

Client EX2SCORP

Example S-Corp, LLC (MTM GAIN)

98-9999998

2/16/11

04:03PM

EX2SCORP

One-Member SMLLC.

TX LLC with an S-Corp election. The TX margins tax does not kick in until he has trading gains of 300k or more. The new tax rate is now 1%. Learn more here <http://www.window.state.tx.us/taxinfo/franchise/>

2010 trader tax status: Number of trades per day 2-3. Average holding period will be less than 10 minutes, so mostly daytrades; rarely overnight. Pattern day trader. Hours per day 10-12, including full market hours. Trading equities, options and futures. Mostly stock options. 100k account size. Intention to run a trading business. Has a home office, has tools and has not decided on platform; will be a direct access platform. Trader Status for 2010 return.

One IB trading account in LLC name, with over 1,400 rt trades and \$3.8 million in proceeds from May to December.

Internally elected MTM on 5/16/10. No 3115 or 481 since first time filer.

Taxpayer wanted to maximize wanted to maximize the 401K contribution for 2010, so a salary of \$130,000 was required for this. Also by using a W-2 in the S-Corp, the taxpayer is able to pay in withholdings to avoid estimated tax penalties on the trading gains.

For a taxpayer, under the age of 50, who is a successful trader and wants to max out his/her 401(k) plan for 2010 for his/her 100% S or C corporation or a LLC taxed as a corporation, then a W-2 salary of \$130,000 needs to be paid to him/her from the entity. With \$16,500 of salary deferrals, Taxable W-2 earnings (box 1 of W-2) would be reduced from \$130,000 to \$113,500 assuming the employee salary deferral is to a traditional 401(k)) + \$32,500 profit sharing contribution (25% X \$130,000) = \$49,000 Total 401k contribution.

Formula to determine compensation needed to max out 401(k) for 2010 is ([max overall contribution allowed for year to 401(k) less the salary deferral contribution] / 25%).

Example: $([49,000 - \$16,500]) / 25\% = \$130,000$ of compensation needed to max out 401(k) for 2010.

Form **1120S**Department of the Treasury
Internal Revenue Service**U.S. Income Tax Return for an S Corporation**

▶ Do not file this form unless the corporation has filed or is attaching Form 2553 to elect to be an S corporation.
▶ See separate instructions.

OMB No. 1545-0130

2010

For calendar year 2010 or tax year beginning 5/16, 2010, ending 12/31, 2010

A S election effective date 5/16/2010	TYPE OR PRINT	Example S-Corp, LLC (MTM GAIN) Any Street Houston, TX 77001	D Employer identification number 98-9999998
B Business activity code number (see instrs) 523110			E Date incorporated 5/16/2010
C Check if Sch M-3 attached <input type="checkbox"/>			F Total assets (see instructions) \$ 136,162.

G Is the corporation electing to be an S corporation beginning with this tax year? ☒ Yes ☐ No If 'Yes,' attach Form 2553 if not previously filed**H** Check if: (1) ☐ Final return (2) ☐ Name change (3) ☐ Address change
(4) ☐ Amended return (5) ☐ S election termination or revocation**I** Enter the number of shareholders who were shareholders during any part of the tax year ▶ 1**Caution.** Include **only** trade or business income and expenses on lines 1a through 21. See the instructions for more information.

