

Form	1040	Department of the Treasury — Internal Revenue Service (99)	2012	OMB No. 1545-0074	IRS Use Only — Do not write or staple in this space.
For the year Jan 1 - Dec 31, 2012, or other tax year beginning , 2012, ending , 20			See separate instructions.		
Your first name and initial EX13F-CA, Fulltime Securities, MTM loss			Your social security number 999-99-9999		
If a joint return, spouse's first name and initial Last name			Spouse's social security number		
Home address (number and street). If you have a P.O. box, see instructions. Any Street			Apartment no. ▲ Make sure the SSN(s) above and on line 6c are correct.		
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). Beverly Hills, CA 90210			Presidential Election Campaign		
Foreign country name Foreign province/state/county Foreign postal code			Check here if you, or your spouse if filing jointly, want \$3 to go to this fund? Checking a box below will not change your tax or refund. <input type="checkbox"/> You <input type="checkbox"/> Spouse		
Filing Status					
1 <input checked="" type="checkbox"/> Single					
2 <input type="checkbox"/> Married filing jointly (even if only one had income)					
3 <input type="checkbox"/> Married filing separately. Enter spouse's SSN above & full name here. ▶					
4 <input type="checkbox"/> Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here. ▶					
5 <input type="checkbox"/> Qualifying widow(er) with dependent child					
Check only one box.					
Exemptions					
6a <input checked="" type="checkbox"/> Yourself. If someone can claim you as a dependent, do not check box 6a.					
b <input type="checkbox"/> Spouse					
c Dependents:					
(1) First name Last name (2) Dependent's social security number (3) Dependent's relationship to you (4) <input checked="" type="checkbox"/> if child under age 17 qualifying for child tax or (see instrs)					
If more than four dependents, see instructions and check here. ▶ <input type="checkbox"/>					
d Total number of exemptions claimed. 1					
Income					
7 Wages, salaries, tips, etc. Attach Form(s) W-2. 7 1,958.					
8a Taxable interest. Attach Schedule B if required. 8a 1,958.					
b Tax-exempt interest. Do not include on line 8a. 8b					
9a Ordinary dividends. Attach Schedule B if required. 9a 2,177.					
b Qualified dividends. St. 1 9b 2,177.					
10 Taxable refunds, credits, or offsets of state and local income taxes. 10					
11 Alimony received. 11					
12 Business income or (loss). Attach Schedule C or C-EZ. 12 -30,260.					
13 Capital gain or (loss). Att Sch D if reqd. If not reqd, ck here. ▶ <input type="checkbox"/> 13 23,746.					
14 Other gains or (losses). Attach Form 4797. 14 -213,504.					
15a IRA distributions. 15a b Taxable amount. 15b					
16a Pensions and annuities. 16a b Taxable amount. 16b					
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E. 17					
18 Farm income or (loss). Attach Schedule F. 18					
19 Unemployment compensation. 19					
20a Social security benefits. 20a b Taxable amount. 20b					
21 Other income. 21					
22 Combine the amounts in the far right column for lines 7 through 21. This is your total income. 22 -215,883.					
Adjusted Gross Income					
23 Educator expenses. 23					
24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ. 24					
25 Health savings account deduction. Attach Form 8889. 25					
26 Moving expenses. Attach Form 3903. 26					
27 Deductible part of self-employment tax. Attach Schedule SE. 27					
28 Self-employed SEP, SIMPLE, and qualified plans. 28					
29 Self-employed health insurance deduction. 29					
30 Penalty on early withdrawal of savings. 30					
31a Alimony paid b Recipient's SSN. ▶ 31a					
32 IRA deduction. 32					
33 Student loan interest deduction. 33					
34 Tuition and fees. Attach Form 8917. 34					
35 Domestic production activities deduction. Attach Form 8903. 35					
36 Add lines 23 through 35. 36 0.					
37 Subtract line 36 from line 22. This is your adjusted gross income. 37 -215,883.					
BAA For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions. FDIA0112L 01/11/13 Form 1040 (2012)					

Tax and Credits**Standard Deduction for —**

- People who check any box on line 39a or 39b or who can be claimed as a dependent, see instructions.
- All others:

Single or Married filing separately, \$5,950

Married filing jointly or Qualifying widow(er), \$11,900

Head of household, \$8,700

Other Taxes**Payments**

If you have a qualifying child, attach Schedule EIC.

