Caution: *DRAFT—NOT FOR FILING*

This is an early release draft of an IRS tax form, instructions, or publication, which the IRS is providing for your information as a courtesy. **Do not file draft forms.** Also, do not rely on draft instructions and publications for filing. We generally do not release drafts of forms until we believe we have incorporated all changes. However, unexpected issues sometimes arise, or legislation is passed, necessitating a change to a draft form. In addition, forms generally are subject to OMB approval before they can be officially released. Drafts of instructions and publications usually have at least some changes before being officially released.

Early releases of draft forms and instructions are at IRS.gov/draftforms. Please note that drafts may remain on IRS.gov even after the final release is posted at IRS.gov/downloadforms, and thus may not be removed until there is a new draft for the subsequent revision. All information about all revisions of all forms, instructions, and publications is at IRS.gov/formspubs.

Almost every form and publication also has its own easily accessible information page on IRS.gov. For example, the Form 1040 page is at IRS.gov/form1040; the Form W-2 page is at IRS.gov/w2; the Publication 17 page is at IRS.gov/pub17; the Form W-4 page is at IRS.gov/w4; the Form 8863 page is at IRS.gov/form8863; and the Schedule A (Form 1040) page is at IRS.gov/schedulea. If typing in the links above instead of clicking on them: type the link into the address bar of your browser, not in a Search box; the text after the slash must be lowercase; and your browser may require the link to begin with “www.”. Note that these are shortcut links that will automatically go to the actual link for the page.

If you wish, you can submit comments about draft or final forms, instructions, or publications on the Comment on Tax Forms and Publications page on IRS.gov. We cannot respond to all comments due to the high volume we receive, but we will carefully consider each one. Please note that we may not be able to consider many suggestions until the subsequent revision of the product.

Form **8958**
(November 2014)
Department of the Treasury
Internal Revenue Service (99)

Allocation of Tax Amounts Between Certain Individuals in Community Property States

▶ **Attach to Form 1040.**

▶ **Information about Form 8958 and its instructions is at *www.irs.gov/form8958*.**

OMB No. 1545-0074

Attachment Sequence No. **63**

Your first name and initial	Your last name	**Your social security number**
Spouse's or partner's first name and initial	Spouse's or partner's last name	**Spouse's or partner's social security number**

DRAFT AS OF July 31, 2014 DO NOT FILE

	A Total Amount	B Allocated to Spouse or RDP SSN ____-___-____	C Allocated to Spouse or RDP SSN ____-___-____
1 Wages (each employer)			
2 Interest Income (each payer)			
3 Dividends (each payer)			
4 State Income Tax Refund			
5 Self-Employment Income (See instructions)			
6 Capital Gains and Losses			
7 Pension Income			
8 Rents, Royalties, Partnerships, Estates, Trusts			

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

Cat. No. 37779G

Form **8958** (11-2014)

	A Total Amount	B Allocated to Spouse or RDP SSN _____- ___ - _____	C Allocated to Spouse or RDP SSN _____- ___ - _____
9 Deductible part of Self-Employment Tax (See instructions)			
10 Self-Employment Tax (See instructions)			
11 Taxes Withheld			
12 Other items such as: Social Security Benefits, Unemployment Compensation, Deductions, Credits, etc.			

DRAFT AS OF July 31, 2014 DO NOT FILE

DRAFT AS OF JULY 31, 2014 DO NOT FILE

General Instructions

Future developments. For the latest information about developments related to Form 8958 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/form8958*.

Purpose of Form

Use Form 8958 to determine the allocation of tax amounts between married filing separate spouses or registered domestic partners (RDPs) with community property rights. If you need more room, attach a statement listing the source of the item and the total plus the allocated amounts. Be sure to put your name and social security number (SSN) on the statements and attach them at the end of your return.

Community property laws affect how you figure your income on your federal income tax return if you are married, live in a community property state or country, and file separate returns.

This form is used for married spouses in community property states who choose to file married filing separately. This form is also for RDPs who are domiciled in Nevada, Washington, or California. For 2010 and following years, a RDP in Nevada, Washington, or California generally must follow state community property laws and report half the combined community income of the individual and his or her RDP.

CAUTION *RDPs are not married for federal tax purposes. They can only use the single filing status, or if they qualify, the head of household filing status.*

Community or Separate Income

In a community property state, if you file a federal tax return separately from your spouse, you must report half of all community income and all of your separate income. Likewise, a RDP must report half of all community income and all of his or her separate income on his or her federal tax return. Generally, the laws of the state in which you are domiciled govern whether you have community income or separate income for federal tax purposes.

Generally, community income is income from:

- Community property.
- Salaries, wages, or pay for services of you, your spouse or RDP, or both during your marriage or registered domestic partnership.
- Real estate that is treated as community property under the laws of the state where the property is located.

Generally, income from separate property is the separate income of the spouse or RDP who owns the property.

For more information, see Pub. 555, Community Property.

Identifying Income and Deductions

You and your spouse or RDP must be able to identify your community and separate income, deductions, credits, and other return amounts according to the laws of your state.

Income

The following is a discussion of the general effect of community property laws on the federal income tax treatment of certain items of income.

Wages and self-employment income from sole proprietorship. A spouse's or RDP's wages and self-employment income from a sole proprietorship are community income and must be evenly split.

TIP *For RDPs, the self-employment income from a sole proprietorship is also split for self-employment tax purposes. See* Self-employment tax*, later.*

Interest, dividends, and rents. Interest, dividends, and rents from community property are community income and must be evenly split.

Gains and losses. Gains and losses are classified as community or separate depending on how the property is held.

