



# Welcome to TaxMama's® Place - Home of the



**Today's Topic:**

**June Tax Roundtable**

The IRS is ending the Offshore Voluntary Compliance Program in September. If you have clients still needing help – get them into the program NOW!

The IRS is holding a couple of webinars this morning. One starts right now –

Understanding the Basics of Virtual Currency

<https://www.webcaster4.com/Webcast/Page/1148/25846>

the other at 11:00 am Pacific - Understanding the Basics of the Dark Web

<https://www.webcaster4.com/Webcast/Page/1148/25848>

**Comment:**

**(Note: He operates in Mexico)**

- I receive many checks for clients who live abroad which I pass to them or to the third party they have designated in writing. (1040NR, non citizen, non resident, no U.S. account, income on 1042-S, exempt by tax treaty.)
- I recently changed my U.S. mailing address and had the postman show up, 15 checks in hand, saying they are going to report me to the IRS for fraud. They delivered the checks but it scared the people who process my mail. However, I think I have satisfied the local postmaster now.

## TaxMama Suggests

Do not receive any IRS checks for clients

Circular 230 does not permit us to deposit them, even if it's into a client's account and for their benefit.

Use direct deposit for all IRS checks.

However, other checks...well, if you have a management arrangement with your clients, that's perfectly fine.

### **§ 10.31 Negotiation of taxpayer checks.**

(a) A practitioner may not endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise, into an account owned or controlled by the practitioner or any firm or other entity with whom the practitioner is associated) issued to a client by the government in respect of a Federal tax liability.

(b) *Effective/applicability date.* This section is applicable beginning June 12, 2014.

**Cindy Question #1 – Concern over an asset sale and need for a 8594**

I have a new S-Corp client with an existing auto repair business that purchased the assets of a used car sales business on April 1, 2018 for \$150,000.

The bill of sale identifies the following assets as being included, although the only asset with a \$ value assigned was the used car inventory:

- Used car inventory - \$56,000
- Furniture, fixtures, computers, signage etc. – no FMV established
- Town used car dealer license – no FMV established
- Customer lists – no FMV established
- **No cash or receivables or liabilities changed hands.**

Last year – prior to the sale on November 1, 2017 - my client took over the \$56,000 in inventory with a N/P to the seller, which was to be paid off as part of the closing in 2018.

My client's 1120-S for 2017 recognized the \$56,000 as an inventory purchase, and the corresponding \$56,000 N/P to the seller as a liability.

I was unable to find a form 8594 in the sales documentation provided to me after the April 1, 2018 closing.

I recently emailed the seller's CPA to ask about the 8594. His reply:

*"I don't believe it has been done. I haven't filed the 2017 tax return for the business yet. I can prepare it and send you a copy.*

*I want to reflect the **sale** in 2017 even though it closed in 2018." (you mean the purchase, right?)*

To which I replied:

- *“My client’s tax corporate tax returns for 2017 reported only the inventory portion of the sale; he planned to report the remainder of assets purchased in 2018.*
- *If both buyer and seller need to sign the 8594, we might want to regroup later this summer to arrive at a mutually agreeable scenario for allocating the remainder of the assets. Please keep in touch.”*

To which he did not reply!

- Both seller and buyer are S Corps with calendar year fiscal years. Naturally I am concerned that the two business tax returns line up for 2017 and 2018 in case of an audit.
- I am not a CPA, and have never been involved in an asset sale, so I am hoping you might have a few words of advice for me!
- Thank you Eva!

Good questions and concerns.

OK, the price was \$150,000 and he received all the assets in 2017?  
Or just the inventory?

Observations.

- 1) This sale took place in 2017
- 2) The fact that money won't change hands until 2018 simply means it's an installment sale.
- 3) Why is the note only for \$56,000? How is the other \$94,000 being paid? (to add up to \$150,000) ***in 2018 – all of it paid...***
- 4) Are there significant values in the furniture and fixtures? Have your client make a list and assign some values that are reasonable for the used assets (or have the CPA do it).
- 5) The dealer license must have some value...if the client or CPA won't do it, you do some research.
- 6) WHY did your client feel this was worth \$150,000, instead of just \$56,000? That major difference will be your client lists and goodwill (similar type of Sec 197 intangible assets)

## **Cindy Question #2 – Paying Quarterly Estimates based on Safe Harbor vs. Actual Income Forecasted**

I have a Schedule C lawyer client that made \$1.5m in income 2017, and expects to make about \$2.1m in 2018 – a 40% increase.

His CPA recommends making payments based on the safe harbor estimates, which will of course result in a huge payment due on April 15.