Refund

Direct deposit? See instructions.

Amount You Owe**Third Party Designee****Sign Here**

Joint return? See instructions.

Keep a copy for your records.

Paid Preparer Use Only

38	Amount from line 37 (adjusted gross income)	38	-215,883.
39a	Check <input type="checkbox"/> You were born before January 2, 1948, <input type="checkbox"/> Blind. Total boxes checked. <input type="checkbox"/> 39a		
	if: <input type="checkbox"/> Spouse was born before January 2, 1948, <input type="checkbox"/> Blind. 39b		
b	If your spouse itemizes on a separate return or you were a dual-status alien, check here		
40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40	66,103.
41	Subtract line 40 from line 38	41	-281,986.
42	Exemptions. Multiply \$3,800 by the number on line 6d	42	3,800.
43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43	0.
44	Tax (see instrs). Check if any from: a <input type="checkbox"/> Form(s) 8814 c <input type="checkbox"/> 962 election b <input type="checkbox"/> Form 4972	44	0.
45	Alternative minimum tax (see instructions). Attach Form 6251	45	0.
46	Add lines 44 and 45	46	0.
47	Foreign tax credit. Attach Form 1116 if required	47	
48	Credit for child and dependent care expenses. Attach Form 2441	48	
49	Education credits from Form 8863, line 19	49	
50	Retirement savings contributions credit. Attach Form 8880	50	
51	Child tax credit. Attach Schedule 8812, if required	51	
52	Residential energy credits. Attach Form 5695	52	
53	Other crs from Form: a <input type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/>	53	
54	Add lines 47 through 53. These are your total credits	54	
55	Subtract line 54 from line 46. If line 54 is more than line 46, enter -0-	55	0.
56	Self-employment tax. Attach Schedule SE	56	
57	Unreported social security and Medicare tax from Form: a <input type="checkbox"/> 4137 b <input type="checkbox"/> 8919	57	
58	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	58	
59a	Household employment taxes from Schedule H	59a	
b	First-time homebuyer credit repayment. Attach Form 5405 if required	59b	
60	Other taxes. Enter code(s) from instructions	60	
61	Add lines 55-60. This is your total tax	61	0.
62	Federal income tax withheld from Forms W-2 and 1099	62	
63	2012 estimated tax payments and amount applied from 2011 return	63	
64a	Earned income credit (EIC)	64a	No
b	Nontaxable combat pay election	64b	
65	Additional child tax credit. Attach Schedule 8812	65	
66	American opportunity credit from Form 8863, line 8	66	
67	Reserved	67	
68	Amount paid with request for extension to file	68	
69	Excess social security and tier 1 RRTA tax withheld	69	
70	Credit for federal tax on fuels. Attach Form 4136	70	
71	Credits from Form: a <input type="checkbox"/> 2439 b <input type="checkbox"/> Reserved c <input type="checkbox"/> 8801 d <input type="checkbox"/> 8885	71	
72	Add lines 62, 63, 64a, & 65-71. These are your total pmts.	72	0.
73	If line 72 is more than line 61, subtract line 61 from line 72. This is the amount you overpaid	73	
74a	Amount of line 73 you want refunded to you . If Form 8888 is attached, check here	74a	
b	Routing number	c	Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings
d	Account number		
75	Amount of line 73 you want applied to your 2013 estimated tax	75	
76	Amount you owe. Subtract line 72 from line 61. For details on how to pay see instructions	76	0.
77	Estimated tax penalty (see instructions)	77	

Do you want to allow another person to discuss this return with the IRS (see instructions)? ☒ Yes. Complete below. ☐ NoDesignee's name **z Examples** Phone no. **(888) 558-5257** Personal identification number (PIN) **z Examples**

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation	Daytime phone number
		Trader	
Spouse's signature. If a joint return, both must sign.	Date	Spouse's occupation	If the IRS sent you an Identity Protection PIN, enter it here (see instrs)

Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
z Examples	z Examples			

Firm's name	Firm's EIN
Green NFH, LLC	45-4365561
Firm's address	Phone no.
PO Box 1198	(888) 558-5257
Robertsdale, AL 36567	

SCHEDULE A
(Form 1040)Department of the Treasury
Internal Revenue Service (99)**Itemized Deductions**► Information about Schedule A and its separate instructions is at www.irs.gov/form1040.
► **Attach to Form 1040.**