I N C O M E	1a Gross receipts or sales	b Less returns and allowances	c Bal ▶	1c
	2 Cost of goods sold (Schedule A, line 8)			2
	3 Gross profit. Subtract line 2 from line 1c			3
	4 Net gain (loss) from Form 4797, Part II, line 17 (attach Form 4797)			4 259,366.
	5 Other income (loss) (see instrs — att statement)			5
	6 Total income (loss). Add lines 3 through 5			6 259,366.
D E D U C T I O N S S E E I N S T R U C T I O N S	7 Compensation of officers			7 130,000.
	8 Salaries and wages (less employment credits)			8
	9 Repairs and maintenance			9
	10 Bad debts			10
	11 Rents			11
	12 Taxes and licenses			12 8,507.
	13 Interest			13
	14 Depreciation not claimed on Schedule A or elsewhere on return (attach Form 4562)			14
	15 Depletion (Do not deduct oil and gas depletion.)			15
	16 Advertising			16
	17 Pension, profit-sharing, etc, plans			17
T A X A N D P A Y M E N T S	18 Employee benefit programs			18 32,500.
	19 Other deductions (attach statement)	See Statement 1		19 4,331.
	20 Total deductions. Add lines 7 through 19			20 175,338.
	21 Ordinary business income (loss). Subtract line 20 from line 6			21 84,028.
	22a Excess net passive income or LIFO recapture tax (see instructions)	22a		22c
	b Tax from Schedule D (Form 1120S)	22b		
	c Add lines 22a and 22b (see instructions for additional taxes)			
	23a 2010 estimated tax payments and 2009 overpayment credited to 2010	23a		23d
	b Tax deposited with Form 7004	23b		
	c Credit for federal tax paid on fuels (attach Form 4136)	23c		
24 Estimated tax penalty (see instructions). Check if Form 2220 is attached			24	
25 Amount owed. If line 23d is smaller than the total of lines 22c and 24, enter amount owed			25 0.	
26 Overpayment. If line 23d is larger than the total of lines 22c and 24, enter amount overpaid			26	
27 Enter amount from line 26 Credited to 2011 estimated tax		Refunded	27	

Sign Here

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

Signature of officer	Date	Title	President	May the IRS discuss this return with the preparer shown below (see instructions)?
				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Paid Preparer Use Only

Print/Type preparer's name z WebGuideExamples	Preparer's signature z WebGuideExamples	Date	Check <input type="checkbox"/> if self-employed	PTIN
Firm's name ▶ Green & Company CPAs, LLC	Firm's EIN ▶ 20-0751653			
Firm's address ▶ 54 Danbury Rd., #351 Ridgefield, CT 06877	Phone no. 877-662-2014			

BAA For Paperwork Reduction Act Notice, see separate instructions.

SPSA0105L 01/19/11

Form **1120S** (2010)

Schedule A Cost of Goods Sold (see instructions)

1	Inventory at beginning of year.....	1	
2	Purchases.....	2	
3	Cost of labor.....	3	
4	Additional section 263A costs (attach statement).....	4	
5	Other costs (attach statement).....	5	
6	Total. Add lines 1 through 5.....	6	
7	Inventory at end of year.....	7	
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on page 1, line 2.....	8	

9a Check all methods used for valuing closing inventory:

- (i) ☐ Cost as described in Regulations section 1.471-3
 (ii) ☐ Lower of cost or market as described in Regulations section 1.471-4
 (iii) ☐ Other (Specify method used and attach explanation.)

b Check if there was a writedown of subnormal goods as described in Regulations section 1.471-2(c)..... ☐

c Check if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970)..... ☐

d If the LIFO inventory method was used for this tax year, enter percentage (or amounts) of closing inventory computed under LIFO..... **9d** ☐

e If property is produced or acquired for resale, do the rules of section 263A apply to the corporation?..... ☐ Yes ☐ No

f Was there any change in determining quantities, cost, or valuations between opening and closing inventory? If 'Yes,' attach explanation..... ☐ Yes ☐ No

Schedule B Other Information (see instructions)

	Yes	No
1 Check accounting method: a <input type="checkbox"/> Cash b <input type="checkbox"/> Accrual c <input checked="" type="checkbox"/> Other (specify) Sec 475 (f) (1)		
2 See the instructions and enter the: a Business activity Trading b Product or service... Sec/Comm		
3 At the end of the tax year, did the corporation own, directly or indirectly, 50% or more of the voting stock of a domestic corporation? (For rules of attribution, see section 267(c).) If 'Yes,' attach a statement showing: (a) name and employer identification number (EIN), (b) percentage owned, and (c) if 100% owned, was a qualified subchapter S subsidiary election made?.....		X
4 Has this corporation filed, or is it required to file, Form 8918 , Material Advisor Disclosure Statement, to provide information on any reportable transaction?.....		X
5 Check this box if the corporation issued publicly offered debt instruments with original issue discount..... <input type="checkbox"/> If checked, the corporation may have to file Form 8281 , Information Return for Publicly Offered Original Issue Discount Instruments.		
6 If the corporation: (a) was a C corporation before it elected to be an S corporation or the corporation acquired an asset with a basis determined by reference to the basis of the asset (or the basis of any other property) in the hands of a C corporation and (b) has net unrealized built-in gain in excess of the net recognized built-in gain from prior years, enter the net unrealized built-in gain reduced by net recognized built-in gain from prior years (see instructions)..... \$		
7 Enter the accumulated earnings and profits of the corporation at the end of the tax year..... \$		
8 Are the corporation's total receipts (see instructions) for the tax year and its total assets at the end of the tax year less than \$250,000? If 'Yes,' the corporation is not required to complete Schedules L and M-1.....		X
9 During the tax year, was a qualified subchapter S subsidiary election terminated or revoked? If 'Yes,' see instructions.....		X

