

TAX RETURN REPORTING: WHAT YOU NEED TO KNOW AND COMMUNICATE WITH EMPLOYEES

Bruce Brumberg
myStockOptions.com
March 8, 2016

CERTAINTY

INGENUITY

ADVANTAGE

 **Computershare**

FREE SMARTS™
priceless education

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).
- › Recently he started a new site on nonqualified deferred compensation at www.myNQDC.com.
- › Bruce graduated from the University of Michigan and University of Virginia School of Law.

Search:

Go

Tax Center

Global Tax Guide / Glossary / D

Log In

myStockOptions.com

Basics | NQSOs | ISOs | ESPPs | Restricted Stock | SARs | Financial Planning

Become a Premium or Pro Member



Become smarter about stock options, ESPPs, restricted stock, and stock appreciation rights

Individuals

Whether you're a stock plan participant or a professional, we offer you content and tools to fit your needs. [> Learn More](#)

Corporate

Help your employees understand and appreciate their stock grants and prevent tax mistakes. [> Learn More](#)

Financial and Wealth Advisors

Track your clients' grants and give them the expert advice they demand. [> Learn More](#)

Featured Article

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

By Bruce Brumberg and Lynnette Khalfani

UPDATES! The 2016 tax season has the potential to be confusing if you sold stock in 2015. This article explains common errors to avoid when reporting stock sales on your tax return and provides helpful guidance on various other tax topics involving stock options and ESPPs.

[> Read the rest of this article](#)

MORE FEATURED ARTICLES

- Restricted Stock & RSUs: 10 Tax-Return Mistakes To Avoid
- **Form 8949 and Sch. D diagrams!** How To Report Sales Of Company Stock On Your Tax Return
- How To Avoid Paying Too Much Tax: Understanding The Revised Form 1099-B And Form 8949 For Reporting Stock Sales On Your Tax Return
- **VIDEO!** Tax-Return Reporting Of Company Stock Sales: How To Avoid Overpaying Taxes



Tax Return Season Is Here!

And the [Tax Center](#) is here to assist, including annotated examples of Form 8949 and Schedule D to help you prevent costly mistakes when reporting stock sales.

New and Updated Content

FAQ: NEW! What are the top 10 questions I should ask about the reporting of stock sales on my tax return?

Content and tools for companies, participants, stock plan professionals, and financial advisors

myStockOptions.com

Special resources
for tax season

Basics | NQSOs | ISOs | ESPPs | Restricted Stock | SARs | Financial Planning | Job Events | Life Events | IPO

Tax Center

- ▶ Reporting Company Stock Sales **2016 UPDATES!**
- ▶ Form W-2 Diagrams
- ▶ Tax Changes 2003-2016
- ▶ NQSO Basics
- ▶ NQSO Withholding
- ▶ NQSOs: W-2s & Tax Returns
- ▶ ISO Basics
- ▶ ISO Withholding
- ▶ ISOs: W-2s & Tax Returns
- ▶ Restricted Stock Basics
- ▶ Restricted Stock Withholding
- ▶ Restricted Stock: W-2s & Tax Returns
- ▶ Section 83(b)
- ▶ ESPP Basics
- ▶ ESPP Withholding
- ▶ ESPPs: W-2s & Tax Returns
- ▶ SARs: W-2s & Tax Returns

Tax Center

As featured in *WebCPA* and *Plansponsor*, our Tax Center teaches the withholding, reporting, and filing rules for stock options, ESPPs, restricted stock, and SARs. Browse a section overview below, or explore the subtopics to the left.



Test and improve your knowledge with our **NEW!** Tax Returns quiz and its study guide in the answer key.



Test and improve your knowledge with our Taxes quiz and its study guide in the answer key.



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



Check out our podcast and video on the tax forms and reporting rules for stock sales.



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

Articles

FAQs

▶ Restricted Stock & RSUs: 10 Tax-Return Mistakes To Avoid mso+

The myStockOptions.com Tax Team

UPDATES! The 2016 tax season has the potential to be confusing if you sold stock in 2015. This article explains common errors to avoid when reporting stock sales on your tax return and provides helpful guidance on other tax topics involving restricted stock and RSUs.