OMB No. 1545-0074

2012Attachment
Sequence No. **07**

Name(s) shown on Form 1040

Your social security number

EX13F-CA, Fulltime Securities, MTM loss

999-99-9999

Medical and Dental Expenses	Caution. Do not include expenses reimbursed or paid by others.			
1	Medical and dental expenses (see instructions)	1		
2	Enter amount from Form 1040, line 38. 2	2		
3	Multiply line 2 by 7.5% (.075)	3		
4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-	4		0.
Taxes You Paid	5 State and local (check only one box):			
	a <input type="checkbox"/> Income taxes, or	5	307.	
	b <input checked="" type="checkbox"/> General sales taxes	6		
6	Real estate taxes (see instructions)	7		
7	Personal property taxes	8		
8	Other taxes. List type and amount ►	9		307.
9	Add lines 5 through 8			
Interest You Paid	10 Home mtg interest and points reported to you on Form 1098.	10		
	11 Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see instructions and show that person's name, identifying number, and address ►	11		
Note. Your mortgage interest deduction may be limited (see instructions).	12 Points not reported to you on Form 1098. See instrs for spcl rules	12		
	13 Mortgage insurance premiums (see instructions)	13		
	14 Investment interest. Attach Form 4952 if required. (See instrs.)	14	796.	
	15 Add lines 10 through 14	15		796.
Gifts to Charity	16 Gifts by cash or check. If you made any gift of \$250 or more, see instrs.	16	976.	
If you made a gift and got a benefit for it, see instructions.	17 Other than by cash or check. If any gift of \$250 or more, see instructions. You must attach Form 8283 if over \$500	17	345.	
	18 Carryover from prior year	18	1,321.	
	19 Add lines 16 through 18	19	-2,642.	0.
Casualty and Theft Losses	20 Casualty or theft loss(es). Attach Form 4684. (See instructions.)	20		0.
Job Expenses and Certain Miscellaneous Deductions	21 Unreimbursed employee expenses — job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. (See instructions.) ►	21		
	22 Tax preparation fees	22		
	23 Other expenses — investment, safe deposit box, etc. List type and amount ►	23		
	24 Add lines 21 through 23	24		
	25 Enter amount from Form 1040, line 38. 25	25		
	26 Multiply line 25 by 2% (.02)	26		
	27 Subtract line 26 from line 24. If line 26 is more than line 24, enter -0-	27		0.
Other Miscellaneous Deductions	28 Other — from list in instructions. List type and amount ►	28		65,000.
	Form 4684, Income-Producing Property		65,000.	
Total Itemized Deductions	29 Add the amounts in the far right column for lines 4 through 28. Also, enter this amount on Form 1040, line 40	29		66,103.
	30 If you elect to itemize deductions even though they are less than your standard deduction, check here. <input type="checkbox"/>			

Name(s) shown on tax return. Do not enter name and identifying number if shown on page 1.

Identifying number

EX13F-CA, Fulltime Securities, MTM loss

999-99-9999

SECTION B – Business and Income-Producing Property**Part I Casualty or Theft Gain or Loss** (Use a separate Part I for each casualty or theft.)

- 19 Description of properties (show type, location, and date acquired for each property). Use a separate line for each property lost or damaged from the same casualty or theft.

Property A PFG Best - loss Various

Property B

Property C

Property D

		Properties			
		A	B	C	D
20	Cost or adjusted basis of each property.	20			
21	Insurance or other reimbursement (whether or not you filed a claim). See the instructions for line 3. Note: If line 20 is more than line 21, skip line 22.	21			
22	Gain from casualty or theft. If line 21 is more than line 20, enter the difference here and on line 29 or line 34, column (c), except as provided in the instructions for line 33. Also, skip lines 23 through 27 for that column. See the instructions for line 4 if line 21 includes insurance or other reimbursement you did not claim, or you received payment for your loss in a later tax year.	22			
23	Fair market value before casualty or theft.	23			
24	Fair market value after casualty or theft.	24			
25	Subtract line 24 from line 23.	25			
26	Enter the smaller of line 20 or line 25. Note: If the property was totally destroyed by casualty or lost from theft, enter on line 26 the amount from line 20.	26			
27	Subtract line 21 from line 26. If zero or less, enter -0-	27			
28	Casualty or theft loss. Add the amounts on line 27. Enter the total here and on line 29 or line 34 (see instructions). See St. 2.	28			65,000.

