



Agricultural Law Press

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New Draft Form 1040 and Supporting Schedules Released

by Robert P. Achenbach, Jr.*

On the following pages are copies (adjusted to fit the *Digest* pages) of the proposed Form 1040 for 2018 and the new six supporting schedules. Essentially, the new forms are the old Form 1040 split into a total of seven forms. The main Form 1040 is used to report the summary of the computations and information included on the other six forms, if applicable to the taxpayer.

Although the new Form 1040 is touted by the IRS as “filing on a postcard,” only taxpayers who would normally file with a Form 1040EZ or Form 1040A are likely to be able to fill out and file the main Form 1040. No one should fill out the 2018 Form 1040 without at least understanding what the other six schedules involve.

In addition, taxpayers and practitioners who file using the e-file system will likely see a difference only in the printed forms, since the filing software will automatically report the items on the supporting schedules as needed.

However, taxpayers who still file the paper forms will need to examine all of the supporting schedules and their instructions to determine whether or not each schedule will need to be filled out and included with the main Form 1040. Although the six supporting schedules contain most of the same items as the 2017 Form 1040, one possible issue from separating the items is that taxpayers may forget to check each form for possible additional taxes, credits or deductions. Indeed, some taxpayers may rely on the “filing on a postcard” mantra and fail to even examine the supporting schedules. In announcing the new forms, the IRS noted that there are over 150 million filers and that four out of five filers use the e-file system. That leaves potentially 30 million paper filers with generally more than twice as many forms to fill out. Perhaps the new forms are an attempt to encourage all paper filers to change to e-filing.

Schedule 1 (1040) includes most of the “Income” and “Adjusted Gross Income” sections of the 2017 Form 1040, with the total from Schedule 1 reported on page 2 of 2018 Form 1040 line 6.

Schedule 2 (1040) includes the calculation of tax if the taxpayer has other taxes to include other than the income tax. Note that a taxpayer must refer back to Form 1040, lines 6-10 to obtain the taxable income amount because the Schedule 1 income is added to other income amounts not included on Schedule 1 but reported only on Form 1040.

* Publisher and editor of the Agricultural Law Press.

The next issue of the *Digest* will be published on
August 10, 2018.

Schedule 3 (1040) includes the reporting and totaling of nonrefundable tax credits to be reported on Form 1040 line 12. Note that, if the nonrefundable credit is for the child tax credit or credit for dependants, Schedule 3 is not needed and those two credits are reported on Form 1040 line 12.

Schedule 4 (1040) includes reporting of other taxes, with the total reported on 2018 Form 1040 line 14.

Schedule 5 (1040) includes reporting and totaling of estimated taxes and some refundable tax credits, reported on 2018 Form 1040 line 17d. Lines 17a, 17b, and 17c are separate credits carried from schedules 8812 and 8863 and the earned income credit.

Schedule 6 (1040) includes the information for a taxpayer's foreign address and third party designee. Taxpayers will have to

remember that such information is reportable and is reported on Schedule 6.

The obvious issue here, in times of diminishing IRS funding, is that it does not seem efficient to remove two forms, 1040EZ and 1040A, and add six schedules. The expanding use of e-filing will eventually make the paper forms obsolete, but in the meantime, the author wonders whether self-filing taxpayers, especially those without internet access, good computers or computer skills will appreciate these format changes while the tax code remains as complex as ever. At the very least I would suggest that Schedules 1 through 6 be consolidated on one two page form, but I acknowledge that format would not differ much from the current system of forms.

Form 1040 Department of the Treasury—Internal Revenue Service **2018** U.S. Individual Income Tax Return

OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

Married filing separate return Qualifying widow(er) Head of household

Your first name and initial Last name Your social security number

Standard deduction: Someone can claim you as a dependent You were born before January 2, 1954 You are blind

Spouse or qualifying person's first name and initial (see inst.) Last name Spouse's social security number

Standard deduction: Someone can claim your spouse as a dependent Your spouse was born before January 2, 1954

Your spouse is blind Your spouse is on a separate return or you are a dual-status alien

Home address (number and street) Apt. no. Full-year health care coverage (see instructions)

City, town or post office, state, and ZIP code. If you have a foreign address, attach Schedule 6.

