This document will be revised once the 2013 IRS Form 8949 has been posted.

Reporting the Release and Sale of Restricted Stock on Your Tax Return

This document provides information about federal income tax reporting requirements that generally apply when one sells shares from a restricted stock grant (that is, Restricted Stock Award or Restricted Stock Unit). Income related to those shares should be included in the Form W-2 you receive from your employer, but you must also report the sale on U.S. Individual Income Tax Return (Form 1040), Form 8949 and Schedule D.

The discussion that follows provides some general guidelines for U.S. Individual taxpayers reporting income from the sale of restricted stock acquired through a corporate stock plan. **This discussion should not be construed as legal, accounting, or tax advice. You should review your personal circumstances with your tax and legal advisors. E*TRADE FINANCIAL Corp., its subsidiaries and affiliates (including E*TRADE FINANCIAL Corporate Services and E*TRADE Securities LLC), and its employees do not provide legal, accounting or tax advice.**

What You Need

- Your Form W-2 for the year in which the shares were released to you
  - If original grant was a Restricted Stock Award and you filed an 83(b) election, you will also need your Form W-2 for the year in which the shares were granted to you.
- Consolidated Form 1099-B issued to you by E*TRADE Securities LLC
- IRS Form 1040 (the full 1040, not the 1040EZ or the 1040A)
- IRS Form 1040 Schedule D: Capital Gains and Losses
- IRS Form 8949 Sales and Other Dispositions of Capital Assets
- Your Confirmation of Release or similar statement you received when the share were released to you

Before You Begin

You will need the following information:

<u>What was the release date?</u> This is the day your company released the restricted stock and delivered it to you.

<u>How much did you pay for the stock that you received from the company?</u> To calculate the ordinary income, you'll need to know how much you paid for the shares. Often restricted stock is granted at no cost, but there may be a small residual cost in certain circumstances that is collected at the time the award is granted to you. At the time the shares vested and were released to you, you probably received a Confirmation of Release or similar statement from your employer. This statement should reflect your purchase price.

<u>How much income was reported on your Form W-2 for the transaction?</u> You'll also need to know how much of the income reported on your Form W-2 is attributable to the vesting of your restricted stock. This income is combined with your salary and other compensation for the year in Box 1. At the time the shares vested and were released to you, you probably received a Confirmation of Release or similar statement from your employer. This statement should reflect your Total Gain (or Ordinary Income).

<u>What was the date of any sale?</u> This may have been around the time the shares vested and were released to you, if shares were sold to cover your tax withholding; but it may have been a later date. You should have received a sale confirmation document and Form 1099-B from your broker with this date.

Reporting Your Ordinary Income

Any ordinary income resulting from the vesting [or grant, if you filed an 83(b) election] of your restricted stock should already be included in Box 1 of your Form W-2.

The following illustration shows a Form W-2 for employee Jane Doe who earned a salary of $50,000 and realized Ordinary Income of $30,000 on the vesting of restricted stock shares.

Form W-2

The income from the vesting of your restricted stock is reported in Box 1, which also includes your salary, commissions, bonus and other compensation.

Bonus and other compensation

	a Employee's social security number	OMB No. 1545-0008	**Safe, accurate, FAST! Use** IRS e-file. Visit the IRS website at *www.irs.gov/efile*
b Employer identification number (EIN)		**1** Wages, tips, other compensation 80,000	**2** Federal income tax withheld
c Employer's name, address, and ZIP code ABC Company		**3** Social security wages	**4** Social security tax withheld
		5 Medicare wages and tips	**6** Medicare tax withheld
		7 Social security tips	**8** Allocated tips
d Control number		**9**	**10** Dependent care benefits
e Employee's first name and initial Jane	Last name Doe	Suff. **11** Nonqualified plans	**12a** See instructions for box 12 Code
		13 Statutory employee / Retirement plan / Third-party sick pay	**12b** Code
		14 Other	**12c** Code
f Employee's address and ZIP code			**12d** Code

15 State / Employer's state ID number	**16** State wages, tips, etc.	**17** State income tax	**18** Local wages, tips, etc.	**19** Local income tax	**20** Locality name

You report the total amount indicated in Box 1 on Line 7 of IRS Form 1040.

