k	Disposition of property (difference between AMT and regular tax gain or loss)	2k	

- ISO stock is dual-basis stock. Your gain or loss for the AMT system and the regular-tax system will differ when sell.
- For the year when you sell ISO stock, avoid paying or calculating more AMT than is required for your stock sale by reporting (as a negative amount) your adjusted gain or loss on Line 2k (no longer line 17) of IRS Form 6251.

i	Exercise of incentive stock options (excess of AMT income over regular tax income)	2i	
j	Estates and trusts (amount from Schedule K-1 (Form 1041), box 12, code A)	2j	
k	Disposition of property (difference between AMT and regular tax gain or loss)	2k	
- 1	Depreciation on assets placed in service after 1986 (difference between regular tax and AMT)	21	

• This negative adjustment can reduce the AMT and let you recover more of your AMT credit. The negative adjustment can't be greater than the capital gain for regular-tax purposes plus \$3,000.



## 4. AMT calculation and credits

- AMT is no longer directly reported on Form 1040 from the calculation on Form 6251.
- The AMT, if owed, from the Form 6251 calculation now goes into Line 1 of Schedule 2 (change from last year when line 45)

Part	Tax	
1	Alternative minimum tax. Attach Form 6251	1
2	Excess advance premium tax credit repayment. Attach Form 8962	2
3	Add lines 1 and 2. Enter here and include on Form 1040 or 1040-SR, line 12b	3
Part	Other Taxes	20000000
4	Self-employment tax. Attach Schedule SE	4
5	Unreported social security and Medicare tax from Form: a 4137 b 8919	5
6	Additional tax on IRAs, other qualified retirement plans, and other tax-favored accounts. Attach Form	
	5329 if required	6
7a	Household employment taxes. Attach Schedule H	7a
b	Repayment of first-time homebuyer credit from Form 5405. Attach Form 5405 if required	7b
8	Taxes from: a ☐ Form 8959 b ☐ Form 8960	
	c Instructions; enter code(s)	8

• Attach Form 6251 to Schedule 2. The totals from this schedule go into Line 12b of Form 1040 (change from last year when line 11)



### 4. AMT and credits

Once AMT has been triggered, you must complete **Form 6251** every year, along with **Form 8801** for the AMT credit.

CREDIT STANDARD THE STANDARD TH

It used to take years to benefit fully from the AMT credit if you are selling at a substantial loss. Changed in 2018 tax year with TCJA provisions.

Use of <u>AMT credit</u>: In year when you do not trigger AMT, use credit against regular income tax up to amount of what would be your AMT. *Does not require you sell the ISO stock.* 

### **Example:**

- Last year ISO exercise and hold triggered \$14,000 of AMT
- This year, regular tax is \$35,000, while AMT is only \$30,000
- \$5,000 of the \$14,000 credit used, and carry forward \$9,000 to future
- The amount from Line 25 of Form 8801 now goes into Schedule 3 ("Non-Refundable Credits") on Line 6 (check box b). Change from Line 54.
- Totals from Schedule 3 go onto Line 13b of Form 1040. Change from Line 12.



### 5. Sell-to-cover exercises

- Broker sells just enough shares from exercise to pay the exercise price, tax withholding, and the broker's transaction fees.
- Employee receives the remaining shares.
- For the year of sell-to-cover, report on your Form 8949 only the number of shares *sold* and their tax basis.
- Do not report the number and tax basis of all the options exercised that are part of W-2 income.



# 5. Sell-to-cover example: Exercise NQSOs for 2,000 shares on August 14

Exercise price	\$10 per share (\$35 stock price)
Exercise cost	\$20,000
Tax withholding	\$17,500 (combined 35% tax rate on \$50,000)
Brokerage commission	\$250
Total needed	\$37,750
What is included on Form W-2	\$50,000 income [(\$35 - \$10) x 2,000]
Number of shares sold	1,079 (keep 921)
Form 8949 reporting	\$37,515 (\$37,765 - \$250 commission)
Tax basis on sold shares	\$37,765 (Schedule D includes a \$250 short-term capital loss in Part I)

In the future, when you sell any or all of the net shares (921 shares net): report the **tax basis of \$35 per share**.



