

Taxable and Nontaxable Income

General rule: All income is taxable unless specifically excluded from tax by law.

	Taxable ¹	Not Taxable
Bartering	<ul style="list-style-type: none"> Fair market value of property or services received in barter. Generally reported on Schedule C unless income from the property or service given by the taxpayer would ordinarily be reported on another schedule. 	<ul style="list-style-type: none"> Reduced or free rent for the caretaker of an apartment building, provided use is for the convenience of the employer and required as a condition of employment. (IRC §119)
Canceled Debt	<p>Amount of debt no longer owed if the taxpayer was personally liable for payment of the debt.</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p style="text-align: center;">Pending Legislation Alert See Page 17-1 and Updates at Quickfinder.com for possible new mortgage-related exception for 2007.</p> </div> <p>Note: Income from the cancellation of debt related to a business or rental is reported as business or rental income.</p>	<ul style="list-style-type: none"> Canceled debt (including interest) that would have been deducted if paid. Student loan canceled after performance of work. (IRC §108(f)) Debt canceled in a Title 11 bankruptcy case or because the taxpayer was insolvent (but only to extent of insolvency). (IRC §108) Debt that was qualified farm indebtedness or qualified real property business indebtedness. (IRC §108(c) and (g)) Debt cancellation intended as a gift.
Employer Payments	<ul style="list-style-type: none"> Wages, bonuses, commissions, overtime, sick time, vacation pay, accumulated sick leave, awards, prizes, back pay, retroactive pay increase and advance commissions. Settlements for back pay and other taxable compensation. Severance pay, even if the employee signs a release that includes tort claims. Expense reimbursement under a nonaccountable plan, for nondeductible expenses or in excess of the standard rates. Payments for nondeductible moving expenses. Payment of employee's share of Social Security and Medicare taxes. Holiday gifts of cash or gift certificates. Fringe benefits: <ul style="list-style-type: none"> Except those specifically excluded. In excess of qualified amounts. <p>Note: Taxable amounts are included in box 1 of Form W-2 and reported on line 7. Any amount transferred from an employer to an employee, or for the benefit of an employee, is included in the employee's gross income.</p>	<ul style="list-style-type: none"> Noncash gifts of nominal value, such as a holiday turkey. Expense reimbursement under an accountable plan. Reimbursed and employer-paid deductible moving expenses. Contributions to a qualified retirement plan at the time contributed. Certain employee length-of-service and safety achievement awards of tangible personal property, limited to \$1,600 (\$400 for nonqualified awards). Fringe benefits: <ul style="list-style-type: none"> Cost of up to \$50,000 of group term-life insurance coverage, including coverage paid to a retiree. Accident and health plans, most long-term care plans, and HSA and MSA contributions. Meals furnished on the employer's premises for its convenience. Lodging on the employer's premises required for performing duties. See Pub. 525 for special rules for faculty lodging. Qualified adoption assistance. Qualified transportation paid by employer of \$110 monthly for commuter vehicles and transit pass, and \$215 monthly for parking. Up to \$5,250 of qualified educational assistance. Qualified retirement planning services. Value of employer-provided athletic facility on premises. Qualified dependent care benefits. Employee discounts on property and services employer normally offers to customers.
Gambling Winnings, Prizes and Awards	<ul style="list-style-type: none"> Gambling winnings. Proceeds from wagers including events sponsored by charities and comps from casinos. Gambling losses are deductible on Schedule A, but only to the extent of gambling income. Travel expenses are not deductible for nonprofessional gamblers. Fair market value of prizes and awards won in contests. Scholarships given as contest prizes if the recipient is not required to use the prize for education. 	<ul style="list-style-type: none"> Prize or award if: <ul style="list-style-type: none"> Given for outstanding educational, literary or civic achievement, Selected without any action on the taxpayer's part, The taxpayer is not required to perform services and The taxpayer assigns the prize to a government unit or tax-exempt charitable organization.
Gifts and Inheritance	<p>Income in respect of a decedent—items that would have been included in gross income if received by the decedent prior to death (IRA distributions, accrued interest and dividends, tax-deferred annuities, Series EE bond interest, etc.).</p>	<ul style="list-style-type: none"> Property received from a decedent. The estate of the decedent may be liable for estate tax. Gifts, including cash, property, below-market sales, forgiven debts, part interests in property. The giver is subject to gift tax rules.
Insurance Claims and Lawsuits	<ul style="list-style-type: none"> An award or settlement generally is taxable if it replaces taxable income. Lost income. Most recoveries in contract, business and employment disputes. Interest on awards. Nonphysical injuries. Damages paid on account of personal injuries that are not physical injuries—discrimination, breach of promise, invasion of privacy, libel, slander, defamation, harassment. Insurance reimbursement of medical expenses deducted in an earlier year. Payment is taxable only to the extent of the tax benefit received. Punitive damages, even if awarded in a case of physical injury, other than punitive damages in certain wrongful death claims. 	<ul style="list-style-type: none"> Physical injury. Settlements and awards for actual damages paid on account of physical injury or sickness, including related emotional distress, loss of earnings and earning capacity. (IRC §104(a)) Property damage. Payment that does not exceed basis. Consumer claims. Refund of price paid for goods or services if the expense was not deducted. Emotional distress (courts look to the originating event). Damages in cases of nonphysical injury equal to the amount of medical expenses for treatment of emotional distress. Damages in cases of emotional distress due to a physical injury or sickness are treated as received for the physical injury or sickness. Insurance reimbursements of medical expenses not previously deducted. Punitive damages in a wrongful death action brought under a state law in effect on September 13, 1995, that classifies all damages in wrongful death actions as "punitive damages." Holocaust victims restitution.
Life Insurance Proceeds	<ul style="list-style-type: none"> Interest on proceeds held by the insurer after the insured's death. Proceeds from a policy transferred for valuable consideration prior to the death of the insured. Proceeds from the surrender of a life insurance policy in excess of the investment in the policy. Accelerated death benefits paid to a business or a business partner. (IRC §101(g)(5)) <p>Note: Accelerated death benefits are reported on Form 1099-LTC. File Form 8853.</p>	<ul style="list-style-type: none"> Proceeds paid because of the death of the insured. (IRC §101) Certain accelerated death benefits. Insurance proceeds paid by an insurer or state-licensed or otherwise qualified viatical settlement provider if the insured is terminally ill, regardless of use of the proceeds. Terminal illness requires a physician's certificate that the insured's illness can reasonably be expected to result in death within 24 months. Accelerated death benefits paid to a chronically ill individual if used for long-term care services for the insured. Per diem benefits over \$260 per day are taxable. Generally, chronic illness requires severe cognitive impairment or the inability to perform at least two daily living activities.

TAXPAYER EXHIBIT

B5

May 24, 2011

Michael Reznitsky

552490

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STATE BOARD OF EQUALIZATION



Appeal Name: MICHAEL REZNITSKY

Case ID: 552490 ITEM #: B5

Date: APRIL 26, 2011 Exhibit No: _____

TP FTB DEPT _____