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Tax Highlights for Persons with Disabilities

For use in preparing

2009 Returns



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Introduction

This publication gives you a brief introduction to certain parts of the tax law of particular interest to people with disabilities and those who care for people with disabilities. It includes highlights about:

- Income,
- Itemized deductions,
- Tax credits,
- Household employees, and
- Business tax incentives.

You will find most of the information you need to complete your tax return in your form instruction booklet. If you need additional information, you may want to order a free tax publication. You may also want to take advantage of the other free tax help services that IRS provides.

See *How To Get Tax Help*, at the end of this publication, for information about getting publications, forms, and free tax services.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can write to us at the following address:

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Individual Forms and Publications Branch
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We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at *taxforms@irs.gov. (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

Ordering forms and publications. Visit www.irs.gov/formspubs to download forms and publications, call 1-800-829-3676, or write to the address below and receive a response within 10 days after your request is received.

Internal Revenue Service
1201 N. Mitsubishi Motorway
Bloomington, IL 61705-6613

Tax questions. If you have a tax question, check the information available on www.irs.gov or call 1-800-829-1040. We cannot answer tax questions sent to either of the above addresses.

What's New

Earned income credit

Definition of qualifying child changed. For 2009, the following changes have been made to the definition of a qualifying child.

- To be your qualifying child, a child must be younger than you unless permanently and totally disabled.
- A child cannot be your qualifying child if he or she files a joint return with their spouse, unless the return was filed only as a claim for refund.
- If a person other than the child's parent is claiming the qualifying child for the earned income credit their adjusted gross income (AGI) must be higher than the highest AGI of each of the child's parents.

Earned income amount is more. The maximum amount of income you can earn and still get the credit has increased. You may be able to take the credit if:

- You do not have a qualifying child and you earned less than \$13,440 (\$18,440 if married filing jointly).
- You have one qualifying child and you earned less than \$35,463 (\$40,463 if married filing jointly), or
- You have two qualifying children and you earned less than \$40,295 (\$45,295 if married filing jointly),
- You have three or more qualifying children and you earned less than \$43,279 (\$48,279 if married filing jointly),

Your AGI also must be less than the amount in the above list that applies to you.

Income

All income is taxable unless it is specifically excluded by law. The following discussions highlight some income items (both taxable and nontaxable) that are of particular interest to people with disabilities and those who care for people with disabilities.

Dependent Care Benefits

Dependent care benefits include:

1. Amounts your employer paid directly to either you or your care provider for the care of your qualifying person while you work,
2. The fair market value of care in a daycare facility provided or sponsored by your employer, and
3. Pre-tax contributions you made under a dependent care flexible spending arrangement.

Exclusion or deduction. If your employer provides dependent care benefits under a qualified plan, you may be able to exclude these benefits from your income. Your employer can tell you whether your benefit plan qualifies. To claim the exclusion, you must complete Part III of Form 2441. You cannot use Form 1040EZ.

If you are self-employed and receive benefits from a qualified dependent care benefit plan, you are treated as both employer and employee. Therefore, you would not get an exclusion from wages. Instead, you would get a deduction. To claim the deduction, you must use Form 2441.

The amount you can exclude or deduct is limited to the smallest of:

1. The total amount of dependent care benefits you received during the year,
2. The total amount of qualified expenses you incurred during the year,
3. Your earned income,
4. Your spouse's earned income, or
5. \$5,000 (\$2,500 if married filing separately).

Statement for employee. Your employer must give you a Form W-2 (or similar statement), showing in box 10 the total amount of dependent care benefits provided to you during the year under a qualified plan. Your employer will also include any dependent care benefits over \$5,000 in your wages shown on your Form W-2 in box 1.