Part II Summary of Gains & Losses (from separate Parts I)		(b) Losses from casualties or thefts		(c) Gains from casualties or thefts includible in income
(a) Identify casualty or theft		(i) Trade, business, rental or royalty property	(ii) Income-producing and employee property	

Casualty or Theft of Property Held One Year or Less

29				
30	Totals. Add the amounts on line 29.	30		65,000.
31	Combine line 30, columns (b)(i) and (c). Enter the net gain or (loss) here and on Form 4797, line 14. If Form 4797 is not otherwise required, see instructions.	31		
32	Enter the amount from line 30, column (b)(ii) here. Individuals, enter the amount from income-producing property on Schedule A (Form 1040), line 28, or Form 1040NR, Schedule A, line 14, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Form 1040NR, Schedule A, line 9. Estates and trusts, partnerships, and S corporations, see instructions.	32		-65,000.

Casualty or Theft of Property Held More Than One Year

33	Casualty or theft gains from Form 4797, line 32.	33	
34			
35	Total losses. Add amounts on line 34, columns (b)(i) and (b)(ii).	35	
36	Total gains. Add lines 33 and 34, column (c).	36	
37	Add amounts on line 35, columns (b)(i) and (b)(ii).	37	
38	If the loss on line 37 is more than the gain on line 36:		
a	Combine line 35, column (b)(i) and line 36, and enter the net gain or (loss) here. Partnerships (except electing large partnerships) and S corporations, see the note below. All others, enter this amount on Form 4797, line 14. If Form 4797 is not otherwise required, see instructions.	38a	
b	Enter the amount from line 35, column (b)(ii) here. Individuals, enter the amount from income-producing property on Schedule A (Form 1040), line 28, or Form 1040NR, Schedule A, line 14, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Form 1040NR, Schedule A, line 9. Estates and trusts, enter on the 'Other deductions' line of your tax return. Partnerships (except electing large partnerships) and S corporations, see the note below. Electing large partnerships, enter on Form 1065-B, Part II, line 11.	38b	
39	If the loss on line 37 is less than or equal to the gain on line 36, combine lines 36 and 37 and enter here. Partnerships (except electing large partnerships), see the note below. All others, enter this amount on Form 4797, line 3. Note: Partnerships, enter the amount from line 38a, 38b, or line 39 on Form 1065, Schedule K, line 11. S corporations, enter the amount from line 38a or 38b on Form 1120S, Schedule K, line 10.	39	

Alternative Minimum Tax — Individuals

► Information about Form 6251 and its separate instructions is at www.irs.gov/form6251.
 ► Attach to Form 1040 or Form 1040NR.

OMB No. 1545-0074

2012Attachment
Sequence No. **32**

Name(s) shown on Form 1040 or Form 1040NR

Your social security number

EX13F-CA, Fulltime Securities, MTM loss

999-99-9999

Part I Alternative Minimum Taxable Income (See instructions for how to complete each line.)

1	If filing Schedule A (Form 1040), enter the amount from Form 1040, line 41 and go to line 2. Otherwise, enter the amount from Form 1040, line 38, and go to line 7. (If less than zero, enter as a negative amount.)	1	-281,986.
2	Medical and dental. Enter the smaller of Schedule A (Form 1040), line 4 or 2.5% (.025) of Form 1040, line 38. If zero or less, enter -0-	2	
3	Taxes from Schedule A (Form 1040), line 9	3	307.
4	Enter the home mortgage interest adjustment, if any, from line 6 of the worksheet in the instructions for this line	4	
5	Miscellaneous deductions from Schedule A (Form 1040), line 27	5	
6	Skip this line. It is reserved for future use	6	
7	Tax refund from Form 1040, line 10 or line 21	7	
8	Investment interest expense (difference between regular tax and AMT)	8	
9	Depletion (difference between regular tax and AMT)	9	
10	Net operating loss deduction from Form 1040, line 21. Enter as a positive amount	10	
11	Alternative tax net operating loss deduction	11	
12	Interest from specified private activity bonds exempt from the regular tax	12	
13	Qualified small business stock (7% of gain excluded under section 1202)	13	
14	Exercise of incentive stock options (excess of AMT income over regular tax income)	14	
15	Estates and trusts (amount from Schedule K-1 (Form 1041), box 12, code A)	15	
16	Electing large partnerships (amount from Schedule K-1 (Form 1065-B), box 6)	16	
17	Disposition of property (difference between AMT and regular tax gain or loss)	17	
18	Depreciation on assets placed in service after 1986 (difference between regular tax and AMT)	18	
19	Passive activities (difference between AMT and regular tax income or loss)	19	
20	Loss limitations (difference between AMT and regular tax income or loss)	20	
21	Circulation costs (difference between regular tax and AMT)	21	
22	Long-term contracts (difference between AMT and regular tax income)	22	
23	Mining costs (difference between regular tax and AMT)	23	
24	Research and experimental costs (difference between regular tax and AMT)	24	
25	Income from certain installment sales before January 1, 1987	25	
26	Intangible drilling costs preference	26	
27	Other adjustments, including income-based related adjustments	27	
28	Alternative minimum taxable income. Combine lines 1 through 27. (If married filing separately, see instructions.)	28	-281,679.

