F(orm) or S(chedule) Number	Line or Box Number	In Scope? Y or N	Scope Limitations	Certification Levels
F 8949		Yes	Sales and other Dispositions of Capital Assets **In scope for:** • Sale of stocks, mutual fund shares and personal residences • Bond sales reported on a brokerage statement with capital gain or loss only (no ordinary income/loss) • Capital gains and losses reported on K-1 • Capital loss carryovers • Inherited property of types listed above in this section and, if inherited in 2010, taxpayer provides the basis • Wash sales if reported on brokerage or mutual fund statement **Not in scope for:** • Adjustment codes C, D, N, Q, R, S, X, Y and Z • Reduced exclusion on sale of home • Residence inherited or received as gift and not used as personal residence. If used as personal residence, taxpayer must provide basis. • Taxpayers who have sold any assets other than stock, mutual funds, or a personal residence • Taxpayers who trade in options, futures, or other commodities, whether or not they disposed of any during the year • Determination of basis issues: ◦ Basis of any asset acquired other than by purchase or inheritance, such as a gift or employee stock option, unless the taxpayer provides the basis and holding period ◦ Basis of inherited property determined by a method other than the FMV of the property on the date of the decedent's death, unless the taxpayer provides the basis and holding period • Like-kind exchanges and worthless securities • Form 1099-B, boxes with entries for any of the following: Bartering; Profit or (loss) realized on closed contracts; Unrealized profit (loss) on open contracts – prior year; Unrealized profit or (loss) on open contracts – current year; or Aggregate profit (loss) on contracts; Proceeds from collectibles; or FATCA filing requirement • Reduced exclusion computations/determinations for the sale of a home • Married homeowners who do not meet all requirements to claim the maximum exclusion on the sale of a home • Decreases to basis, including: Deductible casualty losses and gains a taxpayer postponed from the sale of a previous home before May 7, 1997 • Depreciation during the time the home was used for business purposes or as rental property • Taxpayers with "nonqualified use" issues • Sale of a home used for business purposes or as rental property	Advanced certification required
F 8958		Yes	Allocation of Tax Amounts Between Certain Individuals in Community Property States **In scope for:** • Taxpayers who are not certain they are in a common law marriage (rules are complex and differ from state to state) • Applicable returns as limited by Site or Program Coordinator • Depending on your tax assistance program, community property tax laws for married taxpayers who file a separate return from their spouse	
F 8959		No	Additional Medicare Tax	
F 8960		No	Net Investment Income Tax – Individuals, Estates and Trusts	

earned, even if part of it is treated as belonging to your spouse under your state's community property laws. The same rule applies to registered domestic partners.

CAUTION *This rule doesn't apply when determining your adjusted gross income (AGI) for the EIC. Your AGI includes that part of both your and your spouse's (or your registered domestic partner's) wages that you are required to include in the gross income shown on your tax return.*

For more information about the EIC, see Pub. 596, Earned Income Credit.

Overpayments. The amount of an overpayment on a joint return is allocated under the community property laws of the state in which you are domiciled.

- If, under the laws of your state, community property is subject to premarital or other separate debts of either spouse, the full joint overpayment may be used to offset the obligation.
- If, under the laws of your state, community property isn't subject to premarital or other separate debts of either spouse, only the portion of the joint overpayment allocated to the spouse liable for the obligation can be used to offset that liability. The portion allocated to the other spouse can be refunded.

Community Property Laws Disregarded

The following discussions are situations where special rules apply to community property and community income for spouses. These rules don't apply to registered domestic partners.

Certain community income not treated as community income by one spouse. Community property laws may not apply to an item of community income that you received but didn't treat as community income. You are responsible for reporting all of that income item if:

1. You treat the item as if only you are entitled to the income, and
2. You don't notify your spouse of the nature and amount of the income by the due date for filing the return (including extensions).

Relief from liability for tax attributable to an item of community income. You aren't responsible for the tax relating to an omitted item of community income if **all** the following conditions are met.

1. You didn't file a joint return for the tax year.
2. You didn't include the item of community income in gross income.
3. The item of community income you didn't include in your gross income is one of the following.
   a. Wages, salaries, and other compensation your spouse (or former spouse) received for services he or she performed as an employee.
   b. Income your spouse (or former spouse) derived from a trade or business he or she operated as a sole proprietor.
   c. Your spouse's (or former spouse's) distributive share of partnership income.
   d. Income from your spouse's (or former spouse's) separate property (other than income described in (a), (b), or (c)). Use the appropriate community property law to determine what is separate property.
   e. Any other income that belongs to your spouse (or former spouse) under community property law.
4. You establish that you didn't know of, and had no reason to know of, that community income.
5. Under all facts and circumstances, it wouldn't be fair to include the item of community income in your gross income.