Qualifying person(s). A qualifying person is:

- A qualifying child who is under age 13 whom you can claim as a dependent. If the child turned 13 during the year, the child is a qualifying person for the part of the year he or she was under age 13.
- Your disabled spouse who is not physically or mentally able to care for himself or herself.
- Any disabled person who is not physically or mentally able to care for himself or herself whom you can claim as a dependent (or could claim as a dependent except that the person had gross income of \$3,650 or more or filed a joint return).
- Any disabled person who is not physically or mentally able to care for himself or herself whom you could claim as a dependent except that you (or your spouse if filing jointly) could be claimed as a dependent on another taxpayer's 2009 return.

For information about excluding benefits on Form 1040 or Form 1040A, see Form 2441, Child and Dependent Care Expenses, and its instructions.

Social Security and Railroad Retirement Benefits

If you received social security or equivalent tier 1 railroad retirement benefits during the year, part of the amount you received may be taxable.

Are any of your benefits taxable? If the only income you received during the year was your social security or equivalent tier 1 railroad retirement benefits, your benefits generally are not taxable and you probably do not have to file a return.

If you received income during the year in addition to social security or equivalent tier 1 railroad retirement benefits, part of your benefits may be taxable if all of your other income, including tax-exempt interest, plus half of your benefits are more than:

- \$25,000 if you are single, head of household, or qualifying widow(er),
- \$25,000 if you are married filing separately and lived apart from your spouse for all of the year,
- \$32,000 if you are married filing jointly, or
- \$-0- if you are married filing separately and lived with your spouse at any time during the year.

For more information, see the instructions for Form 1040, lines 20a and 20b, or Form 1040A, lines 14a and 14b. Publication 915, Social Security and Equivalent Railroad Retirement Benefits, contains more detailed information.

Supplemental security income (SSI) payments. Social security benefits do not include SSI payments, which are not taxable. Do not include these payments in your income.

Disability Pensions

If you retired on disability, you must include in income any disability pension you receive under a plan that is paid for by your employer. You must report your taxable disability payments as wages on line 7 of Form 1040 or Form 1040A until you reach minimum retirement age. Minimum retirement age generally is the age at which you can first receive a pension or annuity if you are not disabled.



You may be entitled to a tax credit if you were permanently and totally disabled when you retired. For information on this credit, see Publication 524, Credit for the Elderly or the Disabled.

Beginning on the day after you reach minimum retirement age, payments you receive are taxable as a pension or annuity. Report the payments on lines 16a and 16b of Form 1040 or on lines 12a and 12b of Form 1040A. For more information on pensions and annuities, see Publication 575, Pension and Annuity Income.

Retirement and profit-sharing plans. If you receive payments from a retirement or profit-sharing plan that does not provide for disability retirement, do not treat the payments as a disability pension. The payments must be reported as a pension or annuity.

Accrued leave payment. If you retire on disability, any lump-sum payment you receive for accrued annual leave is a salary payment. The payment is not a disability payment. Include it in your income in the tax year you receive it.

See Publication 525, Taxable and Nontaxable Income, for more information.

Military and Government Disability Pensions

Generally, you must report disability pensions as income, but do not include certain military and government disability pensions. For information about military and government disability pensions, see Publication 525.

VA disability benefits. Do not include disability benefits you receive from the Department of Veterans Affairs (VA) in your gross income. If you are a military retiree and do not receive your disability benefits from the VA, see Publication 525 for more information.

Do not include in your income any veterans' benefits paid under any law, regulation, or administrative practice administered by the VA. These include:

- Education, training, and subsistence allowances,
- Disability compensation and pension payments for disabilities paid either to veterans or their families,
- Grants for homes designed for wheelchair living,
- Grants for motor vehicles for veterans who lost their sight or the use of their limbs,
- Veterans' insurance proceeds and dividends paid either to veterans or their beneficiaries, including the proceeds of a veteran's endowment policy paid before death,
- Interest on insurance dividends left on deposit with the VA,
- Benefits under a dependent-care assistance program, or
- The death gratuity paid to a survivor of a member of the Armed Forces who died after September 10, 2001.

Rehabilitative program payments. VA payments to hospital patients and resident veterans for their services under the VA's therapeutic or rehabilitative programs are not included in income.

Other Payments

You may receive other payments that are related to your disability. The following payments are not taxable.