These numbers are approximate – since they’ve got his 2017 return on extension – but let’s say he owed \$500,000 for 2017, which at a 40% increase would make \$700,000 due for 2018. He pays \$550,000 in total safe harbor estimates, leaving a tax bill of \$150,000 on April 15.

While we understand that this is totally legit, he is wondering if having such a large payment due on April 15 may “flag” his 2018 return to the attention of an IRS representative who then might decide it’s ripe for an audit.

He’s quite risk-averse, having gone through an audit about five years ago (and passing with no issues). Your thoughts?



You have good instincts, Cindy.

Either have the client make the higher estimated tax payments now.

Or have him set the money aside into a short-term certificate of deposit to earn what little interest he can, on \$150,000 until he needs it next April.

The Feds just raised the interest rate, so maybe he can get more than 1%.

Time for him (or you) to establish a relationship with his banker.

I have a couple of questions that I am very confused about.

1) The business entertainment deduction - The following question is from the Gleim book.

<GleimQuest.jpeg><GleimAnswer.jpeg>

I would have chosen A. In the text it says the expense must be “directly related” or “associated with” the active conduct of trade or business which means conducted during entertainment period or must occur before or after event. None of this applies (or I didn’t think it did). Can you elaborate possibly?

2) This one I don’t get at all. When does each situation occur and how do we know when not to apply the ST Cap Gain into the netting??

<Net Gains (losses).png>

3) On this one, I could have sworn you said the buyer can’t deduct the seller paid point unless they actually paid them??

<Seller\_Points\_Deductible.png>

- 2) This one I don't get at all. When does each situation occur and how do we know when not to apply the ST Cap Gain into the netting??

Study Unit 8: Adjustments to Asset Basis and Capital Gains and Losses | Subunit 3: Capital Gains and Losses

Question: 1 Mr. Nehru had the following capital transactions during the current year:

Short-term capital gain	\$1,000
Short-term capital loss	2,700
Long-term capital gain	6,500
Long-term capital loss	1,800

What is the amount of Mr. Nehru's capital gain net income (or loss) on his current year Schedule D?

A. \$3,000

Answer (A) is **correct**.  
 Schedule D is used to report capital gains and losses, and the summary combines the long-term gains (losses) with the short-term gains (losses). When these capital gains and losses all net to a gain, it is called "capital gain net income" [Sec. 1222(9)]. This has occurred in the question and is computed below.

Net long-term capital gain (\$6,500 – \$1,800)	\$4,700
Net short-term capital gain (\$1,000 – \$2,700)	(1,700)
Capital gain net income	<u>\$3,000</u>

Do not confuse the term "capital gain net income" with the term "net capital gain." A "net capital gain" is the excess of net long-term capital gains over net short-term capital losses. It does not include net short-term capital gains. The difference is important because the "net capital gain" term is used in applying the 0%/15%/20% maximum tax rates on capital gains. The 0%/15%/20% maximum tax rates for individuals do not apply to net short-term capital gains.

B. \$7,500  
 C. \$(3,000)  
 D. \$4,700



**SCHEDULE D  
(Form 1040)**

Department of the Treasury  
Internal Revenue Service (99)

**Capital Gains and Losses**

▶ Attach to Form 1040 or Form 1040NR.  
▶ Go to [www.irs.gov/ScheduleD](http://www.irs.gov/ScheduleD) for instructions and the latest information.  
▶ Use Form 8949 to list your transactions for lines 1b, 2, 3, 8b, 9, and 10.

OMB No. 1545-0074

**2017**  
Attachment  
Sequence No. **12**

Name(s) shown on return

Your social security number

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

See instructions for how to figure the amounts to enter on the lines below.  
This form may be easier to complete if you round off cents to whole dollars.

	(d) Proceeds (sales price)	(e) Cost (or other basis)	(g) Adjustments to gain or loss from Form(s) 8949, Part I, line 2, column (g)	(h) Gain or (loss) Subtract column (e) from column (d) and combine the result with column (g)
<b>1a</b> Totals for all short-term transactions reported on Form 1099-B for which basis was reported to the IRS and for which you have no adjustments (see instructions). However, if you choose to report all these transactions on Form 8949, leave this line blank and go to line 1b . . . . .				
<b>1b</b> Totals for all transactions reported on Form(s) 8949 with <b>Box A</b> checked . . . . .				
<b>2</b> Totals for all transactions reported on Form(s) 8949 with <b>Box B</b> checked . . . . .				
<b>3</b> Totals for all transactions reported on Form(s) 8949 with <b>Box C</b> checked . . . . .				
<b>4</b> Short-term gain from Form 6252 and short-term gain or (loss) from Forms 4684, 6781, and 8824 . . . . .				<b>4</b>
<b>5</b> Net short-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1 . . . . .				<b>5</b>
<b>6</b> Short-term capital loss carryover. Enter the amount, if any, from line 8 of your <b>Capital Loss Carryover Worksheet</b> in the instructions . . . . .				<b>6</b> ( )
<b>7</b> <b>Net short-term capital gain or (loss).</b> Combine lines 1a through 6 in column (h). If you have any long-term capital gains or losses, go to Part II below. Otherwise, go to Part III on the back . . . . .				<b>7</b>