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

Bruce Brumberg and Lynnette Khalfani

UPDATES! The 2016 tax season has the potential to be confusing if you sold stock in 2015. This article explains common errors to avoid when reporting stock sales on your tax return and provides helpful guidance on various other tax topics involving stock options and ESPPs.

Roadmap for presentation



- › What's new for the 2016 tax return season (reporting for tax year 2015)
- › Common questions and errors
- › Communication and education for employees and executives

Key bracket thresholds for federal income tax

- › High-income executives and employees have increased tax rates on 2015
- › ordinary income, capital gains, and dividends, along with phaseouts on personal
- › exemptions and itemized deductions for 2015 income.

TAX RATE	YEARLY INCOME THRESHOLD
Top ordinary income rate (39.6%) & capital gains/dividend rate (20%)	Taxable income of \$413,200 (single) or \$464,850 (joint)
Income above 25% rate used for supplemental wage withholding (28% bracket rate starts)	\$90,750 (single) or \$151,200 (joint)
Medicare surtax on investment income (3.8%)	Modified adjusted gross income of \$200,000 (single) or \$250,000 (joint)
Additional Medicare tax on earned income (0.9%)	Earned income of \$200,000 (single) or \$250,000 (joint)
Phaseout of itemized deductions and personal exemptions	Adjusted gross income of \$259,400 (single) or \$311,300 (joint)

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 shows the 2015 figures.

Filer status	AMT income exemption amount	AMT income exemption phaseout starts	AMT income exemption phaseout ends	Threshold where AMT rate rises from 26% to 28%
Single	\$53,600	\$119,200	\$333,600	\$185,400 (\$92,700 for married but filing separately)
Joint	\$83,400	\$158,900	\$492,500	\$185,400

Reporting change: Restricted stock with Section 83(b) election

- › Filed with the local IRS office, a Section 83(b) election causes restricted stock to be taxed on the value at grant instead of vesting (not permitted for RSUs). This choice can make tax-planning sense in certain circumstances.
- › Under proposed IRS rules (July 17, 2015), you no longer need to attach the paper election to your tax return. This is expected to take effect for grants made on or after January 1, 2016.
- › **The IRS will allow you to rely on the proposed changes for grants and stock transfers on or after January 1, 2015.**
- › The IRS will scan and save a copy of original election instead of requiring a second submission with your tax return.

Same-sex marriage and tax returns

- › The Supreme Court's decision in *Obergefell v. Hodges* (June 2015) legalized **same-sex marriage** throughout the United States.
- › Before *Obergefell*, same-sex spouses who were married in a state where they did not live had to file their state tax returns as singles if their state of tax residence did not recognize their marriage.
- › Now, after *Obergefell*, same-sex spouses must use married joint filing status for state returns as well as federal returns.
- › As filing under married joint status will often result in more tax than filing as singles will, these couples will probably have little incentive to amend past state tax returns from single to joint status.

Minimal changes in the rules and forms for tax-return reporting this year

- › Similar to last year: Form W-2, Form 1099-B, Form 8949, Schedule D
- › Same restrictions in what brokers can report for the cost basis on Form 1099-B
- › **More good news:** The core reporting rules for Form 8949 and Schedule D have not changed

IRS Form 1099-B core boxes (most brokers use substitute statement with columns)

☐ CORRECTED (if checked)