- Benefit payments from a public welfare fund, such as payments due to blindness.
- Workers' compensation for an occupational sickness or injury if paid under a workers' compensation act or similar law.
- Compensatory (but not punitive) damages for physical injury or physical sickness.
- Disability benefits under a "no-fault" car insurance policy for loss of income or earning capacity as a result of injuries.
- Compensation for permanent loss or loss of use of a part or function of your body, or for your permanent disfigurement.

Long-Term Care Insurance

Long-term care insurance contracts generally are treated as accident and health insurance contracts. Amounts you receive from them (other than policyholder dividends or premium refunds) generally are excludable from income as amounts received for personal injury or sickness. More detailed information can be found in Publication 525.

Accelerated Death Benefits

You can exclude from income accelerated death benefits you receive on the life of an insured individual if certain requirements are met. Accelerated death benefits are amounts received under a life insurance contract before the death of the insured. These benefits also include amounts received on the sale or assignment of the contract to a viatical settlement provider. This exclusion applies only if the insured was a terminally ill individual or a chronically ill individual. For more information, see Publication 525.

Itemized Deductions

If you file Form 1040, you generally can either claim the standard deduction or itemize your deductions. You must use Schedule A (Form 1040) to itemize your deductions. See your form instructions for information on the standard deduction and the deductions you can itemize. The following discussions highlight some itemized deductions that are of particular interest to persons with disabilities.

Medical Expenses

When figuring your deduction for medical expenses, you can generally include medical and dental expenses you pay for yourself, your spouse, and your dependents.

Medical expenses are the cost of diagnosis, cure, mitigation, treatment, or prevention of disease and the costs for treatments affecting any part or function of the body. They include the costs of equipment, supplies, diagnostic devices, and transportation for needed medical care and payments for medical insurance.

You can deduct only the amount of your medical and dental expenses that is more than 7.5% of your adjusted gross income shown on Form 1040, line 38.

The following list highlights some of the medical expenses you can include in figuring your medical expense deduction. For more detailed information, see Publication 502, Medical and Dental Expenses.

- Artificial limbs, contact lenses, eyeglasses, and hearing aids.
- The part of the cost of Braille books and magazines that is more than the price of regular printed editions.
- Cost and repair of special telephone equipment for hearing-impaired persons.
- Cost and maintenance of a wheelchair or a three-wheel motor vehicle commercially known as an "autoette."
- Cost and care of a guide dog or other animal aiding a person with a physical disability.
- Costs for a school that furnishes special education if a principal reason for using the school is its resources for relieving a mental or physical disability. This includes the cost of teaching Braille and lip reading and the cost of remedial language training to correct a condition caused by a birth defect.
- Premiums for qualified long-term care insurance, up to certain amounts.
- Improvements to a home that do not increase its value if the main purpose is medical care. An example is constructing entrance or exit ramps.



Improvements that increase a home's value, if the main purpose is medical care, may be partly included as a medical expense. See Publication 502 for more information.

Impairment-Related Work Expenses

If you are disabled, you can take a business deduction for expenses that are necessary for you to be able to work. If you take a business deduction for these impairment-related work expenses, they are not subject to the 7.5% limit that applies to medical expenses.

You are disabled if you have:

- A physical or mental disability (for example, blindness or deafness) that functionally limits your being employed, or

- A physical or mental impairment (including, but not limited to, a sight or hearing impairment) that substantially limits one or more of your major life activities, such as performing manual tasks, walking, speaking, breathing, learning, or working.

Impairment-related expenses defined. Impairment-related expenses are those ordinary and necessary business expenses that are:

- Necessary for you to do your work satisfactorily,
- For goods and services not required or used, other than incidentally, in your personal activities, and
- Not specifically covered under other income tax laws.

Publication 502 contains more detailed information.

Tax Credits

This discussion highlights three tax credits that may be of interest to people with disabilities and those who care for people with disabilities.