Schedule K Shareholders' Pro Rata Share Items

	Total amount
1 Ordinary business income (loss) (page 1, line 21).....	1 84,028.
2 Net rental real estate income (loss) (attach Form 8825).....	2
3a Other gross rental income (loss)..... 3a	
b Expenses from other rental activities (attach statement)..... 3b	
c Other net rental income (loss). Subtract line 3b from line 3a..... 3c	
4 Interest income.....	4 158.
5 Dividends: a Ordinary dividends..... 5a	74.
b Qualified dividends..... 5b	74.
6 Royalties.....	6
7 Net short-term capital gain (loss) (attach Schedule D (Form 1120S)).....	7
8a Net long-term capital gain (loss) (attach Schedule D (Form 1120S))..... 8a	
b Collectibles (28%) gain (loss)..... 8b	
c Unrecaptured section 1250 gain (attach statement)..... 8c	
9 Net section 1231 gain (loss) (attach Form 4797).....	9
10 Other income (loss) (see instructions). Type See Statement 2 10	3,172.

INCOME (LOSSES)

Shareholders' Pro Rata Share Items (continued)		Total amount	
Deductions	11 Section 179 deduction (attach Form 4562)	11	
	12a Contributions	12a	
	b Investment interest expense	12b	
	c Section 59(e)(2) expenditures (1) Type ▶ (2) Amount. ▶	12c (2)	
	d Other deductions (see instructions) .. Type ▶	12d	
Credits	13a Low-income housing credit (section 42(j)(5))	13a	
	b Low-income housing credit (other)	13b	
	c Qualified rehabilitation expenditures (rental real estate) (attach Form 3468)	13c	
	d Other rental real estate credits (see instrs) Type ▶	13d	
	e Other rental credits (see instrs) Type ▶	13e	
	f Alcohol and cellulosic biofuel fuels credit (attach Form 6478)	13f	
	g Other credits (see instructions) .. Type ▶	13g	
Foreign Transactions	14a Name of country or U.S. possession		
	b Gross income from all sources	14b	
	c Gross income sourced at shareholder level	14c	
	Foreign gross income sourced at corporate level		
	d Passive category	14d	
	e General category	14e	
	f Other (attach statement)	14f	
	Deductions allocated and apportioned at shareholder level		
	g Interest expense	14g	
	h Other	14h	
	Deductions allocated and apportioned at corporate level to foreign source income		
	i Passive category	14i	
	j General category	14j	
	k Other (attach statement)	14k	
Other information			
l Total foreign taxes (check one): <input type="checkbox"/> Paid <input type="checkbox"/> Accrued	14l		
m Reduction in taxes available for credit (attach statement)	14m		
n Other foreign tax information (attach statement)			
Alternative Minimum Tax (AMT) Items	15a Post-1986 depreciation adjustment	15a	
	b Adjusted gain or loss	15b	
	c Depletion (other than oil and gas)	15c	
	d Oil, gas, and geothermal properties — gross income	15d	
	e Oil, gas, and geothermal properties — deductions	15e	
	f Other AMT items (attach statement)	15f	
Items Affecting Shareholder Basis	16a Tax-exempt interest income	16a	
	b Other tax-exempt income	16b	
	c Nondeductible expenses	16c	
	d Distributions (attach stmt if required) (see instrs)	16d	35,006.
	e Repayment of loans from shareholders	16e	
Other Information	17a Investment income	17a	232.
	b Investment expenses	17b	
	c Dividend distributions paid from accumulated earnings and profits	17c	
	d Other items and amounts (attach statement)		
Reconciliation	18 Income/loss reconciliation. Combine the amounts on lines 1 through 10 in the far right column. From the result, subtract the sum of the amounts on lines 11 through 12d and lines 14l ...	18	87,432.