# 6. Share withholding for restricted stock and RSUs

- **Definitely report a sale for taxes** at vesting if you received a 1099-B that reports the proceeds. Sell-to-Cover for taxes.
- When the shares directly withheld by your company (often called "net share withholding"), the situation is different.
- Report this "sale" back to company to cover the taxes if receive a 1099-B. Most companies do not issue these to employees.
- **Rumor:** IRS has informally approved this practice of not issuing 1099-Bs for share withholding.
- **Common Mistake:** Remember to exclude these tax shares when you calculate your capital gains on Form 8949 after you sell the remainder.

See the sections Restricted Stock: Taxes and Restricted Stock: Taxes Advanced at myStockOptions.com or in the Knowledge Center



# 6. Share withholding with restricted stock and RSUs: Potential for confusion

2,000 shares of restricted stock vest on Aug. 15	Vesting value: \$20 per share (\$40,000)
Shares surrender/net-settled to pay taxes	625 (1,375 appear in account)
Amount your W-2 reports for the vested restricted stock	\$40,000 (2,000 x \$20)
Remaining 1,375 share sold the next year at \$25 per share (after commissions)	\$34,375
How you calculate capital gain	\$34,375 proceeds — \$27,500 cost basis (1,375 x \$20)
Capital gain reported on Form 8949	= \$6,875



### Restricted stock: Sale when shares surrendered earlier for withholding

Form 8949

### Sales and Other Dispositions of Capital Assets

OMB No. 1545-0074

Department of the Treasury

Information about Form 8949 and its separate instructions is at www.irs.gov/form8949. File with your Schedule D to list your transactions for lines 1b, 2, 3, 8b, 9, and 10 of Schedule D.

Attachment

Internal Revenue Service Sequence No. 12A Name(s) shown on return Social security number or taxpayer identification number Before you check Box D, E, or F below, see whether you received any Form(s) 1099-B or substitute statement(s) from your broker. A substitute statement will have the same information as Form 1099-B. Either will show whether your basis (usually your cost) was reported to the IRS by your broker and may even tell you which box to check. Part II Long-Term. Transactions involving capital assets you held more than 1 year are long term. For short-term transactions, see page 1. Note: You may aggregate all long-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS and for which no adjustments or codes are required. Enter the totals directly on Schedule D, line 8a; you aren't required to report these transactions on Form 8949 (see instructions). You must check Box D, E, or F below. Check only one box. If more than one box applies for your long-term transactions, complete a separate Form 8949, page 2, for each applicable box. If you have more long-term transactions than will fit on this page for one or more of the boxes, complete as many forms with the same box checked as you need. On Form 1099-B\* (D) Long-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS (see Note above) → (E) Long-term transactions reported on Form(s) 1099-B showing basis wasn't reported to the IRS If basis is in Box 16 ☐ (F) Long-term transactions not reported to you on Form 1099-B. (even if basis is incorrect), check Adjustment, if any, to gain or loss. If you enter an amount in column (g), Box D here. Cost or other basis enter a code in column th. Gain or (loss). See the separate instructions. Date sold or Proceeds See the Note below Subtract column (e) If no basis or "0" Description of property Date acquired disposed of (sales price) and see Column (e) from column (d) and (Example: 100 sh. XYZ Co.) (Mo., day, yr.) appears in Box 1e. (Mo., day, yr.) (see instructions) in the separate combine the result. Code(s) from check Box E here. instructions Amount of with column (g) instructions adjustment Company ticker/symbol and number of shares sold from stock received at vesting Basis in Box 1e of 1099-B is correct [Box 1a on Form 1099-B]. If shares were withheld for taxes at vesting, exclude those Column (e): Basis in Box 1e of 1099-B shares from this amount. Column (f): Leave blank Column (g): Leave blank Exercise date [Box 1b on 1099-B] Basis in Box 1e of 1099-B is too low or blank myStockOptions.com Date stock sold If Box E is checked: If Box D is checked: [Box 1c on 1099-B] Column (e): Basis in Box 1e of 1099-B Column (e): Correct basis of the sold Gross proceeds from stock sale [Box 1d on 1099-B] shares (income on W-2 for the value of Column (f): Code B If commissions and fees were not subtracted from shares sold. NOT the value for total proceeds, see footnote \*\* number of shares vested).\*\*\* Column (g): Omitted amount. Put in parentheses to indicate a negative Column (f): Leave blank number (as this amount reduces gain or increases loss). Column (g): Leave blank