Child and Dependent Care Credit

If you pay someone to care for either your dependent under age 13 or your spouse or dependent who is not able to care for himself or herself, you may be able to get a credit of up to 35% of your expenses. To qualify, you must pay these expenses so you can work or look for work. The care must be provided for:

1. Your qualifying child who is your dependent and who was under age 13 when the care was provided,
2. Your spouse who was physically or mentally not able to care for himself or herself and lived with you for more than half the year, or
3. A person who was physically or mentally not able to care for himself or herself, lived with you for more than half the year, and either:
 - a. Was your dependent, or
 - b. Would have been your dependent except that:
 - i. He or she received gross income of \$3,650 or more,
 - ii. He or she filed a joint return, or
 - iii. You, or your spouse if filing jointly, could be claimed as a dependent on someone else's 2009 return.

You can claim the credit on Form 1040 or 1040A. You figure the credit on Form 2441.

For more information, see the instructions for Form 1040, line 48, or Form 1040A, line 29. Publication 503, Child and Dependent Care Expenses, contains more detailed information.

Credit for the Elderly or the Disabled

You may be able to claim this credit if you are 65 or older or if you are under 65 and you retired on permanent and total disability.

You can claim the credit on Form 1040 or 1040A. You figure the credit on Schedule R.

For more information, see the instructions for Form 1040, line 53, or Form 1040A, line 30. Publication 524, Credit for the Elderly or the Disabled, contains more detailed information.

Earned Income Credit

This credit is based on the amount of your earned income. You can get the credit if your adjusted gross income for 2009 is less than:

- \$13,440 (\$18,440 for married filing jointly) if you do not have a qualifying child,
- \$35,463 (\$40,463 for married filing jointly) if you have one qualifying child,
- \$40,295 (\$45,295 for married filing jointly) if you have two qualifying children, or
- \$43,279 (\$48,279 for married filing jointly) if you have three or more qualifying children.

To figure the credit, use the worksheet in the instructions for Form 1040, 1040A, or 1040EZ. If you have a qualifying child, also complete Schedule EIC, Earned Income Credit, and attach it to your Form 1040 or 1040A. You cannot use Form 1040EZ if you have a qualifying child.

Qualifying child. To be a qualifying child, your child must be younger than you (or your spouse if married filing jointly) and under age 19 or a full-time student under age 24 at the end of 2009, or permanently and totally disabled at any time during 2009, regardless of age.

Earned income. If you are retired on disability, benefits you receive under your employer's disability retirement plan are considered earned income until you reach minimum retirement age. However, payments you received from a disability insurance policy that you paid the premiums for are not earned income.

More information. For more information, including all the requirements to claim the earned income credit, see the instructions for Form 1040, line 64a; Form 1040A, line 41a; or Form 1040EZ, line 9a. Publication 596, Earned Income Credit (EIC), contains more detailed information.

Household Employers

If you pay someone to work in your home, such as a babysitter or housekeeper, you may be a household employer who has to pay employment taxes.

A person you hire through an agency is not your employee if the agency controls what work is done and how it is done. This control could include setting the fee, requiring regular reports, and providing rules of conduct and appearance. In this case you do not have to pay employment taxes on the amount you pay. But if you control what work is done and how it is done, the worker is your employee. If you possess the right to discharge a worker, that worker is generally considered to be your employee. If a worker is your employee, it does not matter that you hired the worker through an agency or from a list provided by an agency.

To find out if you have to pay employment taxes, see Publication 926, Household Employer's Tax Guide.

Business Tax Incentives

If you own or operate a business, or you are looking for work, you should be aware of the following tax incentives for businesses to help persons with disabilities.

- **Deduction for costs of removing barriers to the disabled and the elderly**— This is a deduction a business can take for making a facility or public transportation vehicle more accessible to and usable by persons who are disabled or elderly. For more information, see chapter 7 of Publication 535, Business Expenses.
- **Disabled access credit**— This is a nonrefundable tax credit for an eligible small business that pays or incurs expenses to provide access to persons with disabilities. The expenses must be to enable the eligible small business to comply with the Americans with Disabilities Act of 1990. See Form 8826, Disabled Access Credit, for more information.
- **Work opportunity credit**— This credit provides businesses with an incentive to hire individuals from targeted groups that have a particularly high unemployment rate or other special employment needs. One targeted group consists of vocational rehabilitation referrals. These are individuals who have a physical or mental disability that results in a substantial handicap to employment. See Form 5884, Work Opportunity Credit, and Publication 954, Tax Incentives for Distressed Communities, for more information.