Income	7	Wages, salaries, tips, etc. Attach Form(s) W-2	**7**	80,000	00
	8a	**Taxable** interest. Attach Schedule B if required	**8a**		

The income from Box 1 of your Form W-2 is reported on Line 7 of Form 1040.

Reporting Your Capital Gain or Loss

Although income from the vesting [or grant, if you filed an 83(b) election] should appear on your Form W-2, you must also report the subsequent sale of these shares on your U.S. Individual Income Tax Return (Form 1040), Form 8949 and Schedule D, even if you only sold shares to pay the tax withholding liability at release. Any resulting gain or loss will appear on Line 13 of Form 1040. The income from the vesting [or grant, if you filed an 83(b) election] reported on form W-2 will be added to any purchase price you paid to determine your gain or loss on sale so you should not pay double tax on this income.

Form 8949 is divided into two parts: Part I is for short-term capital gains or losses and Part II is for long-term capital gains and losses. The sale of shares to cover any tax withholding liability results in short-term capital gain or loss, which is reported in Part I. If you hold your stock for more than one year after the shares vest and are released [or granted, if you filed an 83(b) election], any sale will qualify for long-term capital gain or loss.

Shares withheld by your company to cover your tax withholding liability usually do not result in either a capital gain or loss because the value of the shares to be withheld are calculated using the same fair market value as was used to calculate your ordinary income. Any residual balance that resulted from the fact that only whole shares were used to cover your tax withholding liability will have either been refunded to you or due to your company. Any short- or long- term capital gains will be due only when you sell the actual shares your received after the shares were withheld to cover your tax withholding liability.

Complete the columns in Part I or Part II of From 8949:

BOX (A) Short-term transactions reported on Form 1099-B with basis reported to the IRS
BOX (B) Short-term transactions reported on Form 1099-B but basis not reported to the IRS
BOX (C) Short-term transaction for which you cannot check box A or B

Column (a) DESCRIPTION OF PROPERTY: Describe the stock you sold. This should be the number of shares you sold and the name of the company or its ticker symbol.

Column (b) DATE ACQUIRED: Enter the date the shares vested and were released to you (this is the date you acquired the stock that you sold). If you filed an 83(b) election, this is the date the underlying Restricted Stock Award was granted to you.

Column (c) DATE SOLD: Enter the date that you sold the shares from your Consolidated Form 1099-B that you received from your broker.

Column (d) SALES PRICE: Enter the proceeds from your Consolidated Form 1099-B that you received from E*TRADE Securities. This is your total sales price less any fees or commissions that you paid on the sale.

Column (e) COST OR OTHER BASIS: Enter your cost basis. This is generally the Market Value per Share on the vest date [or Market Value per Share on the grant date if you filed an 83(b) election] multiplied by the number of shares sold. At the time the shares vested and were released to you, you probably received a Confirmation of Release or similar statement from your employer. This statement should reflect the Market Value per Share on the vest date which was used to calculate your Total Gain (or Ordinary Income).

Column (f) CODE, IF ANY, FOR COLUMN (g).

Column (g) ADJUSTMENTS TO GAIN OR LOSS, IF ANY:

Column (h) GAINS or (LOSS): Subtract column (e) from column (d) and combine the results with column (g).

Sum the totals of column d, e, g and h and enter on Schedule D, line 1 (if box A was checked), line 2 (if box B was checked) or line 3 (if box C was checked).

The following illustration shows a Form 8949 for Jane Doe of ABC Company. Jane had 1,000 shares of the ABC Company from Restricted Stock Award vest on July 15 when the Fair Market Value was $30 per share. ABC Company reported the $30,000 (1,000 shares multiplied by the $30 per share Fair Market Value) as Ordinary Income on her Form W-2. The $30 per share is now her cost basis for any subsequent sale of the shares. On July 16, Jane sold 200 shares at a price of $32 per share to cover her tax withholding liability and paid fees and commission of $25 for the sale. ABC Company reported $30,000 of income for the vesting on her Form W-2.