### 7. Dividends with restricted stock/RSUs

- **Dividends paid:** compensation during vesting period or at vesting. Reported on W-2.
- **Exception:** Employee makes a Section 83(b) election (not available for RSUs). Eligible for the lower 15%/20% rate for qualified dividends. Reported on 1099-DIV.
- Once the shares vest: dividends are no longer compensation and instead become dividend income.
- Form 1040 line for dividend income: changed to 3a or 3b.





## 7. Dividends: Complications

- Pre-vesting dividends included on W-2 + Double-reported on Form 1099-DIV.
- Can occur if the company's transfer agent routinely issues dividend payments and 1099-DIV as it does to shareholders.
- The IRS recommends: list these dividends on Schedule B ("Interest and Ordinary Dividends") of Form 1040. Subtract them from the total with a note that you have already included them in wages.
- See <u>IRS Publication 550</u>, "Investment Income and Expenses (Chapter 1)," for more details on reporting restricted stock dividends.



## 8. ESPP sales: Not reporting ordinary income

- Tax-qualified Section 423 ESPP: the purchase itself does not trigger tax-return reporting. The sale does.



- At sale: need to include the discount from the year of purchase as income

### Review of Tax Rules for QD:

- With qualifying disposition: **Ordinary income in the year of sale** equal to: the lesser of either the actual gain upon sale **or** the purchase price discount at the beginning of the offering.
- The discount at the beginning of the offering **does not qualify** for capital gains treatment even if you hold stock for longer than one year.
- Beyond the discount, all additional gain is long-term capital gain.

For details, examples, and videos see sections <u>ESPPs: Taxes</u> and <u>ESPPs: Taxes Advanced</u> at myStockOptions.com or in the Knowledge Center



## 8. Not reporting ordinary income with ESPP sales

**Example:** 15% discount from the stock price on either first or last day of offering, whichever is lower.

Stock price on first day of offering	\$10		
Stock price on last day of offering (purchase date)	\$8		
Purchase price	\$6.80 (85% of \$8)		
Net at sale after commission	\$18		
Income recognized at sale after meeting ESPP holding periods	\$1.50 per share in ordinary income (15% of \$10)		
Cost basis	\$8.30 (\$1.50 ordinary income + \$6.80 purchase price)		
Long-term capital gain	\$9.70 per share (\$18 minus cost basis of \$8.30)		
What should be reported on Form W-2	\$1.50 multiplied by the number of shares purchased (if this is not reported, still report that amount on your tax return, using the line "Other income"). Using Form 3922: Box 3 minus Box 8.		

If your sale gain is less than \$1.50 per share (i.e. stock price of \$8.30 per share or lower), just ordinary income for the amount of the actual gain. Sales below a stock price of \$6.80 per share are all capital losses.