BAA

Form 1120S (2010)

Schedule L Balance Sheets per Books		Beginning of tax year		End of tax year	
Assets		(a)	(b)	(c)	(d)
1	Cash				131,988.
2a	Trade notes and accounts receivable				
b	Less allowance for bad debts				
3	Inventories				
4	U.S. government obligations				
5	Tax-exempt securities (see instructions)				
6	Other current assets (attach stmt) See St. 3				4,174.
7	Loans to shareholders				
8	Mortgage and real estate loans				
9	Other investments (attach statement)				
10a	Buildings and other depreciable assets				
b	Less accumulated depreciation				
11a	Depletable assets				
b	Less accumulated depletion				
12	Land (net of any amortization)				
13a	Intangible assets (amortizable only)			1,140.	
b	Less accumulated amortization			1,140.	
14	Other assets (attach stmt)				
15	Total assets		0.		136,162.
Liabilities and Shareholders' Equity					
16	Accounts payable				
17	Mortgages, notes, bonds payable in less than 1 year				
18	Other current liabilities (attach stmt)				
19	Loans from shareholders				3,736.
20	Mortgages, notes, bonds payable in 1 year or more				
21	Other liabilities (attach statement)				
22	Capital stock				
23	Additional paid-in capital				80,000.
24	Retained earnings				52,426.
25	Adjustments to shareholders' equity (att stmt)				
26	Less cost of treasury stock				
27	Total liabilities and shareholders' equity		0.		136,162.

Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return

Note: Schedule M-3 required instead of Schedule M-1 if total assets are \$10 million or more — see instructions

1	Net income (loss) per books	87,432.	5	Income recorded on books this year not included on Schedule K, lines 1 through 10 (itemize):	
2	Income included on Schedule K, lines 1, 2, 3c, 4, 5a, 6, 7, 8a, 9, and 10, not recorded on books this year (itemize):		a	Tax-exempt interest \$	
3	Expenses recorded on books this year not included on Schedule K, lines 1 through 12, and 14l (itemize):		6	Deductions included on Schedule K, lines 1 through 12, and 14l, not charged against book income this year (itemize):	
a	Depreciation	\$	a	Depreciation ... \$	
b	Travel and entertainment \$	\$	7	Add lines 5 and 6	0.
4	Add lines 1 through 3	87,432.	8	Income (loss) (Schedule K, ln 18). Ln 4 less ln 7 ...	87,432.

Schedule M-2 Analysis of Accumulated Adjustments Account, Other Adjustments Account, and Shareholders' Undistributed Taxable Income Previously Taxed (see instructions)

	(a) Accumulated adjustments account	(b) Other adjustments account	(c) Shareholders' undistributed taxable income previously taxed
1	Balance at beginning of tax year	0.	
2	Ordinary income from page 1, line 21	84,028.	
3	Other additions	3,404.	
4	Loss from page 1, line 21		
5	Other reductions		
6	Combine lines 1 through 5	87,432.	
7	Distributions other than dividend distributions	35,006.	
8	Balance at end of tax year. Subtract line 7 from line 6	52,426.	

Schedule K-1
(Form 1120S)

Department of the Treasury
Internal Revenue Service

2010

For calendar year 2010, or tax

year beginning 5/16, 2010
ending 12/31, 2010

☐ Final K-1

☐ Amended K-1

671110
OMB No. 1545-0130

Shareholder's Share of Income, Deductions, Credits, etc. ▶ See page 2 of form and separate instructions.

Part I Information About the Corporation	
A	Corporation's employer identification number 98-9999998
B	Corporation's name, address, city, state, and ZIP code Example S-Corp, LLC (MTM GAIN) Any Street Houston, TX 77001
C	IRS Center where corporation filed return Ogden, UT
Part II Information About the Shareholder	
D	Shareholder's identifying number 998-89-8888
E	Shareholder's name, address, city, state, and ZIP code S-Corp Member One Any Street Houston, TX 77001
F	Shareholder's percentage of stock ownership for tax year..... 100 %
FOR IRS USE ONLY	

Part III Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items			
1	Ordinary business income (loss) 84,028.	13	Credits
2	Net rental real estate income (loss)		
3	Other net rental income (loss)		
4	Interest income 158.		
5a	Ordinary dividends 74.		
5b	Qualified dividends 74.	14	Foreign transactions
6	Royalties		
7	Net short-term capital gain (loss)		
8a	Net long-term capital gain (loss)		
8b	Collectibles (28%) gain (loss)		
8c	Unrecaptured section 1250 gain		
9	Net section 1231 gain (loss)		
10	Other income (loss) C 3,172.	15	Alternative minimum tax (AMT) items
11	Section 179 deduction	16	Items affecting shareholder basis D 35,006.
12	Other deductions		
		17	Other information A 232.
*See attached statement for additional information.			