Part II Alternative Minimum Tax (AMT)

29	Exemption. See instructions	29	50,600.
30	Subtract line 29 from line 28. If more than zero, go to line 31. If zero or less, enter -0- here and on lines 31, 33 and 35, and go to line 34.	30	0.
31	<ul style="list-style-type: none"> • If you are filing Form 2555 or 2555-EZ, see instructions for the amount to enter. • If you reported capital gain distributions directly on Form 1040, line 13; you reported qualified dividends on Form 1040, line 9b; or you had a gain on both lines 15 and 16 of Schedule D (Form 1040) (as refigured for the AMT, if necessary), complete Part III on page 2 and enter the amount from line 54 here. • All others: If line 30 is \$175,000 or less (\$87,500 or less if married filing separately), multiply line 30 by 26% (.26). Otherwise, multiply line 30 by 28% (.28) and subtract \$3,500 (\$1,750 if married filing separately) from the result. 	31	0.
32	Alternative minimum tax foreign tax credit (see instructions)	32	
33	Tentative minimum tax. Subtract line 32 from line 31.	33	0.
34	Tax from Form 1040, line 44 (minus any tax from Form 4972 and any foreign tax credit from Form 1040, line 47). If you used Schedule J to figure your tax, the amount from line 44 of Form 1040 must be refigured without using Schedule J (see instructions).	34	0.
35	AMT. Subtract line 34 from line 33. If zero or less, enter -0-. Enter here and on Form 1040, line 45	35	0.

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

FDIA5312L 12/12/12

Form **6251** (2012)

2012

Federal Statements

Page 1

Client EX13F-CA

EX13F-CA, Fulltime Securities, MTM loss

999-99-9999

4/01/13

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Statement 1
Form 1040, Line 9b
Qualified Dividends

Schwab - invest a/c.....	\$	1,296.
Schwab - trading a/c.....		881.
Total	\$	<u>2,177.</u>

Demo

Client EX13F-CA

EX13F-CA, Fulltime Securities, MTM loss

999-99-9999

4/01/13

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Statement by taxpayer using the procedures in Rev Proc. 2009-20 to determine a theft loss deduction related to a fraudulent investment arrangement

Part 1. Identification

1. Name of Taxpayer: EX13F-CA, Fulltime Securities, MTM loss
2. Taxpayer Identification Number: 999-99-9999

Part II. Computation of Deduction

1. Initial Investment	100,000.
2. Plus: Subsequent investments	0.
3. Plus: Income reported in prior years	0.
4. Less: Withdrawals	0.
5. Total qualified investment (line 1 through 4)	100,000.
6. Percentage of qualified investment	95,000.
7. Actual recovery	30,000.
8. Potential insurance/SIPC recovery	0.
9. Total recoveries (add lines 7 and 8)	30,000.
10. Deductible theft loss (line 6 minus line 9)	65,000.

Part III. Required Statements and Declarations

1. I am claiming a theft loss deduction pursuant to Rev. Proc. 2009-20 from a specified fraudulent arrangement conducted by the following individual or entity
2. I have written documentation to support the amounts reported in Part II of this document.
3. I am a qualified investor as defined in § 4.03 of Rev. Proc. 2009-20.
4. If I have determined the amount of my theft loss deduction under § 5.02(1)(a) of Rev. Proc. 2009-20, I declare that I have not pursued and do not intend to pursue any potential third-party recovery, as that term is defined in § 4.10 of Rev. Proc. 2009-20.
5. If I have already filed a return or an amended return that does not satisfy the conditions of § 6.02 of Rev. Proc. 2009-20, I agree to all adjustments or actions that are necessary to comply with those conditions. The tax year or years for which I filed the return(s) or amended return(s) and the date(s) on which they were filed are as follows:

Part IV. Signature

I make the following agreements and declarations:

1. I agree to comply with the conditions and agreements set forth in Rev. Proc. 2009-20 and this document.
2. Under penalties of perjury, I declare that the information provided in Parts I-III of this document is, to the best of my knowledge and belief, true, correct and complete.