How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

Contacting your Taxpayer Advocate. The Taxpayer Advocate Service (TAS) is an independent organization within the IRS whose employees assist taxpayers who are experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal channels, or who believe that an IRS system or procedure is not working as it should. Here are seven things every taxpayer should know about TAS:

- TAS is your voice at the IRS.
- Our service is free, confidential, and tailored to meet your needs.
- You may be eligible for TAS help if you have tried to resolve your tax problem through normal IRS channels and have gotten nowhere, or you believe an IRS procedure just isn't working as it should.
- TAS helps taxpayers whose problems are causing financial difficulty or significant cost, including the cost of professional representation. This includes businesses as well as individuals.
- TAS employees know the IRS and how to navigate it. We will listen to your problem, help you understand what needs to be done to resolve it, and stay with you every step of the way until your problem is resolved.
- TAS has at least one local taxpayer advocate in every state, the District of Columbia, and Puerto Rico. You can call your local advocate, whose number is in your phone book, in Pub. 1546, Taxpayer Advocate Service—Your Voice at the IRS, and on our website at www.irs.gov/advocate. You can also call our toll-free line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.
- You can learn about your rights and responsibilities as a taxpayer by visiting our online tax toolkit at www.taxtoolkit.irs.gov.

Low Income Taxpayer Clinics (LITCs). The Low Income Taxpayer Clinic program serves individuals who have a problem with the IRS and whose income is below a certain level. LITCs are independent from the IRS. Most LITCs can provide representation before the IRS or in court on audits, tax collection disputes, and other issues for free or a small fee. If an individual's native language is not English, some clinics can provide multilingual information about taxpayer rights and responsibilities. For more information, see Publication 4134, Low Income Taxpayer Clinic List. This publication is available at www.irs.gov, by calling 1-800-TAX-FORM (1-800-829-3676), or at your local IRS office.

Free tax services. To find out what services are available, get Publication 910, IRS Guide to Free Tax Services. It contains lists of free tax information sources, including publications, services, and free tax education and assistance programs. It also has an index of over 100 TeleTax topics (recorded tax information) you can listen to on your telephone.

Accessible versions of IRS published products are available on request in a variety of alternative formats for people with disabilities.

Free help with your return. Free help in preparing your return is available nationwide from IRS-trained volunteers. The Volunteer Income Tax Assistance (VITA) program is designed to help low-income taxpayers and the Tax Counseling for the Elderly (TCE) program is designed to assist taxpayers age 60 and older with their tax returns. Many VITA sites offer free electronic filing and all volunteers will let you know about credits and deductions you may be entitled to claim. To find the nearest VITA or TCE site, call 1-800-829-1040.

As part of the TCE program, AARP offers the Tax-Aide counseling program. To find the nearest AARP Tax-Aide site, call 1-888-227-7669 or visit AARP's website at www.aarp.org/money/taxaide.

For more information on these programs, go to www.irs.gov and enter keyword "VITA" in the upper right-hand corner.



Internet. You can access the IRS website at www.irs.gov 24 hours a day, 7 days a week to:

- *E-file* your return. Find out about commercial tax preparation and *e-file* services available free to eligible taxpayers.
- Check the status of your 2009 refund. Go to www.irs.gov and click on *Where's My Refund*. Wait at least 72 hours after the IRS acknowledges receipt of your e-filed return, or 3 to 4 weeks after mailing a paper return. If you filed Form 8379 with your return, wait 14 weeks (11 weeks if you filed electronically). Have your 2009 tax return available so you can provide your social security number, your filing status, and the exact whole dollar amount of your refund.
- Download forms, instructions, and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- Use the online Internal Revenue Code, Regulations, or other official guidance.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Figure your withholding allowances using the withholding calculator online at www.irs.gov/individuals.
- Determine if Form 6251 must be filed by using our Alternative Minimum Tax (AMT) Assistant.
- Sign up to receive local and national tax news by email.