BAA For Paperwork Reduction Act Notice, see Instructions for Form 1120S.

Schedule **K-1** (Form 1120S) 2010

Shareholder 1

Form **4562**Department of the Treasury
Internal Revenue Service (99)**Depreciation and Amortization**
(Including Information on Listed Property)

▶ See separate instructions. ▶ Attach to your tax return.

OMB No. 1545-0172

2010Attachment
Sequence No. **67**

Name(s) shown on return

Example S-Corp, LLC (MTM GAIN)

Identifying number

98-9999998

Business or activity to which this form relates

Form 1120S

Part I Election To Expense Certain Property Under Section 179

Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount (see instructions)	1	
2	Total cost of section 179 property placed in service (see instructions)	2	
3	Threshold cost of section 179 property before reduction in limitation (see instructions)	3	
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
7	Listed property. Enter the amount from line 29	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	
10	Carryover of disallowed deduction from line 13 of your 2009 Form 4562	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (see instrs) ..	11	
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	
13	Carryover of disallowed deduction to 2011. Add lines 9 and 10, less line 12	13	

Note: Do not use Part II or Part III below for listed property. Instead, use Part V.

Part II Special Depreciation Allowance and Other Depreciation (Do not include listed property.) (See instructions.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year (see instructions)	14	
15	Property subject to section 168(f)(1) election	15	
16	Other depreciation (including ACRS)	16	

Part III MACRS Depreciation (Do not include listed property.) (See instructions.)**Section A**

17	MACRS deductions for assets placed in service in tax years beginning before 2010	17	
18	If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here		

Section B — Assets Placed in Service During 2010 Tax Year Using the General Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only — see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs		S/L	
h Residential rental property			27.5 yrs	MM	S/L	
i Nonresidential real property			27.5 yrs	MM	S/L	
			39 yrs	MM	S/L	
				MM	S/L	

Section C — Assets Placed in Service During 2010 Tax Year Using the Alternative Depreciation System

20a Class life					S/L	
b 12-year			12 yrs		S/L	
c 40-year			40 yrs	MM	S/L	

Part IV Summary (See instructions.)

21	Listed property. Enter amount from line 28	21	
22	Total. Add amounts from line 12, lines 14 through 17, lines 19 and 20 in column (g), and line 21. Enter here and on the appropriate lines of your return. Partnerships and S corporations — see instructions	22	
23	For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	23	

BAA For Paperwork Reduction Act Notice, see separate instructions.

FDIZ0812L 10/29/10

Form **4562** (2010)

Part V Listed Property (Include automobiles, certain other vehicles, certain computers, and property used for entertainment, recreation, or amusement.)

Note: For any vehicle for which you are using the standard mileage rate or deducting lease expense, complete **only** 24a, 24b, columns (a) through (c) of Section A, all of Section B, and Section C if applicable.

Section A – Depreciation and Other Information (Caution: See the instructions for limits for passenger automobiles.)

24a Do you have evidence to support the business/investment use claimed? <input type="checkbox"/> Yes <input type="checkbox"/> No									24b If 'Yes,' is the evidence written? <input type="checkbox"/> Yes <input type="checkbox"/> No	
(a) Type of property (list vehicles first)	(b) Date placed in service	(c) Business/investment use percentage	(d) Cost or other basis	(e) Basis for depreciation (business/investment use only)	(f) Recovery period	(g) Method/Convention	(h) Depreciation deduction	(i) Elected section 179 cost		
25 Special depreciation allowance for qualified listed property placed in service during the tax year and used more than 50% in a qualified business use (see instructions).....								25		
26 Property used more than 50% in a qualified business use:										
27 Property used 50% or less in a qualified business use:										
28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1								28		
29 Add amounts in column (i), line 26. Enter here and on line 7, page 1								29		

Section B – Information on Use of Vehicles

Complete this section for vehicles used by a sole proprietor, partner, or other 'more than 5% owner,' or related person. If you provided vehicles to your employees, first answer the questions in Section C to see if you meet an exception to completing this section for those vehicles.