Form **8949**

Department of the Treasury
Internal Revenue Service

Sales and Other Dispositions of Capital Assets

▶ Information about Form 8949 and its separate instructions is at *www.irs.gov/form8949.*
▶ File with your Schedule D to list your transactions for lines 1, 2, 3, 8, 9, and 10 of Schedule D.

OMB No. 1545-0074
2012
Attachment Sequence No. **12A**

Name(s) shown on return | **Social security number or taxpayer identification number**

Most brokers issue their own substitute statement instead of using Form 1099-B. They also may provide basis information (usually your cost) to you on the statement even if it is not reported to the IRS. Before you check Box A, B, or C below, determine whether you received any statement(s) and, if so, the transactions for which basis was reported to the IRS. Brokers are required to report basis to the IRS for most stock you bought in 2011 or later.

Part I **Short-Term.** Transactions involving capital assets you held one year or less are short term. For long-term transactions, see page 2.

You *must* check Box A, B, *or* C below. Check only one box. If more than one box applies for your short-term transactions, complete a separate Form 8949, page 1, for each applicable box. If you have more short-term transactions than will fit on this page for one or more of the boxes, complete as many forms with the same box checked as you need.

- [X] **(A)** Short-term transactions reported on Form(s) 1099-B showing basis **was** reported to the IRS
- [ ] **(B)** Short-term transactions reported on Form(s) 1099-B showing basis was **not** reported to the IRS
- [ ] **(C)** Short-term transactions not reported to you on Form 1099-B

1 (a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the **Note** below and see *Column (e)* in the separate instructions	**Adjustment, if any, to gain or loss.** If you enter an amount in column (g), enter a code in column (f). **See the separate instructions.** (f) Code(s) from instructions	(g) Amount of adjustment	(h) **Gain or (loss).** Subtract column (e) from column (d) and combine the result with column (g)
200 Shares of ABC Company	7-15-2012	7-16-2012	6,375.00	6,000.00			375.00

The date the shares vested

The date the shares were sold to cover taxes

Proceeds (total sales price less fees and commissions). Reported on Form 1099

Purchase price plus the amount of income reported on Form W-2

Form 8949, page 1

2 **Totals.** Add the amounts in columns (d), (e), (g), and (h) (subtract negative amounts). Enter each total here and include on your Schedule D, **line 1** (if **Box A** above is checked), **line 2** (if **Box B** above is checked), or **line 3** (if **Box C** above is checked) . ▶	6,375.00	6,000.00			375.00

Note. If you checked Box A above but the basis reported to the IRS was incorrect, enter in column (e) the basis as reported to the IRS, and enter an adjustment in column (g) to correct the basis. See *Column (g)* in the separate instructions for how to figure the amount of the adjustment.

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 37768Z Form **8949** (2012)

Form 8949, page 1

If the shares you sell vested on different days, you can either report shares sold from each vest date on a separate line or you can aggregate all of the shares sold on a single line when reporting the sale on Form 8949. If you choose to list shares sold from each vest date on a separate line, you will need to allocate your aggregate sales proceeds to each individual vesting. To do this, divide your total proceeds by the total number of shares sold. This restates your proceeds as a per share amount. Then multiply this share amount by the number of shares for each vest date to determine what portion of the total proceeds should be allocated to the shares sold for each vest date. If you choose to aggregate all of the day's transactions on the same line, add together the cost basis for the shares sold for each vest date when you compute the total cost basis reported in column (f).

Shares sold on different days should be reported on separate lines of Form 8949.

After reporting each sale, you'll add up the amounts in column (e), (f) and (g) and enter on Line 2 for Short-term Capital Gains and losses or Line 4 for Long-term Capital Gains and losses of Form 8949. You will report the totals of Line 2 column (e) , (f) and (g) on Schedule D line 1 (if box A was checked), line 2 (if box B was checked) or line 3 (if box C was checked). You will report the totals of Line 4 column (e), (f) and (g) on Schedule D line 8 (if box A was checked), line 9 (if box B was checked) or line 10 (if box C was checked).

Report the total for column (h) on line 7 and line 15.

