
New draft IRS Form 8960, Net Investment Income Tax, answers some questions, but leaves others unanswered

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In brief

The IRS recently released a draft of [Form 8960, Net Investment Income Tax](#). The form answers some questions about the 3.8% tax on net investment income received by individuals, trusts, and estates, but leaves others unanswered. As a result, taxpayers will need to continue to rely on Section 1411, and the proposed regulations issued in late 2012, for important details about how to file their 2013 federal estimated tax payments.

In detail

With the release of draft Form 8960, we now know that the Section 1411 tax will be called the ‘net investment income tax,’ rather than the ‘Medicare contribution tax.’ We also know that this new tax will not require a separate tax filing. Instead, the tax will be calculated separately on Form 8960, and then added to the other taxes on Form 1040, *U.S. Individual Income Tax Return*, or Form 1041, *U.S. Income Tax Return for Estates and Trusts*, as applicable.

The one-page form begins with basic line items from Form 1040 or Form 1041. Each category of investment income is represented. Some amounts, like those attributable to flow-

through entities, are reflected on a gross basis, but are adjusted elsewhere on the form. These adjustments are made to account for amounts that are not subject to the tax. The form also outlines allowable investment expenses that may be deducted in arriving at net investment income. The investment expenses are similar to those mentioned in the proposed regulations. Of note for estates and trusts is the apparent lack of a deduction or adjustment for fiduciary and other similar fees. At the bottom of the form, the net investment income is totaled, the tax is calculated, and the resulting amount is transferred to the applicable tax return.

The takeaway

The new 3.8% net investment income tax under Section 1411 is a complex, stand-alone tax. While the recently issued proposed regulations provided much needed guidance on how to apply this tax, some questions were left unanswered. The same is true of draft Form 8960, which refers extensively to the related instructions that have not yet been released. Those instructions are expected to be released later this year. In the meantime, taxpayers will need to continue to rely on current guidance for important details about how to file their 2013 federal estimated tax payments.

Additional resources

For prior articles on the net investment income tax, please see: [Understanding the Net Investment Income Tax, also known as the Medicare Contribution Tax](#) and [New Medicare tax creates trustee dilemma](#).

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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