Withdrawals from individual retirement arrangements (IRAs). There are several kinds of individual retirement arrangements (IRAs). Distributions of IRAs by law are deemed to be separate property, even if the funds in the account would otherwise be community property. These distributions are wholly taxable to the spouse or RDP whose name is on the account. That spouse or RDP is also liable for any penalties and additional taxes on the distributions.

Pensions. Generally, distributions from pensions will be characterized as community or separate income depending on the respective periods of participation in the pension while married (or during the registered domestic partnership) and domiciled in a community property state or in a noncommunity property state during the total period of participation in the pension. These rules may vary between states.

Partnership income. If an interest is held in a partnership, and income from the partnership is attributable to the efforts of either spouse or RDP, the partnership income is community property.

TIP *For RDPs, the self-employment income from a partnership is also split for self-employment tax purposes. See* Self-employment tax*, later.*

Tax-exempt income. For spouses, community income exempt from federal tax generally keeps its exempt status for both spouses. For example, under certain circumstances, income earned outside the United States is tax exempt. If you earned income and met the conditions that made it exempt, the income is also exempt for your spouse even though he or she may not have met the conditions. RDPs should consult the particular exclusion provision to see if the exempt status applies to both.

Income from separate property. In some states, income from separate property is separate income. Other states characterize income from separate property as community income.

For more information, see Pub. 555. For specific information that pertains to your situation, check with the laws of your state.

Deductions

If you file separate returns, your deductions generally depend on whether the expenses involve community or separate income.

Business and investment expenses. If you file separate returns, expenses incurred to earn or produce community business or investment income are generally divided equally between you and your spouse or RDP. Each of you is entitled to deduct one-half of the expenses on your separate returns. Separate business or investment income are deductible by the spouse or RDP who earns the income.

Other limits may also apply to business and investment expenses. For more information, see Pub. 535, Business Expenses, Pub. 550, Investment Income and Expenses, and Pub. 555.

IRA deduction. Deductions for IRA contributions cannot be split between spouses or RDPs. The deduction for each spouse or RDP is figured separately and without regard to community property laws.

Personal expenses. Expenses that are paid out of separate funds, such as medical expenses, are deductible by the spouse or RDP who pays for them. If these expenses are paid from community funds, divide the deduction equally between you and your spouse or RDP.

Deductible portion of self-employment tax. The deductible portion of the self-employment tax is split only when the self-employment tax is split by the spouses or RDPs. See *Self-employment tax*, later.

Credits, Taxes, and Payments

Self-employment tax. Although the self-employment tax rules contain a provision that overrides community income treatment in the case of spouses (IRC 1402(a)(5)), this provision does not apply to RDPs. RDPs split self-employment income from sole proprietorships and partnerships for self-employment tax purposes.

The following rules apply only to persons married for federal tax purposes.

Sole proprietorship. With regard to net income from a trade or business (other than a partnership) that is community income, self-employment tax is imposed on the spouse carrying on the trade or business.

Partnerships. All of the distributive share of a married partner's income or loss from a partnership trade or business is attributable to the partner for computing any self-employment tax, even if a portion of the partner's distributive share of income or loss is community income or

loss that is attributable to the partner's spouse for income tax purposes. If both spouses are partners, any self-employment tax is allocated based on their distributive shares.

Federal income tax withheld. If you and your spouse file separate returns on which each of you reports half the community wages, each of you is entitled to credit for half the income tax withheld on those wages. Likewise, each RDP is entitled to credit for half the income tax withheld on those wages.

To determine estimated tax payments, earned income credit, and overpayments, see Pub. 555 for more information. For specific information that pertains to your situation, check with the laws of your state.

DRAFT AS OF July 31, 2014 DO NOT FILE

Specific Instructions

How To Complete Form 8958

To complete Form 8958, identify your community or separate income, deductions, credits and other return amounts on the separate lines under the item name on lines 1 through 12.

Enter the total amount of your community or separate income, deductions, credits, and other return amounts on their respective lines in Column A. Enter each spouse's or RDP's allocation of these amounts in Column B and C. Together, Columns B and C should equal Column A.

CAUTION *In a community property state, if you file a federal tax return separately from your spouse, you must report half of all community income and all of your separate income. Likewise, a RDP must report half of all community income and all of his or her separate income on his or her federal return. The laws of the state in which you are domiciled govern whether you have community income or separate income for federal tax purposes.*

Line 1

Identify the wages from each payer on separate lines. Enter the total from each payer in Column A. Allocate the total from Column A between each spouse or RDP in Columns B and C.

Line 2

Identify the interest from each payer on separate lines. Enter the total from each payer in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

Line 3

Identify the dividends from each payer on separate lines. Enter the total from each payer in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

Line 4

Identify the state income tax refund from each payer on separate lines. Enter the total from each payer in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

Line 5

Identify the self-employment income from each entity on separate lines. Enter the total from each entity in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

Line 6

Enter the gain or loss from each entity. Enter the total from each entity in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

Line 7

Enter the pension income from each payer on separate lines. Enter the total from each payer in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

Line 8

Identify the rent, royalty, partnership, estate, or trust item(s) on separate lines. Enter the total(s) from each item(s) in Column A and allocate the total(s) from Column A between each spouse or RDP in Columns B and C.

Line 9

Identify the deductible part of self-employment tax from each entity on separate lines. Enter the total from each entity in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

Line 10

Identify the self-employment tax from each entity on separate lines. Enter the total from each entity in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

Line 11

Identify the taxes withheld from each payer or entity on separate lines. Enter the total from each payer or entity in Column A and allocate the total from Column A between each spouse or RDP in Columns B and C.

Line 12

Identify any item not previously reported, such as social security benefits, unemployment compensation, deductions, credits, etc., on separate lines. Enter the total from each item in Column A; then allocate the total from each item from Column A between each spouse or RDP in Columns B and C.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.