	(a) Vehicle 1		(b) Vehicle 2		(c) Vehicle 3		(d) Vehicle 4		(e) Vehicle 5		(f) Vehicle 6	
30 Total business/investment miles driven during the year (do not include commuting miles)												
31 Total commuting miles driven during the year.												
32 Total other personal (noncommuting) miles driven.												
33 Total miles driven during the year. Add lines 30 through 32.												
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
34 Was the vehicle available for personal use during off-duty hours?												
35 Was the vehicle used primarily by a more than 5% owner or related person?												
36 Is another vehicle available for personal use?												

Section C – Questions for Employers Who Provide Vehicles for Use by Their Employees

Answer these questions to determine if you meet an exception to completing Section B for vehicles used by employees who **are not** more than 5% owners or related persons (see instructions).

	Yes	No
37 Do you maintain a written policy statement that prohibits all personal use of vehicles, including commuting, by your employees?		
38 Do you maintain a written policy statement that prohibits personal use of vehicles, except commuting, by your employees? See the instructions for vehicles used by corporate officers, directors, or 1% or more owners		
39 Do you treat all use of vehicles by employees as personal use?		
40 Do you provide more than five vehicles to your employees, obtain information from your employees about the use of the vehicles, and retain the information received?		
41 Do you meet the requirements concerning qualified automobile demonstration use? (See instructions.)		

Note: If your answer to 37, 38, 39, 40, or 41 is 'Yes,' do not complete Section B for the covered vehicles.

Part VI Amortization

(a) Description of costs	(b) Date amortization begins	(c) Amortizable amount	(d) Code section	(e) Amortization period or percentage	(f) Amortization for this year
42 Amortization of costs that begins during your 2010 tax year (see instructions):					
Start Up Cost	5/16/10		195		
43 Amortization of costs that began before your 2010 tax year					43
44 Total. Add amounts in column (f). See the instructions for where to report					44

Form **6781**Department of the Treasury
Internal Revenue Service**Gains and Losses From Section 1256
Contracts and Straddles**

► Attach to your tax return.

OMB No. 1545-0644

2010Attachment
Sequence No. **82**

Name(s) shown on tax return

Identifying number

Example S-Corp, LLC (MTM GAIN)

98-9999998

Check all applicable boxes (see instructions).

A
B

Mixed straddle election

C
D

Mixed straddle account election

Net section 1256 contracts loss election

Part I Section 1256 Contracts Marked to Market

1	(a) Identification of account	(b) (Loss)	(c) Gain
IB - Trading account - Futures			3,172.
2	Add the amounts on line 1 in columns (b) and (c).....	2	3,172.
3	Net gain or (loss). Combine line 2, columns (b) and (c).....	3	3,172.
4	Form 1099-B adjustments. See instructions and attach schedule.....	4	
5	Combine lines 3 and 4.....	5	3,172.
Note: If line 5 shows a net gain, skip line 6 and enter the gain on line 7. Partnerships and S corporations, see instructions.			
6	If you have a net section 1256 contracts loss and checked box D above, enter the amount of loss to be carried back. Enter the loss as a positive number.....	6	
7	Combine lines 5 and 6.....	7	
8	Short-term capital gain or (loss). Multiply line 7 by 40% (.40). Enter here and include on the appropriate line of Schedule D (see instructions).....	8	
9	Long-term capital gain or (loss). Multiply line 7 by 60% (.60). Enter here and include on the appropriate line of Schedule D (see instructions).....	9	

Part II Gains and Losses From Straddles. Attach a separate schedule listing each straddle and its components.**Section A – Losses From Straddles**

(a) Description of property	(b) Date entered into or acquired	(c) Date closed out or sold	(d) Gross sales price	(e) Cost or other basis plus expense of sale	(f) Loss. If column (e) is more than (d), enter difference. Otherwise, enter -0-	(g) Unrecognized gain on offsetting positions	(h) Recognized loss. If column (f) is more than (g), enter difference. Otherwise, enter -0-
10							
11a Enter the short-term portion of losses from line 10, column (h), here and include on the appropriate line of Schedule D (see instructions).....							11a
b Enter the long-term portion of losses from line 10, column (h), here and include on the appropriate line of Schedule D (see instructions).....							11b