Dependents (see instructions) (1) First name (2) Social security number (3) Relationship to you (4) Child or other dependent Credit for other dependents

Sign Here Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and accurately report my income, deductions, credits, and other information. I am not aware of anything that would require my preparer to prepare this return, and I am not acting as preparer for anyone else.

Joint return? See instructions. Keep a copy for your records. Your signature Date Your occupation Spouse's signature Spouse's occupation

Paid Preparers Print/Type preparer's name Preparer's signature PTIN Firm's name Firm's EIN

Check it: 3rd Party Designee Self-employed

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 11320B Form 1040 (2018)

Form 1040 (2018) Page 2

1	Wages, salaries, tips, etc. Attach Form W-2	1	
2a	Tax-exempt interest	2b	Taxable interest
3a	Qualified dividends	3b	Ordinary dividends
4a	IRAs, pensions, and annuities	4b	Taxable amount
5a	Social security benefits	5b	Taxable amount
6	Additional income and adjustments to income. Attach Schedule 1	6	
7	Adjusted gross income. Combine lines 1 through 6	7	
8	Enter the standard deduction; otherwise, attach Schedule A	8	
9	Qualified business income deduction (see instructions)	9	
10	Taxable income. Subtract lines 8 and 9 from line 7. If zero or less, enter -0-	10	
11	Tax (see instructions). Attach Schedule 2 if required	11	
12	If your only nonrefundable credit is the child tax credit and/or credit for other dependents, enter the total here; otherwise, attach Schedule 3	12	
13	Subtract line 12 from line 11	13	
14	Other taxes. Attach Schedule 4	14	
15	Total tax. Add lines 13 and 14	15	
16	Federal income tax withheld from Forms W-2 and 1099	16	
17	Refundable credits: a EIC (see inst.) b Sch 8812 c Form 8863 d Other payments or refundable credits from Schedule 5	17	
18	Add lines 10 and 17 a through d. These are your total payments	18	
19	If line 18 is more than line 15, subtract line 15 from line 18. This is the amount you overpaid	19	
20a	Amount of line 19 you want refunded to you. If Form 8879 is attached, check here	20a	
20b	Routing number	20b	Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings
20c	Account number	20c	
21	Amount of line 19 you want applied to your 2019 estimated tax	21	
22	Amount you owe. Subtract line 18 from line 15. For details on how to pay, see instructions	22	
23	Estimated tax penalty (see instructions)	23	

Form 1040 (2018)

SCHEDULE 1
(Form 1040)

Department of the Treasury
Internal Revenue Service

Additional Income and Adjustments to Income

▶ Attach to Form 1040.
▶ Go to www.irs.gov/Form1040 for instructions and the latest information.

OMB No. 1545-0047
2018
Attachment Sequence No. 01

Your social security number

▶ Please check on Form 1040

Additional Income	1-0a Reserved				1-0a		
	10 Taxable refunds, credits, or offsets of state and local income taxes				10		
	11 Alimony received				11		
	12 Business income or (loss). Attach Schedule C or C-EZ				12		
	13 Capital gain or (loss). Attach Schedule D if required. If not required, check here <input type="checkbox"/>				13		
	14 Other gains or (losses). Attach Form 4787				14		
	15a Reserved				15a		
	15b Reserved				15b		
	17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E				17		
	18 Farm income or (loss). Attach Schedule F				18		
	19 Unemployment compensation				19		
	20a Reserved				20a		
	20b Reserved				20b		
	21 Other income. List type and amount ▶				21		
	22 Combine the amounts in the far right column. If you don't have any adjustments to income, enter here and on Form 1040, line 6. Otherwise, go to line 23				22		
Adjustments to Income	23 Educator expenses	23					
	24 Certain business expenses of reservists, performing artists, and fee-based government officials. Attach Form 2106	24					
	25 Health savings account deduction. Attach Form 8889	25					
	26 Moving expenses for members of the armed forces. Attach Form 3903	26					
	27 Deductible part of self-employment tax. Attach Schedule SE	27					
	28 Self-employed SEP, SIMPLE, and qualified plans	28					
	29 Self-employed health insurance deduction	29					
	30 Penalty on early withdrawal of savings	30					
	31a Alimony paid to Recipient's SSN ▶	31a					
	31b IRA deduction	31b					
	32 Student loan interest deduction	32					
	34 Reserved	34					
	35 Reserved	35					
	36 Add lines 23 through 35	36					
	37 Subtract line 36 from line 22. Enter here and on Form 1040, line 8	37					