Requesting relief. For information on how and when to request relief from liabilities arising from community property laws, see *Community Property Laws* in Pub. 971, Innocent Spouse Relief.

Equitable relief. If you don't qualify for the relief discussed earlier under *Relief from liability for tax attributable to an item of community income* and are now liable for an underpaid or understated tax you believe should be paid only by your spouse (or former spouse), you may request equitable relief. To request equitable relief, you must file Form 8857, Request for Innocent Spouse Relief. Also see Pub. 971.

Spousal agreements. In some states, a married couple may enter into an agreement that affects the status of property or income as community or separate property. Check your state law to determine how it affects you.

Nonresident alien spouse. If you are a U.S. citizen or resident alien and you choose to treat your nonresident alien spouse as a U.S. resident for tax purposes and you are domiciled in a community property state or country, use the community property rules. You must file a joint return for the year you make the choice. You can file separate returns in later years. For details on making this choice, see Pub. 519, U.S. Tax Guide for Aliens.

If you are a U.S. citizen or resident alien and don't choose to treat your nonresident alien spouse as a U.S. resident for tax purposes, treat your community income as explained next under *Spouses living apart all year.* However, you don't have to meet the four conditions discussed there.

Spouses living apart all year. If you are married at any time during the calendar year, special rules apply for reporting certain community income. You must meet all the following conditions for these special rules to apply.

1. You and your spouse lived apart all year.
2. You and your spouse didn't file a joint return for a tax year beginning or ending in the calendar year.
3. You and/or your spouse had earned income for the calendar year that is community income.
4. You and your spouse haven't transferred, directly or indirectly, any of the earned income in condition (3) above between yourselves before the end of the year. Don't take into account transfers satisfying child support obligations or transfers of very small amounts or value.

If all these conditions are met, you and your spouse must report your community income as discussed next. See also *Certain community income not treated as community income by one spouse*, earlier.

Earned income. Treat earned income that isn't trade or business or partnership income as the income of the spouse who performed the services to earn the income. Earned income is wages, salaries, professional fees, and other pay for personal services.

Earned income doesn't include amounts paid by a corporation that are a distribution of earnings and profits rather than a reasonable allowance for personal services rendered.

Trade or business income. Treat income and related deductions from a trade or business that isn't a partnership as those of the spouse carrying on the trade or business.

Partnership income or loss. Treat income or loss from a trade or business carried on by a partnership as the income or loss of the spouse who is the partner.

Separate property income. Treat income from the separate property of one spouse as the income of that spouse.

Social security benefits. Treat social security and equivalent railroad retirement benefits as the income of the spouse who receives the benefits.

Other income. Treat all other community income, such as dividends, interest, rents, royalties, or gains, as provided under your state's community property law.

Example. George and Sharon were married throughout the year but didn't live together at any time during the year. Both domiciles were in a community property state. They didn't file a joint return or transfer any of their earned income between themselves. During the year, their incomes were as follows:

	George	Sharon
Wages	$20,000	$22,000
Consulting business	5,000	
Partnership		10,000
Dividends from separate property	1,000	2,000
Interest from community property	500	500
Total	$26,500	$34,500

Under the community property law of their state, all the income is considered community income. (Some states treat income from separate property as separate income—check your state law.) Sharon didn't take part in George's consulting business.

Ordinarily, on their separate returns they would each report $30,500, half the total community income of $61,000 ($26,500 + $34,500). But because they meet the four conditions listed earlier under *Spouses living apart all year*, they must disregard community property law in reporting all their income (except the interest income) from community property. They each report on their returns only their own earnings and other income, and their share of the interest income from community property. George reports $26,500 and Sharon reports $34,500.

Other separated spouses. If you and your spouse are separated but don't meet the four conditions discussed earlier under *Spouses living apart all year*, you must treat your income according to the laws of your state. In some states, income earned after separation but before a decree of divorce continues to be community income. In other states, it is separate income.

End of the Community

The marital community may end in several ways. When the marital community ends, the community assets (money and property) are divided between the spouses. Similarly, a registered domestic partnership may end in several ways and the community assets must be divided between the registered domestic partners.

Death of spouse. If you own community property and your spouse dies, the total fair market value (FMV) of the community property, including the part that belongs to you, generally becomes the basis of the entire property. For this rule to apply, at least half the value of the community property interest must be includible in your spouse's gross estate, whether or not the estate must file a return (this rule doesn't apply to registered domestic partners).

Example. Bob and Ann owned community property that had a basis of $80,000. When Bob died, his and Ann's community property had an FMV of $100,000. One-half of the FMV of their community interest was includible in Bob's estate. The basis of Ann's half of the property is $50,000 after Bob died (half of the $100,000 FMV). The basis of the other half to Bob's heirs is also $50,000.