- Get information on starting and operating a small business.



Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call 1-800-TAX FORM (1-800-829-3676) to order current-year forms, instructions, and publications, and prior-year forms and instructions. You should receive your order within 10 days.
- *Asking tax questions.* Call the IRS with your tax questions at 1-800-829-1040.
- *Solving problems.* You can get face-to-face help solving tax problems every business day in IRS Taxpayer Assistance Centers. An employee can explain IRS letters, request adjustments to your account, or help you set up a payment plan. Call your local Taxpayer Assistance Center for an appointment. To find the number, go to www.irs.gov/localcontacts or look in the phone book under *United States Government, Internal Revenue Service*.
- *TTY/TDD equipment.* If you have access to TTY/TDD equipment, call 1-800-829-4059 to ask tax questions or to order forms and publications.
- *TeleTax topics.* Call 1-800-829-4477 to listen to pre-recorded messages covering various tax topics.
- *Refund information.* To check the status of your 2009 refund, call 1-800-829-1954 during business hours or 1-800-829-4477 (automated refund information 24 hours a day, 7 days a week). Wait at least 72 hours after the IRS acknowledges receipt of your e-filed return, or 3 to 4 weeks after mailing a paper return. If you filed Form 8379 with your return, wait 14 weeks (11 weeks if you filed electronically). Have your 2009 tax return available so you can provide your social security number, your filing status, and the exact whole dollar amount of your refund. Refunds are sent out weekly on Fridays. If you check the status of your refund and are not given the date it will be issued, please wait until the next week before checking back.
- *Other refund information.* To check the status of a prior year refund or amended return refund, call 1-800-829-1954.

Evaluating the quality of our telephone services.

To ensure IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to listen in on or record random telephone calls. Another is to ask some callers to complete a short survey at the end of the call.



Walk-in. Many products and services are available on a walk-in basis.

- **Products.** You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, grocery stores, copy centers, city and county government offices, credit unions, and office supply stores have a collection of products available to print from a CD or photocopy from reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.
- **Services.** You can walk in to your local Taxpayer Assistance Center every business day for personal, face-to-face tax help. An employee can explain IRS letters, request adjustments to your tax account, or help you set up a payment plan. If you need to resolve a tax problem, have questions about how the tax law applies to your individual tax return, or you are more comfortable talking with someone in person, visit your local Taxpayer Assistance Center where you can spread out your records and talk with an IRS representative face-to-face. No appointment is necessary—just walk in. If you prefer, you can call your local Center and leave a message requesting an appointment to resolve a tax account issue. A representative will call you back within 2 business days to schedule an in-person appointment at your convenience. If you have an ongoing, complex tax account problem or a special need, such as a disability, an appointment can be requested. All other issues will be handled without an appointment. To find the number of your local office, go to www.irs.gov/localcontacts or look in the phone book under *United States Government, Internal Revenue Service*.



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DVD for tax products. You can order Publication 1796, IRS Tax Products DVD, and obtain:

- Current-year forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Tax Map: an electronic research tool and finding aid.
- Tax law frequently asked questions.

- Tax Topics from the IRS telephone response system.
- Internal Revenue Code—Title 26 of the U.S. Code.
- Fill-in, print, and save features for most tax forms.
- Internal Revenue Bulletins.
- Toll-free and email technical support.
- Two releases during the year.
 - The first release will ship the beginning of January 2010.
 - The final release will ship the beginning of March 2010.

Purchase the DVD from National Technical Information Service (NTIS) at www.irs.gov/cdorders for \$30 (no handling fee) or call 1-877-233-6767 toll free to buy the DVD for \$30 (plus a \$6 handling fee).