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 71470F Schedule 1 (Form 1040) 2018

SCHEDULE 2
(Form 1040)

Department of the Treasury
Internal Revenue Service

TAX

▶ Attach to Form 1040.
▶ Go to www.irs.gov/Form1040 for instructions and the latest information.

OMB No. 1545-0047
2018
Attachment Sequence No. 02

Your social security number

▶ Please check on Form 1040

Tax	38-43	Reserved					
	44 Tax (see instructions)				44		
	a Tax on child's unearned income. Attach Form(s) 9814				44a		
	b Tax on lump-sum distributions. Attach Form 4972				44b		
	c Other taxes. List type and amount				44c		
	45 Alternative minimum tax. Attach Form 9851				45		
	46 Excess advance payments tax credit. Attach Form 8882				46		
	47 Add lines 38 through 46. This is your tax. Enter here and on Form 1040, line 11				47		

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 71470G Schedule 2 (Form 1040) 2018

SCHEDULE 3
(Form 1040)

Department of the Treasury
Internal Revenue Service

Nonrefundable Credits

▶ Attach to Form 1040.
▶ Go to www.irs.gov/Form1040 for instructions and the latest information.

OMB No. 1545-0047
2018
Attachment Sequence No. 03

Your social security number

▶ Please check on Form 1040

Nonrefundable Credits	48	Foreign tax credit. Attach Form 1116 if required				48	
	49	Credit for child and dependent care expenses. Attach Form 2441				49	
	50	Education credits from Form 9883, line 19				50	
	51	Retirement savings contributions credit. Attach Form 8880				51	
	52	Child tax credit and credit for other dependents				52	
	53	Residential energy credit. Attach Form 5696				53	
	54a	General business credit. Attach Form 9800				54a	
	b	Credit for prior year minimum tax. Attach Form 9801				54b	
	c	Other credits (see instructions)				54c	
	55	Add lines 48 through 54. These are your total nonrefundable credits. Enter here and on Form 1040, line 12				55	

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 71480E Schedule 3 (Form 1040) 2018

SCHEDULE 4
(Form 1040)

Department of the Treasury
Internal Revenue Service

Other Taxes

▶ Attach to Form 1040.
▶ Go to www.irs.gov/Form1040 for instructions and the latest information.

OMB No. 1545-0047
2018
Attachment Sequence No. 04

Your social security number

▶ Please check on Form 1040

Other Taxes	57	Self-employment tax. Attach Schedule SE				57	
	58a	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137				58a	
	b	Uncollected social security and Medicare tax on wages. Attach Form 8810				58b	
	59	Additional tax on IRAs, other qualified retirement plans, and other tax-favored accounts. Attach Form 5329 if required				59	
	60a	Household employment taxes. Attach Schedule H				60a	
	b	Repayment of first-time homebuyer credit from Form 5406. Attach Form 5406 if required				60b	
	61	Health care: individual responsibility (see instructions)				61	
	62a	Additional Medicare tax from Form 9868				62a	
	b	Net investment income tax from Form 9860				62b	
	c	Instructions; enter code(s) ▶				62c	
	63	Section 966 net tax liability installment from Form 986-A				63	
	64	Add lines 57 through 63. These are your total other taxes. Enter here and on Form 1040, line 14				64	

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 71480F Schedule 4 (Form 1040) 2018