Your signature here _____ Date signed: _____

Your spouse's signature here _____ Date signed: _____

Client EX13F-CA

EX13F-CA, Fulltime Securities, MTM loss

999-99-9999

4/01/13

03:49PM

EX13F-CA

Taxpayer had losses in 2012, which are reported on Form 4797, Part II. Since the taxpayer was considered a full-time trader and elected mark-to-market during the period of the securities loss, these losses are ordinary losses and can be used to generate a net operating loss (NOL) in the current year. Note that the trading expenses during this time can decrease taxable income and create a NOL also.

PFG Best theft loss:

We recently added a PFG theft loss to this 2012 tax return. Read our March 31, 2013 blog "PFG investors can deduct theft losses on 2012 tax returns with Rev. Proc. 2009-20 safe harbor relief. That's great news!"

Blog excerpts:

We added an example 2012 tax return example showing a full PFG theft loss deduction on Schedule A (line 28) and Form 4684 with worksheet, notes and signature block in 2013 GTT Guide: 2012 Tax Return Examples for Securities Traders (Individual and Entities).

How to deduct PFG theft losses in accordance with Rev. Proc. 2009-20:
In accordance with Rev. Proc. 2009-20, plan on using the 95% theft loss deduction option, as few traders are part of a third-party lawsuit which would require the 75% loss option.

The PFG trustee recovered 30% of funds for futures traders in 2012. PFG futures traders may deduct 95% of their theft loss amount, and then must add back the 30% recovery. For example, if you lost \$100,000, first take 95% of the loss amount (\$95,000) and then add back the 30% recovery (\$30,000), for a net theft loss deduction of \$65,000. Report that theft loss on a 2012 Form 4684 as an itemized deduction without limitation (see further details below).

Unfortunately, forex traders had no money protection like segregation of funds for futures traders, and the trustee did not recover any funds for them in 2012. Forex traders may deduct 95% of their entire deposit lost. For example, if you lost \$100,000, you can deduct \$95,000 on Form 4684 without limitation.

Reports from the CCC indicate the trustee may recover an additional 20% to 30% of funds for futures traders and forex traders in 2013 or 2014, perhaps different amounts for different types of traders. If there is recovery of funds over the 5% amount not deducted in 2012, then you have gross income to report in the year of collection as a cash method taxpayer. If there is recovery of funds under the 5% amount reserved above, then you can have an additional Form 4684 deduction without limitation for that final loss amount.

Even if you have gross income in 2013 or 2014 subject to higher tax rates and perhaps Medicare tax on unearned income, it's still a good deal for investors without trader tax status, as other Section 165 options are generally worse.

Rev. Proc. 2009-20 guidance:

Excerpt from RIA: "A "qualified investor" using the Rev. Ruling 2009-09 safe harbor treatment must:

- (1) mark "Revenue Procedure 2009-20" at the top of the Form 4684, Casualties and Thefts, for the tax return for the discovery year. The taxpayer must enter the "deductible theft loss" amount from line 10 in Part II of Appendix A of Rev Proc 2009 -20 on line 34, section B, Part I, of Form 4684 and shouldn't complete the remainder of section B, Part I, of Form 4684;
- (2) complete and sign the statement provided in Appendix A of Rev Proc 2009 -20 ; and
- (3) attach the executed statement provided in Appendix A to the qualified investor's timely filed (including extensions) federal income tax return for the

Client EX13F-CA

EX13F-CA, Fulltime Securities, MTM loss

999-99-9999

4/01/13

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discovery year.

My comment: We confirmed with IRS chief counsel that taxpayers can file an extension with no mention of Rev. Proc. 2009-09 losses or Rev. Proc. 2009-20, and execute the strategies mentioned here with their 2012 tax return filed before the extended due date of Oct. 15, 2013. That's what is meant by "including extensions" above. Just make sure you file a "valid extension," otherwise your extension is null and void. Read more about extensions on our March 20, 2013 blog .