If the total in column (h), reported on line 7 and/or line 15, is a positive amount, you will have a capital gain. You'll report the capital gain on Line 16 of Schedule D and also on Line 13 of Form 1040. If the total in column (f) is a negative amount, you have a capital loss, which you'll report on Line 16 of Schedule D. You can report a loss of up to $3,000 on Line 21 of Schedule D and Line 13 of Form 1040. If your capital loss is less than or equal to $3,000, you'll also report it on line 21 of Schedule D and Line 13 of Form 1040. If you have a net capital loss that is more than $3,000, you won't be able to claim the entire loss this year, but you can generally carry-forward any unclaimed losses to future years. When you prepare your tax return for the following year,

SCHEDULE D (Form 1040)

Department of the Treasury Internal Revenue Service (99)

Capital Gains and Losses

▶ **Attach to Form 1040 or Form 1040NR.**
▶ **Information about Schedule D and its separate instructions is at *www.irs.gov/form1040*.**
▶ **Use Form 8949 to list your transactions for lines 1, 2, 3, 8, 9, and 10.**

OMB No. 1545-0074

2012

Attachment Sequence No. **12**

Name(s) shown on return | **Your social security number**

Part I **Short-Term Capital Gains and Losses—Assets Held One Year or Less**

Complete Form 8949 before completing line 1, 2, or 3. This form may be easier to complete if you round off cents to whole dollars.	**(d)** Proceeds (sales price) from Form(s) 8949, Part I, line 2, column (d)	**(e)** Cost or other basis from Form(s) 8949, Part I, line 2, column (e)	**(g)** Adjustments to gain or loss from Form(s) 8949, Part I, line 2, column (g)	**(h) Gain or (loss)** Subtract column (e) from column (d) and combine the result with column (g)
1 Short-term totals from all Forms 8949 with **box A** checked in **Part I**	6,375.00	6,000.00		375.00
2 Short-term totals from all Forms 8949 with **box B** checked in **Part I**				
3 Short-term totals from all Forms 8949 with **box C** checked in **Part I**				

4 Short-term gain from Form 6252 and short-term gain or (loss) from Forms 4684, 6781, and 8824	4	
5 Net short-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1	5	
6 Short-term capital loss carryover. Enter the amount, if any, from line 8 of your **Capital Loss Carryover Worksheet** in the instructions	6	( )
7 **Net short-term capital gain or (loss).** Combine lines 1 through 6 in column (h). If you have any long-term capital gains or losses, go to Part II below. Otherwise, go to Part III on the back	7	375.00

Part III **Summary**

16	Combine lines 7 and 15 and enter the result	16	375.00
	• If line 16 is a **gain**, enter the amount from line 16 on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 17 below. • If line 16 is a **loss**, skip lines 17 through 20 below. Then go to line 21. Also be sure to complete line 22. • If line 16 is **zero**, skip lines 17 through 21 below and enter -0- on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 22.		
17	Are lines 15 and 16 **both** gains? ☐ **Yes.** Go to line 18. ☐ **No.** Skip lines 18 through 21, and go to line 22.		
18	Enter the amount, if any, from line 7 of the **28% Rate Gain Worksheet** in the instructions . . ▶	18	
19	Enter the amount, if any, from line 18 of the **Unrecaptured Section 1250 Gain Worksheet** in the instructions . . . . ▶	19	
20	Are lines 18 and 19 **both** zero or blank? ☐ **Yes.** Complete the **Qualified Dividends and Capital Gain Tax Worksheet** in the instructions for Form 1040, line 44 (or in the instructions for Form 1040NR, line 42). **Do not** complete lines 21 and 22 below. ☐ **No.** Complete the **Schedule D Tax Worksheet** in the instructions. **Do not** complete lines 21 and 22 below.		
21	If line 16 is a loss, enter here and on Form 1040, line 13, or Form 1040NR, line 14, the **smaller** of: • The loss on line 16 or • ($3,000), or if married filing separately, ($1,500) . . . . **Note.** When figuring which amount is smaller, treat both amounts as positive numbers.	21	( )
22	Do you have qualified dividends on Form 1040, line 9b, or Form 1040NR, line 10b? ☐ **Yes.** Complete the **Qualified Dividends and Capital Gain Tax Worksheet** in the instructions for Form 1040, line 44 (or in the instructions for Form 1040NR, line 42). ☐ **No.** Complete the rest of Form 1040 or Form 1040NR.		