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

See instructions for how to figure the amounts to enter on the lines below.  
This form may be easier to complete if you round off cents to whole dollars.

	(d) Proceeds (sales price)	(e) Cost (or other basis)	(g) Adjustments to gain or loss from Form(s) 8949, Part II, line 2, column (g)	(h) Gain or (loss) Subtract column (e) from column (d) and combine the result with column (g)
<b>8a</b> Totals for all long-term transactions reported on Form 1099-B for which basis was reported to the IRS and for which you have no adjustments (see instructions). However, if you choose to report all these transactions on Form 8949, leave this line blank and go to line 8b . . . . .				
<b>8b</b> Totals for all transactions reported on Form(s) 8949 with <b>Box D</b> checked . . . . .				
<b>9</b> Totals for all transactions reported on Form(s) 8949 with <b>Box E</b> checked . . . . .				
<b>10</b> Totals for all transactions reported on Form(s) 8949 with <b>Box F</b> checked . . . . .				
<b>11</b> Gain from Form 4797, Part I; long-term gain from Forms 2439 and 6252; and long-term gain or (loss) from Forms 4684, 6781, and 8824 . . . . .				<b>11</b>
<b>12</b> Net long-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1 . . . . .				<b>12</b>
<b>13</b> Capital gain distributions. See the instructions . . . . .				<b>13</b>
<b>14</b> Long-term capital loss carryover. Enter the amount, if any, from line 13 of your <b>Capital Loss Carryover Worksheet</b> in the instructions . . . . .				<b>14</b> ( )
<b>15</b> <b>Net long-term capital gain or (loss).</b> Combine lines 8a through 14 in column (h). Then go to Part III on the back . . . . .				<b>15</b>

For Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 11338H

Schedule D (Form 1040) 2017

6/14/20

**Part III Summary**

<p><b>16</b> Combine lines 7 and 15 and enter the result . . . . .</p> <ul style="list-style-type: none"> <li>• If line 16 is a <b>gain</b>, enter the amount from line 16 on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 17 below.</li> <li>• If line 16 is a <b>loss</b>, skip lines 17 through 20 below. Then go to line 21. Also be sure to complete line 22.</li> <li>• If line 16 is <b>zero</b>, skip lines 17 through 21 below and enter -0- on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 22.</li> </ul> <p><b>17</b> Are lines 15 and 16 <b>both</b> gains?  <input type="checkbox"/> <b>Yes.</b> Go to line 18.  <input type="checkbox"/> <b>No.</b> Skip lines 18 through 21, and go to line 22.</p> <p><b>18</b> If you are required to complete the <b>28% Rate Gain Worksheet</b> (see instructions), enter the amount, if any, from line 7 of that worksheet . . . . . ▶</p> <p><b>19</b> If you are required to complete the <b>Unrecaptured Section 1250 Gain Worksheet</b> (see instructions), enter the amount, if any, from line 18 of that worksheet . . . . . ▶</p> <p><b>20</b> Are lines 18 and 19 <b>both</b> zero or blank?  <input type="checkbox"/> <b>Yes.</b> Complete the <b>Qualified Dividends and Capital Gain Tax Worksheet</b> in the instructions for Form 1040, line 44 (or in the instructions for Form 1040NR, line 42). <b>Don't</b> complete lines 21 and 22 below.   <input type="checkbox"/> <b>No.</b> Complete the <b>Schedule D Tax Worksheet</b> in the instructions. <b>Don't</b> complete lines 21 and 22 below.</p> <p><b>21</b> If line 16 is a loss, enter here and on Form 1040, line 13, or Form 1040NR, line 14, the <b>smaller</b> of:  <ul style="list-style-type: none"> <li>• The loss on line 16 or</li> <li>• (\$3,000), or if married filing separately, (\$1,500) } . . . . .</li> </ul> </p>	<p><b>16</b></p> <hr/> <p><b>18</b></p> <hr/> <p><b>19</b></p> <hr/> <p><b>21</b></p>
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