Section B – Gains From Straddles

(a) Description of property	(b) Date entered into or acquired	(c) Date closed out or sold	(d) Gross sales price	(e) Cost or other basis plus expense of sale	(f) Gain. If column (d) is more than (e), enter difference. Otherwise, enter -0-
12					
13a Enter the short-term portion of gains from line 12, column (f), here and include on the appropriate line of Schedule D (see instructions).....					13a
b Enter the long-term portion of gains from line 12, column (f), here and include on the appropriate line of Schedule D (see instructions).....					13b

Part III Unrecognized Gains From Positions Held on Last Day of Tax Year. Memo Entry Only (see instructions)

(a) Description of property	(b) Date acquired	(c) Fair market value on last business day of tax year	(d) Cost or other basis as adjusted	(e) Unrecognized gain. If column (c) is more than (d), enter difference. Otherwise, enter -0-
14				

BAA For Paperwork Reduction Act Notice, see separate instructions.

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Form **6781** (2010)

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Federal Statements

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Example S-Corp, LLC (MTM GAIN)

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Statement 1
Form 1120S, Line 19
Other Deductions

Domain name registration fee.....	\$	103.
Start-up Costs.....		1,140.
Trader tax and accounting.....		1,250.
Trading bank charges.....		148.
Trading communications.....		312.
Trading fees.....		3.
Trading internet & cable services.....		412.
Trading market information services.....		444.
Trading postage.....		1.
Trading reference books.....		106.
Trading repairs and maintenance.....		50.
Trading subscriptions.....		349.
Trading supplies.....		13.
Total	\$	<u>4,331.</u>

Statement 2
Form 1120S, Schedule K, Line 10
Other Income (loss)

Form 6781, Part I, Section 1256 Contracts.....	\$	3,172.
Total	\$	<u>3,172.</u>

Statement 3
Form 1120S, Schedule L, Line 6
Other Current Assets

	<u>Beginning</u>	<u>Ending</u>
IB - trading assets - MTM accounting.....	\$ 0.	\$ 4,174.
Total	\$ <u>0.</u>	\$ <u>4,174.</u>

Statement 4
Form 1120S, Schedule M-2, Column A, Line 3
Other Additions

Interest Income.....	\$	158.
Ordinary Dividends.....		74.
Other Income.....		3,172.
Total	\$	<u>3,404.</u>

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Example S-Corp, LLC (MTM GAIN)

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Note to Form 1120S, Form 4797, Part II and Form 6781 in connection with the corporate trading business activity: "trader in securities and commodities"

Taxpayer operated a trading business, in accordance with the definition below, from May through December of 2010. 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.

IRS Publication 550 - Chapter 4, "Special Rules for Traders," applies to individuals and trading companies. 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 2010).

..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 its 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 1120S). Losses from these transactions are subject to the limit on capital losses explained earlier in this chapter.

Mark-to-market election made. (This new taxpayer internally elected mark-to-market accounting for securities only for 2010).

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

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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 Form 1120S, U.S. Return for an S Corporation, 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 trading business expenses on Form 1120S as trader in securities & commodities business corporation).

How To Make the Mark-to-Market Election for New Taxpayers.

If you are not required to file a 2009 income tax return, you make the election by placing the above statement in your books and records no later no later than 2 months and 15 days after the first day of the election year. Attach a copy of the statement to your 2010 return.

Revenue Procedure 99-17, 1999-1 C.B. 503, 2/09/1999, IRC Sec 475(f) Mark-to-market election rules for dealers in securities-election for traders and dealers.

Section 5.03(2)

New taxpayers.

A new taxpayer is a taxpayer for which no federal income tax return was required to be filed for the taxable year immediately preceding the election year. A new taxpayer makes the election by placing in its books and records no later than 2 months and 15 days after the first day of the election year a statement that satisfies the requirements in section 5.04 of this revenue procedure. To notify the Service that the election was made, the new taxpayer must attach a copy of the statement to its original federal income tax return for the election year. (This is the first tax year for the trading S-corp. The S-corp elected mark-to-market accounting under section 475(f) for tax year 2010 internally within 2 months and 15 days of forming the entity. A copy of that election is included at the bottom of this footnote, which is being attached to the initial Form 1120S company's return).

Once you make the election, it will apply to 2010 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 99-17, 1999-1 C.B. and sections 475(f).