Schedule D (Form 1040) 2012

You report the capital gain on Line 13 of Form 1040.

13	Capital gain or (loss). Attach Schedule D if required. If not required, check here ▶ ☐	13	375.00

complete the Capital Loss Carryover Worksheet in the IRS instruction booklet for Schedule D.

Wash Sales

You generally will not be able to deduct the loss from the sale of the stock if it is a so-called wash sale. A wash sale occurs when you sell stock or securities (including a contract or option to acquire or sell stock or securities) at a loss and, within 30 days before or after the sale or disposition, acquire substantially identical stock or securities in a fully taxable trade, or enter into a contract or option to acquire substantially identical stock or securities. If the sale is a wash sale, you cannot deduct any loss resulting. However, you will generally be allowed to increase your basis in the new stock or security by the amount of loss that was disallowed. For more information on wash sales, see IRS publication 550 and consult tax advisor.

[1]For calendar year 2012.
[2]$1,500 if married filing separately.

 0113-CSGTAXRS-62074

Question and Answers

Q: What is restricted stock?

A: Restricted stock generally refers to employer stock that is issued to employees (and directors or other independent contractors) but is subject to certain temporary restrictions. The most common of these is that the stock must be returned to the employer (i.e., forfeited) if employment is terminated within a set period of time. Further, the stock is generally non-transferable (i.e., cannot be sold) during the period of the restriction. These restrictions are referred to as subjecting the stock to a “substantial risk of forfeiture.”

> *EXAMPLE*: Jane Doe is given 1,000 shares of her employer’s stock on December 5, 2012. The stock vests in three years on December 5, 2015, provided she remains employed on such date. In other words, she will forfeit the stock if her employment terminates within three years. Accordingly, the stock is restricted until December 5, 2015.

Q: When is the receipt of restricted stock taxable to the employee?

A: Generally, the receipt of restricted stock is not taxable to the employee until the employee’s ownership rights in the stock vest, meaning the stock is no longer subject to the substantial risk of forfeiture.

> *EXAMPLE*: Jane Doe is given 1,000 shares of her employer’s stock on December 5, 2012. The stock vests in three years on December 5, 2015, provided she remains employed on such date. She will be taxed on the value of the stock on December 5, 2015.

Q: Is the amount of taxable income based on the value of the stock when issued or when the ownership of the stock vests?

A: Generally, you will recognize income based on the value of stock at the time it vests (i.e., is no longer subject to a substantial risk of forfeiture). The amount of income will equal the excess of the value of the stock (at the time of vesting) over the amount paid for the stock (if any). However, you can elect alternative taxation (see the next question).

> *EXAMPLE*: Jan Doe is given 1,000 shares of her employer’s stock on December 5, 2012, when the stock is trading at $10 per share. The stock vests in three years on December 5, 2015, when it is trading at $30 per share. She will recognize $30,000.

Q: Can I elect to have the restricted stock taxed to me when issued rather in the future when it vests?

A: Yes, you can, by making a Section 83(b) election. Section 83(b) of the Internal Revenue Code permits an employee to elect to pay taxes on the fair market value of restricted stock (in excess of its cost, if any) in the year it is received, even though the stock is substantially nonvested and is subject to substantial risk of forfeiture. The election must be filed with the IRS and the employer must be given a copy as well

> *EXAMPLE*: Jane Doe is given 1,000 shares of her employer’s stock on December 5, 2012, when the stock is trading at $10 per share. The stock vests in three years on December 5, 2015, when it is trading at $30 per share. On December 10, 2012 she makes a Section 83(b) election. She will recognize $10,000 of compensation income in 2012. No income will be recognized on December 5, 2014 when ownership in the stock becomes vested.

Q: Is the income I recognize from restricted stock considered a capital gain or ordinary income?