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.			Applicable check box on Form 8949	OMB No. 1545-0715 2015 Form 1099-B	Proceeds From Broker and Barter Exchange Transactions
1a Description of property (Example 100 sh. XYZ Co.)					
PAYER'S federal identification number	RECIPIENT'S identification number	<div style="border: 2px solid red; padding: 5px;"> 1b Date acquired 1d Proceeds \$ 1f Code, if any </div>		1c Date sold or disposed 1e Cost or other basis \$ 1g Adjustments \$	Copy B For Recipient This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
RECIPIENT'S name		2 Type of gain or loss: Short-term <input type="checkbox"/> Long-term <input type="checkbox"/>		3 If checked, basis reported to IRS <input type="checkbox"/>	
Street address (including apt. no.)		4 Federal income tax withheld \$		5 If checked, noncovered security <input type="checkbox"/>	
City or town, state or province, country, and ZIP or foreign postal code		6 Reported to IRS: Gross proceeds <input type="checkbox"/> Net proceeds <input type="checkbox"/>		7 If checked, loss is not allowed based on amount in 1d <input type="checkbox"/>	
Account number (see instructions)		8 Profit or (loss) realized in 2015 on closed contracts \$		9 Unrealized profit or (loss) on open contracts—12/31/2014 \$	
CUSIP number		10 Unrealized profit or (loss) on open contracts—12/31/2015 \$		11 Aggregate profit or (loss) on contracts \$	
14 State name	15 State identification no.	16 State tax withheld \$			
		12 \$		13 Bartering \$	

Form **1099-B** (Keep for your records) www.irs.gov/form1099b Department of the Treasury - Internal Revenue Service

Polling question #1

To determine the cost basis for shares sold from stock compensation, what is added to the purchase or exercise price for the shares?

- a) Taxes withheld
- b) W-2 income
- c) 25% of the purchase price
- d) Estimated capital gains tax

What is the cost basis?

Cost basis (also called the tax basis) is the total cost of an acquired 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**

Recap of regulations on cost-basis reporting

- › Cost-basis-reporting regulations were implemented as part of the Emergency Economic Stabilization Act of 2008 as a means to capture lost tax revenue associated with capital gains and losses.
- › The regulations took effect in 2011, requiring brokers to compute and report the cost basis of **covered securities**, reported on Form 1099-B to investors and the IRS.
- › Initially, **broker-dealers had the choice** to include compensation income amounts in the cost basis they reported on Form 1099-B for covered securities.

Covered and uncovered securities

- › Key distinction in IRS rules.
- › A covered security is a security acquired for cash on or after January 1, 2011.
- › **Covered stock** plan shares include:
 - shares acquired through an option exercise
 - shares acquired through an ESPP purchase
- › **Uncovered stock** plan shares include:
 - shares acquired through RSUs/PSUs
 - shares acquired through RSAs/PSAs
 - shares acquired through SAR exercises (some brokers treat these as covered securities)

Final cost-basis regulations



- › The IRS attempted to reduce inconsistency in cost-basis reporting among brokers by removing the flexibility to increase the basis to include compensation income.
- › The final regulations, adopted April 18, 2013, include this statement:
 - › A **broker may not increase** initial basis for income recognized upon the exercise of a compensatory option or the vesting or exercise of other equity-based compensation arrangements, granted or acquired on or after January 1, 2014.
- › Consistency comes at a price: **If the basis on Form 1099-B is not adjusted for for the W-2 income, you risk overreporting gains and overpaying taxes.**

What this means for tax-return reporting

- › The new regulations do not allow compensation income to be included in the values reported on Form 1099-B for grants made starting 1/2014.
- › The cost-basis value will be incomplete in every scenario in which compensation income is recognized.
- › **Need to know:** How will the broker report the cost basis of shares acquired between the start of 2011 and the end of 2013?
 - **Trend is standardization: not adding W-2 income to basis for option exercises or ESPP purchases that occurred during this period**
- › Many brokers are providing supplemental information on basis and tax guides to help with tax-return reporting

Risk of overpaying taxes

- › There are **only three disposition scenarios** in which the cost basis will not be understated:
 - qualifying dispositions of ISOs (all capital gain)
 - disqualifying dispositions of ISOs, with shares sold at a loss (all capital loss)
 - 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 will:
 - overreport capital gains
 - pay more taxes than they owe!

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
10. Extensions

Tax Center

Reporting Company
Stock Sales
2016 UPDATES!