#### ESPP: Purchase/sell after holding short-term OMB No. 1545-0074 **8949** Sales and Other Dispositions of Capital Assets ► Information about Form 8949 and its separate instructions is at www.irs.gov/form8949. Department of the Treasury Attachment File with your Schedule D to list your transactions for lines 1b, 2, 3, 8b, 9, and 10 of Schedule D. Sequence No. 12A Internal Revenue Service Name(s) shown on return Social security number or taxpayer identification number Before you check Box A. B. or C below, see whether you received any Form's) 1099-B or substitute statement(s) from your broker. A substitute statement will have the same information as Form 1059-B. Either will show whether your basis (usually your cost) was reported to the IRS by your broker and may even tell you which box to check. Part I Short-Term. Transactions involving capital assets you held 1 year or less are short term. For long-term transactions, see page 2. Note: You may aggregate all short-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS and for which no adjustments or codes are required. Enter the totals directly on Schedule D, line 1a; you aren't required to report these transactions on Form 8949 (see instructions). You must check Box A, B, or C below. Check only one box. If more than one box applies for your short-term transactions, complete a separate Form 8949, page 1, for each applicable box. If you have more short-term transactions than will fit on this page for one or more of the boxes, complete as many forms with the same box checked as you need. On Form 1099-B\* (A) Short-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS (see Note above) (B) Short-term transactions reported on Form(s) 1099-B showing basis wasn't reported to the IRS If basis is in Box 1c (C) Short-term transactions not reported to you on Form 1099-B (even if basis is incorrect), check Adjustment, if any, to gain or loss. if you anter an amount in column (g), Box A here. Cost or other basis. enter a code in column (f). Gain or (loss). See the separate instructions. Date sold or Proceeds See the Note below Subtract column (c) If no basis or "0" Description of property Date acquired from column (d) and disposed of (sales price) and see Column to (Example: 100 sh. XYZ Co.) (Ma., day, yr.) appears in Box 1e, [Mo., day, yr.) (see instructions) in the separate combine the result Code(s) from with column (g) check Box B here. instructions Amount of instructiona adjustment Company ticker/symbol and number of ESPP shares sold [Box 1a on Form 1099-B] Basis in Box 1e of 1099-B is correct Column (e): Basis in Box 1e of 1099 B Purchase date Column (f): I cave blank [Box 1b on 1099-B] Column (g): I cave blank Date stock sold Basis in Box 1e of 1099-B is too low or blank [Box 1c on 1099-B] II Box A is checked: If Box B is checked: Gross proceeds from stock sale [Box 1d on 1099-B]. Column (e): Basis in Box 1e of 1099 B Column (e): Correct basis of the sold If commissions and fees were not subtracted from shares (purchase price + income on proceeds, see footnote \*\* Column (f): Code B W-2 for the spread at purchase).\*\*\* Column (g): Omitted amount (e.g. W-2 If the basis is blank or 0: compensation not included). Put in Column (f): I eave blank parentheses to indicate a negative number (as this amount reduces gain Column (g): Leave blank or increases loss). For ESPP shares If the basis is incorrect: sold in a disqualifying disposition, this myStockOptions.com amount is the W-2 income for the Column (f): Code B discount at purchase.\*\*\* Column (g): Enter \*-0-



## 9. Netting of capital gain/loss

- Only same kinds of income net each other out.
- Only capital gains and losses net each other out on Schedule D. **Stock compensation income is not capital gains income**.
- Matching capital losses with gains is called "tax-loss harvesting." Up to \$3,000 (joint filers) in capital losses can be netted against ordinary income. Remainder carries forward.

**Example**: You sold company stock early last year at \$9,000 short-term capital loss.

- You bought and sold this year at a short-term capital gain of \$5,000.
- The loss carryforward and current year's gain net each other out on your Schedule D, leaving you \$4,000 of unused losses.
- \$3,000 is used to offset against ordinary income on your current tax return.
- \$1,000 is carried forward.

Wash sale issues: purchase company stock at gain within 30 days of sale at loss.