A: The income recognized upon vesting of the restricted stock {or upon receipt of the stock in the event an 83(b) election is made} is taxed as ordinary income.

Q: How will the income from the restricted stock be reported to me?

A: Your employer should report the income on you Form W-2, Wage and Tax Statement. It should be included in box 1 as part of your total wages and compensation and also box 3 (social security wages) as applicable, and box 5 (Medicare wages). In addition, your employer may include it in box 14. In the case of non-employees such as directors, the income will be reported on Form 1099-MISC in box 7.

Q: Is the income from restricted stock subject to payroll taxes?

A: Yes, income recognized from the vesting of the restricted stock is subject to income tax withholding, and payroll taxes such as Social Security and Medicare. Most restricted stock plans permit you to either pay your employer for taxes due or instead to “net settle” the restricted stock. When stock is net settled, you use some of the stock to pay for the taxes due on the overall stock award, and receives the reduced amount of stock.

> *EXAMPLE*: Jane Doe’s 1,000 shares of restricted stock vest on December 5, 2013, when it is trading at $30 per share. She will recognize $30,000 of compensation income on December 5, 2013. The payroll taxes due on the $30,000 of income are $13,500. Rather than paying her employer $13,500, she opts to net settle the stock and receives a reduced award of 550 shares worth $16,500. Essentially, she used 450 shares of stock to pay for the $13,500 she owned to her employer.

Q: What is my cost basis for the restricted stock?

A: Your cost basis for the stock is equal to the sum of the amount you paid for the stock, if any, plus the amount of income you recognized when the stock became vested {or earlier in the case of a Section 83(b) election}.

Q: If I sell my restricted stock immediately once its restrictions lapse, do I need to report the sale on my tax return?

A: Yes, even though the income recognized from the stock will be included in W-2, the sale of the stock is a separate transaction for tax purposes. Generally, the sale should be reported on Form 8949, Schedule D and Form 1040.

Q: In determining whether the sale of the stock generated a short-term or long-term capital gain or loss, when does the holding period begin: when the stock was issued to me or when it vested?

A: Generally, the holding period of restricted stock does not begin until the stock becomes vested. This, you would need to hold the stock for a year after it becomes vested for any additional gains to qualify for long-term capital gains treatment. In the case of a Section 83(b) election, the holding period begins on the earlier date when the stock is granted, rather than the later date when it becomes vested.

Need more information?

For more information regarding the taxation of your Restricted Stock shares contact your employer or tax advisor. You can learn more about reporting sales of shares acquired under an employee stock purchase plan on your tax return at www.irs.gov (search on "employee stock purchase plan" or restricted stock). You can also learn more about general tax tips in the E*TRADE FINANCIAL tax center at www.etrade.com/taxcenter.

Important Things For You to Know

This article applies only to people who are subject to tax in the U.S. and it applies only to your U.S. federal income tax return. Purchases of shares under an employee stock purchase plan and sales of these shares are reported differently in non-U.S. tax jurisdictions and may be reported differently on your state income tax return. This article applies to calendar year 2012 only; transactions that occur in other calendar years may need to be reported differently.

This article applies only to disqualifying dispositions of shares acquired under a Section 423 qualified employee stock purchase plan. Consult a tax advisor for information on reporting qualifying dispositions on your tax return.

This article assumes that any fees or commissions associated with the sale are deducted from the sales proceeds reported by the broker on your Form 1099. Consult a tax advisor if your broker did not deduct the fees and commissions from the sales proceeds reported on your Form 1099.

This article assumes that your employer has properly reported the income from your disqualifying disposition on your Form W-2. If your employer did not do this, or should you have any questions concerning the information appearing on your Form W-2, you should consult your employer and/or your tax advisor.

The information published in this article is of a general nature and has been summarized for presentation to a large audience. It is not a complete discussion of all aspects of laws, rules, regulations, standards, and principles that govern how stock sales are reported on your tax return. The contents of this article are neither designed nor intended to be relied upon and should not be considered as legal or tax advice. Your specific situation may involve circumstances that cause the laws, rules, regulations, standards and principles described herein to apply differently. You should consult your own advisors before deciding what, if any, course of action to take in your particular situation.

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