Form W-2 Diagrams

Tax Changes 2003–
2016

NQSO Basics

NQSO Withholding

NQSOs: W-2s & Tax
Returns

ISO Basics

ISO Withholding

ISOs: W-2s & Tax
Returns


Restricted Stock
Basics


Restricted Stock
Withholding

Restricted Stock: W-
2s & Tax Returns

Tax Center

As featured in [WebCPA](#) and [Plansponsor](#), our Tax Center teaches the withholding, reporting, and filing rules for stock options, ESPPs, restricted stock, and SARs. Browse a section overview below, or explore the subtopics to the left.

 Test and improve your knowledge with our **NEW! Tax Returns** [quiz](#).

 Test and improve your knowledge with our [Ta](#)

 Listen to our [podcast](#) on tax return tips & a

 Check out our [podcast](#) and [video](#) on the tax



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

**myStockOptions
Knowledge Center
for plan
participants.
Available to
Computershare plan
administration
clients.**

Articles

FAQs

[Restricted Stock & RSUs: 10 Tax-Return Mistakes To Avoid](#)

The myStockOptions.com Tax Team

UPDATES! The 2016 tax season has the potential to be confusing if you sold stock in 2015. This article explains common errors to avoid when reporting stock sales on your tax return and provides helpful guidance on other tax topics involving restricted stock and RSUs.

[12 Tax-Return Mistakes To Avoid With Stock Options And ESPPs](#)

Polling question #2

What IRS forms do employees use to report stock sales with their Form 1040 tax return?

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

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

- › Sell all stock at exercise (i.e. a cashless exercise), at restricted stock vesting, or at ESPP purchase.
- › **Employee may think:** No “gains” beyond what’s on W-2 for ordinary income. May not realize there are two reportable events.
- › As a result, employee does not file 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 <http://www.irs.gov/taxtopics/tc652.html>

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

- › If company and broker meet certain conditions, employee may not receive a Form 1099-B. However, employee must still file Form 8949/Schedule D to report sale.
- › **Employee may even have small gains or losses**, depending on how company calculates the spread or stock value at exercise/vesting/purchase and on any commissions and fees for the stock sale.
- › Most companies use the actual sales price for calculating spread with option exercise/sale.

1. Not reporting 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 $[(\$35 - \$10) \times 2,000]$
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**

Department of the Treasury
Internal Revenue Service

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

2015

Attachment
Sequence No. **12A**

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).

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*

If basis is in Box 1e (even if basis is incorrect), check **Box A** here.

If no basis or "0" appears in Box 1e, check **Box B** here.

- ☐ (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) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the Note below and see <i>Column (e)</i> in the separate instructions	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). See the separate instructions.		(h) Gain or (loss). Subtract column (e) from column (d) and combine the result with column (g)
						(f) Code(s) from instructions	(g) Amount of adjustment	

r/symbol and number of
 box 1a on Form 1099-B]

Exercise date
 [Box 1b on 1099-B]

Date stock sold

Basis in Box 1e of 1099-B is correct

Column (e): Basis in Box 1e of 1099-B

Column (f): Leave blank

Column (g): Leave blank

Basis in Box 1e of 1099-B is correct

Column (e): Basis in Box 1e of 1099-B

Column (f): Leave blank

Column (g): Leave blank

Tax Center

▶ Reporting Company Stock Sales

2016 UPDATES!

▶ Form W-2 Diagrams

▶ Tax Changes 2003–2016

▶ NQSO Basics

▶ NQSO Withholding

▶ NQSOs: W-2s & Tax Returns

▶ ISO Basics

▶ ISO Withholding

▶ ISOs: W-2s & Tax Returns

▶ Restricted Stock Basics

▶ Restricted Stock Withholding

▶ Restricted Stock: W-2s & Tax Returns

▶ Section 83(b)

▶ ESPP Basics

▶ ESPP Withholding

▶ ESPPs: W-2s & Tax Returns

▶ SARs: W-2s & Tax Returns

Tax Center: Reporting Company Stock Sales
2016 UPDATES!Test your knowledge with our **NEW!** Tax Returns quiz.