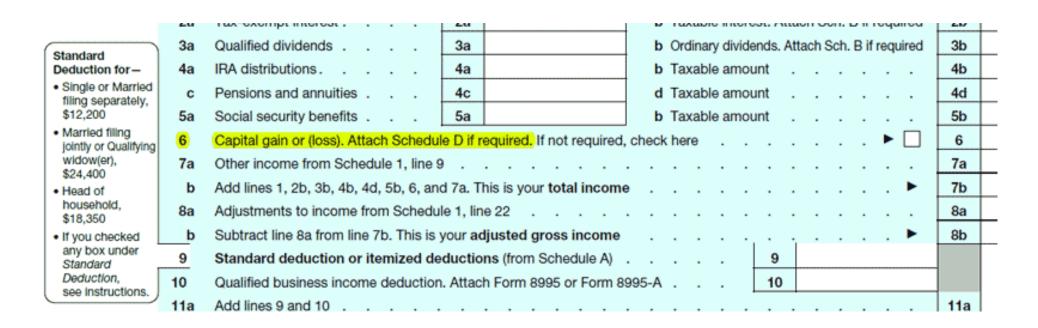
Easy mistake to make in volatile or down markets.

See my Forbes.com blog: Harvest Capital Losses: Beware Wash Sales!



## 9. Netting of capital gain/loss: Step after Schedule D

- What's the same: First report sale on Form 8949 and enter the totals from 8949 on Schedule D.
- What's new: Form 1040 again has a line labeled "Capital gain or (loss)."
- Schedule D total is now entered on the Form 1040 (Line 6) and not on Schedule 1





### 10. Extensions

- IRS <u>Form 4868</u>: automatic six-month extension for the due date of your tax return (until mid-October). No explanation or signature is needed to get the automatic extension.
- Federal tax deadline is likely to get extended beyond April 15, 2020 if suffered adverse effectivities (status as of March 12, 2020 at 11:30 AM EST). States likely to follow.
- To avoid the failure-to-file penalty on what you owe, you must file the extension no later than the original deadline of your return (for details, see <u>IR-2006-58</u>).
- **Payment of the actual tax is not delayed** (just the period for filing the return). Pay 100% of anticipated tax when file the extension to avoid interest and penalties.
- Extensions do not delay estimated tax payments for the current tax year.
- Complications for US expatriates: avoid double taxation by using the foreign earned income exclusion (\$105,900 in 2019) or a US tax credit for taxes paid in a foreign country.



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### **NQSOs**

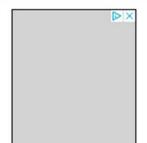
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Tax Center
explains and illustrates the tax
rules for sales of company
stock, W-2s, withholding,
estimated taxes, AMT, and
more.



### 12 Tax-Return Mistakes To Avoid With Stock Options And ESPPs

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Bruce Brumberg and Lynnette Khalfani

### **Key Points**

- 1. Stock options and employee stock purchase plans bring their own special issues to your tax return.
- Common mistakes to avoid include double-counting income, misreporting the cost basis of stock sales, and miscalculating taxes on ESPP income.
- 3. Other common errors include messing up the AMT calculation, overpaying AMT, and forgetting to use capital-loss carry-forwards.



After reading this article, test your knowledge with a fun, interactive guiz on tax returns

By the end of January, you should have received your IRS Form W-2, as usual. It will show any ordinary income stemming from stock options or employee stock purchase plans.

If you sold shares during 2019, before mid-February your brokerage will send you IRS Form 1099-B, which brokers usually reformat into their own substitute statement. Form 1099-B reports stock sales made during the year. In addition, you will also receive IRS Form 3922 if you purchased ESPP shares in 2019 and IRS Form 3921 if you exercised ISOs in 2019.

Puzzled by what to do with your W-2, Form 1099-B, or Forms 3921 and 3922? Don't quite know how and where to report sales of company stock on Forms

someone to handle your tax return (tax knowing some of the basics pre-

stock. The <u>Tax Center</u> of the sales on tax returns.

If you need to report

What's New For T

The IRS Form 1040 tax return has been condensed and new schedules (supplementary forms) funnel information

For a free copy of our article on tax-return mistakes to avoid, email editors@mystockoptions.com.