By executing the statement provided in Appendix A of Rev Proc 2009 -20 , the taxpayer agrees not to:

- (1) deduct in the discovery year any amount of the theft loss in excess of the deduction permitted under the rules;
- (2) file returns or amended returns to exclude or recharacterize income reported with respect to the investment arrangement in tax years preceding the discovery year."

State tax treatment

(RIA excerpt) - "Each state may treat these losses differently. New York, for example, has announced that it will recognize the safe harbor under Rev. Proc. 2009-20 for purposes of determining the amount of New York state itemized deductions for the theft loss. However, itemized deductions in New York are reduced for taxpayers with income in excess of certain thresholds (that is also the case for federal income tax purposes, but the IRS has explicitly excepted these losses from those reductions). And the NOL provisions permitted for federal purposes aren't permitted for New York because the state allows NOL deductions only for losses attributable to a business, trade, profession, or occupation carried on in New York. The losses from a Ponzi-like fraudulent investment arrangement generally won't qualify."

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EX13F-CA, Fulltime Securities, MTM loss

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Note to Schedules C, Form 4797-Part II and Form 3115 in connection with taxpayer's business activity: "trader in securities"

Taxpayer operated a trading business, in accordance with the definition below, for the tax year 2012. Considerable time spent every trading day, consistent and frequent number of trades, and trading proceeds all support taxpayer's rising to the level of conducting this activity as a business.

Taxpayer's business activities are described in IRS Publication 550, Chapter 4 - Special Rules for Traders. We excerpt these rules below (and add some notes in parentheses).

Special Rules for Traders in Securities

Special rules apply if you are a trader in securities in the business of buying and selling securities for your own account. To be engaged in business as a trader in securities, you must meet all the following conditions. (Taxpayer met all the following conditions for tax year 2012).

..You must seek to profit from daily market movements in the prices of securities and not from dividends, interest, or capital appreciation.

..Your activity must be substantial.

..You must carry on the activity with continuity and regularity.

The following facts and circumstances should be considered in determining if your activity is a securities trading business.

..Typical holding periods for securities bought and sold. (Taxpayer had very short holding periods).

..The frequency and dollar amount of your trades during the year. (Taxpayer traded frequently with lower dollar amounts - high turnover).

..The extent to which you pursue the activity to produce income for a livelihood. (Taxpayer's intention is to earn a living from this trading business activity).

..The amount of time you devote to the activity. (Taxpayer spends a good part of every day on this activity).

Note.

You may be a trader in some securities and have other securities you hold for investment. The special rules discussed here do not apply to the securities held for investment. You must keep detailed records to distinguish the securities. The securities held for investment must be identified as such in your records on the day you got them (for example, by holding them in a separate brokerage account). (If taxpayer has investment securities they are clearly "segregated" from his trading securities in accordance with current IRS regulations).

How To Report

Transactions from trading activities result in capital gains and losses and must be reported on Schedule D (Form 1040). Losses from these transactions are subject to the limit on capital losses explained earlier in this chapter.

Mark-to-market election made. (Taxpayer elected mark-to-market accounting for 2012.)

If you made the mark-to-market election, you should report all gains and losses from trading as ordinary gains and losses in Part II of Form 4797, instead of as capital gains and losses on Schedule D. In that case, securities held at the end of the year

Client EX13F-CA

EX13F-CA, Fulltime Securities, MTM loss

999-99-9999

4/01/13

03:49PM

in your business as a trader are marked to market by treating them as if they were sold (and reacquired) for fair market value on the last business day of the year. But do not mark to market any securities you held for investment. Report sales from those securities on Schedule D, not Form 4797.

Expenses.

Interest expense and other investment expenses that an investor would deduct on Schedule A (Form 1040) are deducted by a trader on Schedule C (Form 1040), Profit or Loss From Business, if the expenses are from the trading business. Commissions and other costs of acquiring or disposing of securities are not deductible but must be used to figure gain or loss. The limit on investment interest expense, which applies to investors, does not apply to interest paid or incurred in a trading business. (Taxpayer duly reported his or her trading business expenses on Schedule C: trader in securities).

Self-employment tax.

Gains and losses from selling securities as part of a trading business are not subject to self-employment tax. This is true whether the election is made or not.