Test your knowledge with our Taxes quiz.



Listen to our podcast on tax return tips and how to avoid penalties.



Check out our podcast and video on the tax forms.

FAQ Table of Contents:

- NQSO Stock
- ISO Stock
- Restricted Stock, RSUs, and Performance
- SARs Stock
- ESPP Stock

NQSO Stock

▶ Form 8949 and Sch. D diagrams How do I report a sale of NQSO shares on my federal income-tax return? [msq+](#)

You need to complete Form 8949 along with Schedule D for the year of your stock sale and file it with your IRS Form 1040 federal income-tax return. You must...

▶ Form 8949 and Sch. D diagrams How are capital gains taxed when I sell my NQSO shares? [msq+](#)

Annotated diagrams of
Form 8949 and
Schedule D on
myStockOptions.com and
in
Knowledge Center

2. Not reporting tax basis correctly



Cost-basis reporting is now more complex, confusing, and vulnerable to errors!

Error by type of grant that leads to OVERPAYING TAXES:

1. Mistake: Using exercise price only as tax basis with NQSOs, SARs, or ISO disqualifying disposition (i.e. sale or gift).
2. Mistake: Purchase price only for ESPP in disqualifying or qualifying disposition.
3. Mistake: Using purchase price of restricted stock or performance shares (usually \$0).

Result: Form 8949 for the sale reports too large of a gain.

The amount of ordinary income you recognized and reported on W-2

- › **NQSOs:** spread at exercise.
- › **Restricted stock/RSUs and performance shares:** value at vesting and share delivery.
- › **Section 423 ESPP:** depends on holding period and sales price.
- › **ISO in disqualifying disposition:** depends on sales price compared to market price at exercise.

Polling question #3

What cost basis will be reported on the 1099-B for sale of RSUs?

- a) The amount of W-2 income at sale
- b) The amount appearing will be blank or zero
- c) The amount of taxes withheld at vesting
- d) 25% of the value at vesting, plus the taxes withheld

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: **Not required as part of basis on 1099-B sent to IRS, and cannot be for stock acquired or granted starting 1/2014.**

2. Not reporting tax basis correctly: what the rules say

- › **Tax basis:** Purchase price + the amount of income on Form W-2 for the exercise/purchase/vesting.
- › This income is included in Box 1 on the W-2. Some brokers used to voluntarily include it in the cost basis on Form 1099-B, though they cannot do so for grants made in 2014 onward.
- › Final regulations prohibit brokers from including the compensation/ W-2 part of tax basis for equity awards “granted or acquired” on or after January 1, 2014. IRS found the permissive approach “unworkable.”

What to do on Form 8949:

- › **When too low on 1099-B:** adjustment in column (g) of Form 8949, with Code B in column (f). Check Box (A) or (D) at top.
- › **When the cost-basis box is blank on 1099-B:** put correct basis in column (e) of Form 8949 for the basis and check Box (B) or (E) at top. No adjustments or other codes in other columns needed.

Cost-basis example: RSUs

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

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.

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 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.

- X ☐ (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) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the Note below and see Column (e) in the separate instructions	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). See the separate instructions.		(h) Gain or (loss). Subtract column (e) from column (d) and combine the result with column (g)
						(f) Code(s) from instructions	(g) Amount of adjustment	
	100 Shares XYZ			15,000	0			15,000
	100 Shares XYZ			15,000	10,000			5000

WRONG!!

CORRECT!!

Report the
actual 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

2. Basis too low

- > 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

- > Adjustment amount in column (g)

(g)
Amount of
adjustment

()

- > Code B in column (f)

(f)
Code(s) from
instructions

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, as you would with the old Schedule D.
- › Instead, adjust the amount on Form 8949 in column (g) and add Code E in column (f).
- › **Starting with 2014 stock sales, this is less of an issue:** IRS requires sales proceeds to be net of transaction fees for all sales on or 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 compensation income, along with salary, wages. Full amount in Box 1 part of income on line 7 of Form 1040 for "Salary, wages..."
- › **Mistake:** Employee or tax preparer uses amount in Box 12 (NQSOs) or 14 to report income on Form 1040 on the line for "Other income" (line 21 on the 2015 form).