TAXPAYER ALSO QUALIFIES AS A "TRADER IN COMMODITIES"

IRC Code Section: § 475 "Mark to market accounting method for dealers in securities", has Section 475(f) - "Election of mark to market for traders in securities or commodities": 475(f)(1) is for "trades in securities"; and Section 475(f)(2) is for "traders in commodities."

IRS Revenue Procedure 99-17 - "Mark to market accounting method for dealers in securities - election for traders and dealers", applies to both traders in securities and/or commodities. Rev.Proc. 99-17 reads as follows: "Headnote - IRS has provided exclusive procedure for dealers in commodities and traders in commodities and securities to elect to use mark-to-market accounting method."

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Taxpayer elected mark-to-market (MTM) accounting for securities trading only, it did not elect MTM for commodities trading.

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SUMMARY

Taxpayer qualifies as a trader in securities & commodities for 2010 and duly elected mark-to-market accounting for securities only on time for tax year 2010. Taxpayer's trading business expenses are reported page 1 of Form 1120S and trading gains and losses are reported on Form 4797 Part II - Ordinary gain or loss. Taxpayer's commodities trading gains and losses are reported on Form 6781 (since no MTM on commodities). Taxpayer is not subject to wash sale loss deferral rules on this trading activity.

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).

=====

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

This election was placed on the Corporations books on 5/16/2010.

"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, 2010 and subsequent tax years. The election applies to the following trade or business: Trader in Securities (not commodities)".

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2010**Federal Worksheets****Page 1****Client EX2SCORP****Example S-Corp, LLC (MTM GAIN)****98-9999998**

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**Reconciliation of Retained Earnings
Form 1120S, Schedule L, Line 24**

Beginning Retained Earnings, Sch. L, Line 24.....	0.
Net Income (Loss) Per Books (Sch. M-1, Line 1)	87,432.
Distributions:	
Accumulated Adjustments Account.....	-35,006.
Ending Retained Earnings, Schedule L, Line 24.....	<u>52,426.</u>

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2010 Federal Summary Depreciation Schedule

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No.	Description	Date Acquired	Date Sold	Cost/ Basis	Bus. Pct.	Cur 179/ SDA	Prior 179/ SDA/ Depr.	Method	Life	Current Depr.
Form 1120S										
Amortization										
1	Start Up Cost	5/16/10		1,140				S/L		0
Total Amortization				1,140		0	0			0
Total Depreciation				0		0	0			0
Grand Total Amortization				1,140		0	0			0
Grand Total Depreciation				0		0	0			0

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Federal Income Tax Summary

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	2010	2009	Diff
ORDINARY INCOME			
Net gain (or loss) Form 4797, line 17....	259,366	259,366	0
Total income (loss).....	259,366	259,366	0
ORDINARY DEDUCTIONS			
Compensation of officers.....	130,000	130,000	0
Taxes and licenses.....	8,507	8,507	0
Employee benefit programs.....	32,500	32,500	0
Other deductions.....	4,331	4,331	0
Total deductions.....	175,338	175,338	0
Ordinary business income (loss)	84,028	84,028	0
REFUND OR AMOUNT DUE			
Balance due.....	0	0	0
SCHEDULE K - INCOME			
Ordinary business income (loss)	84,028	84,028	0
Interest income.....	158	158	0
Ordinary dividends.....	74	74	0
Other income (loss).....	3,172	3,172	0
SCHEDULE K - ITEMS AFFECTING BASIS			
Property distributions.....	35,006	35,006	0
SCHEDULE K - OTHER INFORMATION			
Investment income.....	232	232	0
Income (loss) reconciliation.....	87,432	87,432	0
SCHEDULE L - BALANCE SHEET			
Beginning Assets.....	0	0	0
Beginning Liabilities & Equity.....	0	0	0
Ending Assets.....	136,162	136,162	0
Ending Liabilities & Equity.....	136,162	136,162	0

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ENDING ASSETS

Cash.....		131,988
Other current assets.....		4,174
Intangible assets.....	1,140	
Less: Accumulated amortization.....	(1,140)	
Total Assets.....		136,162

ENDING LIABILITIES & EQUITY

Loans from shareholders.....		3,736
Additional paid-in capital.....		80,000
Retained earnings.....		52,426
Total Liabilities and Equity.....		136,162

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General Information

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Example S-Corp, LLC (MTM GAIN)

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Forms needed for this return

Federal: 1120S, Sch K-1, 4562, 4797, 6781

Carryovers to 2011

None

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