How To Make the Mark-to-Market Election

To make the mark-to-market election for 2012, you must file a statement by April 15, 2012. This statement should be attached to either your 2011 individual income tax return or a request for an extension of time to file that return. (Taxpayer elected mark-to-market accounting for tax year 2012; by attaching that election to his 2011 tax return or extension filed by April 15, 2012. A copy of that election is included at the bottom of this footnote.) The statement must include the following information.

That you are making an election under section 475(f) of the Internal Revenue Code. The first tax year for which the election is effective. The trade or business for which you are making the election. If you are not required to file a 2011 income tax return, you make the election by placing the above statement in your books and records no later than March 15, 2012. Attach a copy of the statement to your 2012 return.

After making the election to change to the mark-to-market method of accounting, you must change your method of accounting for securities under Revenue Procedure 2011-14. Revenue Procedure 2011-14 requires you to file Form 3115, Application for Change in Accounting Method. Follow its instructions. Label the Form 3115 as filed under "Filed under Section 23 of the APPENDIX of Rev. Proc. 2011-14". (Taxpayer is filing his Form 3115 together with the Section 481 adjustment (if any applies) with this tax return. Taxpayer is filing a duplicate copy with the IRS national office as is also required).

Once you make the election, it will apply to 2012 and all later tax years, unless you get permission from IRS to revoke it. The effect of making the election is described under Mark-to-market election made, earlier.

For more information on this election, see Revenue Procedure 2011-14, 2011-4 IRB.

SUMMARY

Taxpayer qualifies as a trader in securities for 2012 and he duly elected mark-to-market accounting on time for tax year 2012. Taxpayer's trading business expenses are reported on Schedule C and his trading gains and losses are reported on Form 4797 Part II - Ordinary gain or loss. Taxpayer is not subject to self-employment taxes on this trading activity. Taxpayer is also not subject to wash sale loss deferral rules on this trading activity.

Client EX13F-CA

EX13F-CA, Fulltime Securities, MTM loss

999-99-9999

4/01/13

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Taxpayer's investment positions (if any) are not subject to the above trading business tax treatment and instead are subject to normal rules for investing activities; which is Schedule D capital gains or losses, wash sales, and Schedule A for related investment expenses).

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Section 481(a) Adjustment tax law for traders

According to Rev. Proc. 99-17, 1999-7 IRB 1, IRC Sec(s). - Mark to market accounting method for dealers in securities - election for traders and dealers. Section 6. Change in Method of Accounting; Clause.03 Section 481(a) Adjustment

"If a taxpayer changes its method of accounting under section 6.01 of this revenue procedure, the taxpayer must take into account the net amount of the section 481(a) adjustment in the manner provided in section 5.04 of Rev. Proc. 98-60. Thus, the section 481(a) adjustment generally is taken into account ratably over four taxable years beginning with the year of change. For purposes of section 481, a change in method of accounting made under this revenue procedure is a change in method of accounting initiated by the taxpayer."

According to the rules for Form 3115, if the change results in a positive section 481 adjustment, the Taxpayer must, beginning with the year of change, take the section 481 adjustment into account ratably over 4 taxable years in computing taxable income. However, the Taxpayer may elect to take the entire positive section 481 adjustment in the year of change, providing the Section 481 adjustment is under \$25,000. Otherwise, Taxpayer is required to pro-rate this Section 481 adjustment over 4 taxable years.

If the change results in a negative section 481 adjustment, the taxpayer must take the entire section 481(a) adjustment into account in the year of change.

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Section 481(a) Adjustment - Calculation

On January 1, 2012, Taxpayer started the year with "Trading Positions" (or "Investment Positions which he or she converted to "Trading Positions").

Market value on January 1, 2012 of	\$ 231,937
Original Cost basis of	\$ 264,125
Section 481(a) Adjustment is the difference	\$ -32,188
This amount is reported on Form 4797 Part II.	

As the adjustment is a negative section 481(a) adjustment (see tax law above), the taxpayer reports the entire amount in tax year 2011.

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Copy of taxpayer's election for mark-to-market accounting.

This election was attached to taxpayer's 2011 tax return or extension filed by April 15, 2012:

"Pursuant to IRC 475(f), the Taxpayer hereby elects to adopt the mark-to-market method of accounting for the tax year ended December 31, 2012 and subsequent tax years. The election applies to the following trade or business: Trader in Securities as a sole proprietor."

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