**Alert: If you do this, you will be paying tax
on the income twice as ordinary income.**

- › You use that line only when company mistakenly omits the exercise income from W-2 or 1099-MISC. This can happen for sales of ESPPs in qualifying disposition.

EXAMPLE: W-2: ESPP reporting for tax-qualified Section 423 ESPPs

ESPP income included

22222		Void <input type="checkbox"/>		a Employee's social security number		For Official Use Only ▶ OMB No. 1545-0008	
b Employer identification number (EIN)				1 Wages, tips, other compensation		2 Federal income tax withheld	
c Employer's name, address, and ZIP code				3 Social security wages		4 Social security tax withheld	
				5 Medicare wages and tips		6 Medicare tax withheld	
				7 Social security tips		8 Allocated tips	
d Control number				9 Advance EIC payment		10 Dependent care benefits	
e Employee's first name and initial		Last name		Suff.		11 Nonqualified plans	
f Employee's address and ZIP code				13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		12a See instructions for box 12	
						12b	
						12c	
						12d	
14 Other				15 State 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	

Note: with ESPPs, no income should be added to boxes for Social Security or Medicare, and no withholding should be included in any boxes (unless the company has voluntary withholding).

ESPP income included if state/local tax applies

Note: Your company may voluntarily report the ESPP income in this box.

Form **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



- › W-2 from this year if shares were sold at exercise/vesting/purchase.
- › 1040 from year of exercise/vesting/purchase if they held shares acquired in a prior year. Helps with cost-basis calculation.
- › 1099-B from broker or transfer agent.

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

- › Any supplemental information provided by the broker to help with the cost-basis calculation.
- › Exercise, purchase, vesting, and/or trade confirmation from the company or the stock plan provider.
- › Form 3921 for ISOs and Form 3922 for ESPPs.

4. AMT calculation and credits

- › For AMT purposes, you must always complete IRS Form 6251 (instructions: <http://www.irs.gov/pub/irs-pdf/i6251.pdf>) when ISOs are exercised and held through the calendar year of exercise (not on the W-2).
- › Once AMT has been triggered, you must complete the form every year, along with Form 8801 for the AMT credit. The former refundable credit provision has expired.
- › ISO stock is dual-basis stock. Higher basis for AMT than for ordinary income.
- › Your gain or loss for the AMT system and the regular-tax system will differ.
- › For the year when you sell the 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 17 of IRS Form 6251.
- › This negative adjustment can reduce the AMT you would otherwise calculate 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 and credits

It can take years to benefit fully from the AMT credit if you are selling at a substantial loss.

Standard use of AMT credit: 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 you paid \$14,000 of AMT over your regular tax because of your ISO exercise and hold.
- › This year, your regular tax is \$35,000, while your AMT calculation is only \$30,000.
- › \$5,000 of the \$14,000 credit is available, and you carry forward \$9,000 to be used in future.

5. Sell-to-cover exercises

- › Type of cashless exercise in which the broker sells just enough of the shares from your exercise to pay the exercise price, any tax withholding, and the broker's transaction fees. You receive the remaining shares.
- › For the year of your sell-to-cover, you report on your Form 8949 only the number of shares you *sold* and their tax basis, not the number and tax basis of the shares you *exercised* that are part of your 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 $[(\$35 - \$10) \times 2,000]$
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), you 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.
- › When the shares used for taxes are not actually sold on the open market but are instead directly withheld by your company (often called "net share withholding"), the situation is different.
- › Experts agree that you should always report this "sale" back to your company to cover the taxes if you receive a 1099-B, but most companies do not issue these to employees.
- › We have heard (but not yet confirmed) that the IRS has informally approved this practice of not issuing 1099-Bs for share withholding.
- › Whatever you do, remember to exclude these 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: confusion