Available to distribute to employees or clients.



### NEW! Tax Returns Quiz

Take a few minutes to test your knowledge of the tax-return reporting for equity compensation. (Mistakes here are far less costly than errors on tax returns!)

Please answer the following 12 questions. This quiz is also a course of study. The answer key links to content on the topic for follow-up reading.

1. If you sold stock last year, which of the followin	g IRS forms will you need for your tax return.	along with any other information	provided by your broker or your company?

- Form 1099-B (or your broker's equivalent substitute statement) and Form W-2
- Form 3921 (if you sold shares acquired from incentive stock options)
- Form 3922 (if you sold shares acquired from an employee stock purchase plan)
- All of the above

### 2. Starting in 2018, what are the top tax rates on ordinary income and capital gains?

- @ 35% and 20%
- @ 35% and 15%
- @ 37% and 20%
- @ 39.6% and 15%

### 3. If you sold stock during the calendar year, which tax forms do you file with your IRS Form 1040 tax return to report the sale?

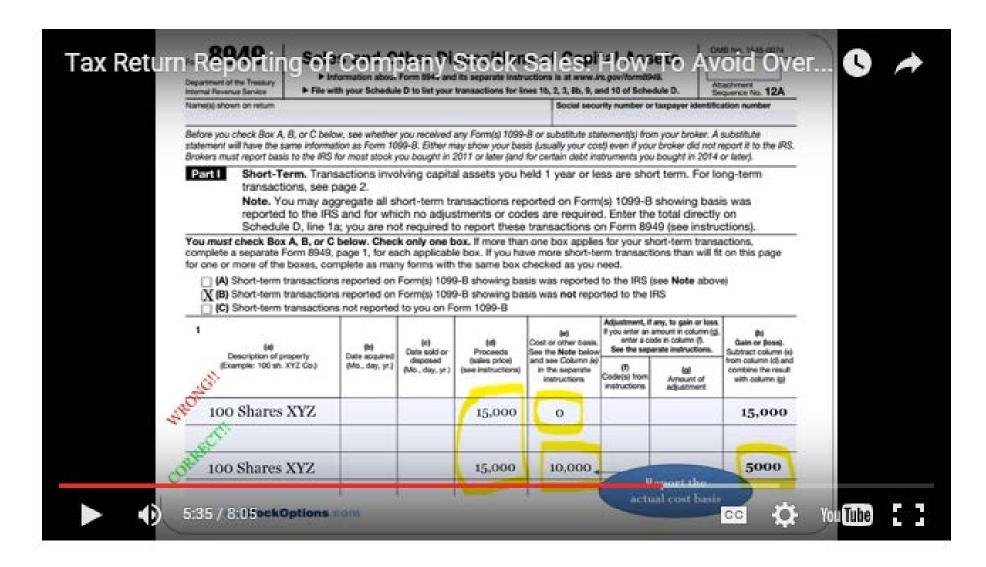
- Form 1099-B and Schedule 1
- Form 8949 and Schedule D
- Form 6251 and Schedule 2
- Form 8949, Schedule D, and Schedule 1

#### 4. What is the cost basis of stock that has been sold?

- Price paid to acquire shares + compensation recognized for acquiring them (reported on Form W-2)
- Price paid to acquire shares + compensation recognized for acquiring them (reported on Form 1099-B)
- Proceeds from stock sale + compensation recognized for acquiring shares (reported on Form W-2)
- Proceeds from stock sale amount paid to acquire shares (reported on Form 1099-B)

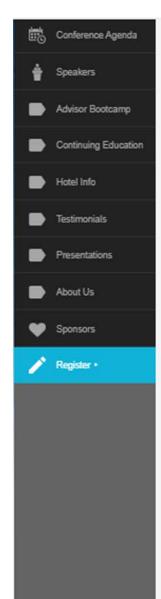
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The video appears in the Tax Center





Financial Planning For Public Company Executives & Employees

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