SCHEDULE 6 (Form 1040)		Other Payments and Refundable Credits		OMB No. 1545-0047	
Department of the Treasury Internal Revenue Service		▶ Attach to Form 1040. ▶ Go to www.irs.gov/Form1040 for instructions and the latest information.		2018 Additional Supplement No. 06	
Respectfully discuss on Form 1040				Your social security number	
Other Payments and Refundable Credits	66	Reserved	66		
	67a	2018 estimated tax payments and amount applied from 2017 return	67a		
	67b	Reserved	67b		
	68-69	Reserved	68-69		
	70	Net premium tax credit. Attach Form 8862	70		
	71	Amount paid with request for extension to file (see instructions)	71		
	72	Excess social security and tier 1 tax withheld	72		
	73	Credit for federal tax on fuels. Attach Form 4196	73		
	74a	Amounts from Form 2439	74a		
	74b	Health coverage tax credit. Attach Form 8866	74b		
	74c	Reserved	74c		
	74d	Other amounts (see instructions)	74d		
	75	Add lines 66, 68, 67a, and 68 through 74. These are your total other payments and refundable credits. Enter here and on Form 1040, line 17d.		75	

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 71482C Schedule 6 (Form 1040) 2018

SCHEDULE 6 (Form 1040)		Foreign Address and Third Party Designee		OMB No. 1545-0047	
Department of the Treasury Internal Revenue Service		▶ Attach to Form 1040. ▶ Go to www.irs.gov/Form1040 for instructions and the latest information.		2018 Additional Supplement No. 06A	
Respectfully discuss on Form 1040				Your social security number	
Foreign Address	Foreign country name	Foreign province/state	Foreign postal code		
Third Party Designee	Do you want to allow another person to discuss this return with the IRS (see instructions)? <input type="checkbox"/> Yes. Complete below. <input type="checkbox"/> No			Personal identification number (PIN) ▶	
	Designee's name ▶	Phone no. ▶			

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 71482C Schedule 6 (Form 1040) 2018

CASES, REGULATIONS AND STATUTES

BANKRUPTCY

FEDERAL TAX

AVOIDABLE TRANSFERS. The debtor was a trucking company which owed over \$700,000 in employment taxes for 2013 and 2014. The debtor filed for Chapter 7 in April 2016. In January 2016, the IRS levied against the debtor's bank account but received only \$1,400. The IRS also levied at that time against the balance of accounts receivable owed by the US Postal Service (USPS) and received over \$700,000. The bankruptcy trustee sought to avoid these transfers as preferential transfers under Sections 547 and 550. The IRS argued that the levy against the USPS account receivables was a valid set off excluded from the Section 547 rules. Section 547(c)(9) provides that: "(c) The trustee may not avoid under this section a transfer—... (9) if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of all property that constitutes or is affected by such transfer is less than \$6,425." Thus, the court held that the seizure of the bank funds was not avoidable because the amount received did not exceed the Section 547(c)(9) limit. Under Section 553, with some exceptions, a creditor may "offset a mutual debt owing by such creditor to the debtor that arose before the commencement of the case . . ." Thus, the issue was whether the USPS account and taxes were mutual debts. Based on case precedents, the court held that the USPS and IRS were both federal agencies and that the federal government constituted a single "unitary creditor" for

purposes of the setoff provision in Section 553. Thus, the court held that the amount owed by the USPS to the debtor and the taxes owed by the debtor to the IRS were mutual debts of the same creditor which could be offset pre-petition and were not subject to the preferential transfer provisions of Section 547 and 550. *In re AEH Trucking Co., LLC v. United States*, 2018-2 U.S. Tax Cas. (CCH) ¶ 50,308 (Bankr. M.D. Penn. 2018).

GENERAL

JURISDICTION. The debtors were farmers who purchased 880 acres which included a quarter section (160 acres) on which a residence was located. The debtors sold the quarter to a third party who allowed the debtors to use the residential quarter rent-free. The debtors borrowed from a bank and granted a mortgage against the debtors' real property, erroneously including a portion of the quarter owned by the third party. The debtors ran into further financial trouble and sought extension of the loans. The third party transferred the residential quarter back to the debtors in an attempt to help them obtain the extensions but the bank refused to extend the loans. The debtors then transferred the residential quarter back to the third party but not before the bank obtained a security interest in the entire residential quarter. The debtors filed for Chapter 12 and in that case, the third party attempted to invalidate the bank lien on the residential quarter for fraud under state law. The Bankruptcy Court ruled that the bank held a valid and enforceable lien on the residential quarter. The case was converted to Chapter 7 and the debtor and Chapter 7 trustee appealed the ruling. The appellate court