Example:

- › On August 15, you receive 2,000 vested shares of restricted stock at \$20 per share.
- › Surrender/net settle with 625 shares to your company to pay taxes.
- › The amount your W-2 reports for the vested restricted stock is \$40,000 (2,000 x \$20).
- › Sell the remaining 1,375 shares the next year at \$25 after commissions (\$34,375).
- › When you calculate capital gains for Form 8949, use only the number of post-tax shares (1,375), not the 2,000 that you initially reported in your income: \$34,375 proceeds (1,375 x \$25) minus \$27,500 cost basis (1,375 x \$20) = \$6,875.

7. Dividends with restricted stock

- › Dividends paid will be compensation during vesting. Reported on W-2.
- › Exception: Employee makes a Section 83(b) election, which makes the dividends eligible for the lower 15%/20% rate for qualified dividends. Reported on 1099-DIV.
- › Be careful not to duplicate dividend income that is part of your W-2 in the total received dividends on your Form 1040.

7. Dividends

- › In some situations, the pre-vesting dividends that were included on your W-2 also are double-reported on Form 1099-DIV. This can happen if the company's transfer agent routinely issues dividend payments and 1099-DIV as it does to shareholders.
- › The IRS recommends you list these dividends on Schedule B ("Interest and Ordinary Dividends") of Form 1040 (or Schedule 1 of Form 1040A) but subtract them from the total with a note that you have already included them in wages. See [IRS Publication 550](#), "Investment Income and Expenses (Chapter 1)," for more details on reporting restricted stock dividends.

8. Not reporting ordinary income with ESPP sales

- › With a tax-qualified Section 423 ESPP, the purchase itself does not trigger tax-return reporting. The sale does.
- › Do include the discount in the year of purchase as income unless you also sell the shares in the same year.

Review of Tax Rules:

- › With qualifying disposition: You **still have 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 your stock for longer than one year. But beyond the discount, all additional gain is treated as long-term capital gain.

For more details and examples, see the sections ESPPs: Taxes and ESPPs: Taxes Advanced at [myStockOptions.com](https://www.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 plus \$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"). 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), you have 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

Form 8949 Department of the Treasury Internal Revenue Service	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
		2015 Attachment Sequence No. 12A
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).

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*

If basis is in Box 1e (even if basis is incorrect), check **Box A** here.

If no basis or "0" appears in Box 1e, check **Box B** here.

- ☐ (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) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the Note below and see <i>Column (e)</i> in the separate instructions	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). See the separate instructions.		(h) Gain or (loss). Subtract column (e) from column (d) and combine the result with column (g)
						(f) Code(s) from instructions	(g) Amount of adjustment	
r/symbol and number of ESPP [Box 1a on Form 1099-B]								
Purchase date [Box 1b on 1099-B]								
Date stock sold								

Basis in Box 1e of 1099-B is correct

Column (e): Basis in Box 1e of 1099-B

Column (f): Leave blank

Column (g): Leave blank

Basis in Box 1e of 1099-B is correct

Column (e): Basis in Box 1e of 1099-B

Column (f): Leave blank

Column (g): Leave blank

9. Netting of capital gain/loss

- › Capital gains and losses net each other out on Schedule D. Matching losses with gains is called “tax-loss harvesting.” Only like kinds of income net each other out.
- › Up to \$3,000 (joint filers) in losses can be netted against ordinary income, with the remainder carrying forward. Perhaps this amount will rise in future tax-law changes or reform?

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 year’s tax return.
\$1,000 is carried forward.

Wash sale issues if company stock purchased at gain within 30 days of sale at loss. Easy mistake to make in down markets.

10. Extensions

- › To gain an automatic six-month extension for the due date of your tax return (until mid-October), use IRS [Form 4868](#). No explanation or signature is needed to get the automatic extension.
- › 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 [IR-2006-58](#)).
- › **Payment of the actual tax is not delayed** (just the period for filing the return). You must accurately estimate how much tax you owe. By paying 100% of your tax when you file the extension, you 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 (\$100,800 for 2015, \$101,300 in 2016) or a US tax credit for taxes paid in a foreign country.

Tax Center

- ▶ Reporting Company Stock Sales
2016 UPDATES!
- ▶ Form W-2 Diagrams
- ▶ Tax Changes 2003-2016
- ▶ NQSO Basics
- ▶ NQSO Withholding
- ▶ NQSOs: W-2s & Tax Returns
- ▶ ISO Basics
- ▶ ISO Withholding
- ▶ ISOs: W-2s & Tax Returns
- ▶ Restricted Stock Basics
- ▶ Restricted Stock Withholding
- ▶ Restricted Stock: W-2s & Tax Returns
- ▶ Section 83(b)
- ▶ ESPP Basics
- ▶ ESPP Withholding
- ▶ ESPPs: W-2s & Tax Returns
- ▶ SARs: W-2s & Tax Returns

Tax Center: NQSOs: W-2s & Tax Returns

[Write and view comments](#) | [Add this article to my personal library](#)

[Email This](#)

Print

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

Bruce Brumberg and Lynnette Khalfani

This tax season has the potential to be confusing if you sold stock in 2015.

Alert: For stock sales, you must file with your tax return IRS Form 8949 and Schedule D. To avoid overpaying taxes, be aware of the issues involving the cost basis for stock sales reported on IRS Form 1099-B.

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 2015, 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. The IRS also receives both of these forms.

For a free copy of our article on tax-return

mistakes to avoid, email **editors@mystockoptions.com**. Available to distribute to employees or clients.

If you need to report income

You must file both Form 8949 and Schedule D when reporting stock sales on your tax return.

For a free copy of our article on tax-return mistakes to avoid, email **editors@mystockoptions.com**. Available to distribute to employees or clients.

**Test Your Knowledge: 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

[Skip the quiz and view the answers](#)

1. If you sold stock last year, which of the following 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. What are the top tax rates on ordinary income and capital gains?

- ☐ 35% and 20%
- ☐ 35% and 15%
- ☐ 39.6% and 20%
- ☐ 39.6% and 15%

NEW! Quiz on
tax-return reporting

Tax Return Reporting of Company Stock Sales: How To Avoid Over...

8949 Sales and Other Dispositions of Capital Assets

OMB No. 1545-0074

Department of the Treasury
Internal Revenue Service

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 12A

Name(s) shown on return _____ Social security number _____

Before you check Box A, B, or C below, see whether you received any Form(s) 1099-B. If you received a Form 1099-B, your statement will have the same information as Form 1099-B. Either may show you. Brokers must report basis to the IRS for most stock you bought in 2011 or later.

Part I Short-Term. Transactions involving capital assets held for one year or less. For more information on short-term transactions, see page 2.

Note. You may aggregate all short-term transactions reported to the IRS and for which no adjustment is required on Schedule D, line 1a; you are not required to report them separately.

You must check Box A, B, or C below. Check only one box. If more than one box applies, complete a separate Form 8949, page 1, for each applicable box. If you check Box A, B, or C, you must also check one or more of the boxes below. For one or more of the boxes, complete as many forms with the same box checked.

☐ (A) Short-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS.

☒ (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) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. (See the Note below and see Column (e) in the separate instructions)	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). See the separate instructions.		(h) Gain or (loss). Subtract column (e) from column (d) and combine the result with column (g).
						(f) Code(s) from instructions	(g) Amount of adjustment	
	100 Shares XYZ			15,000	0			15,000
	100 Shares XYZ			15,000	10,000			5,000

WRONG!!

CORRECT!!

Report the actual cost basis

NEW! Video with practical guidance for preventing tax-return mistakes

The video appears in the Tax Center

Thank you

Bruce Brumberg

Editor-in-Chief and Co-Founder

myStockOptions.com

bruce@mystockoptions.com

617-734-1979