

Over the past few months, we have had a couple situations where the debtor did not file a 2004 Tax Return, claiming that they were not required to file one.

The IRS has on its web site a summary that you can use to determine whether a particular debtor is required to file. It is found at <http://www.irs.gov/taxtopics/tc351.html>

A quick overview:

A debtor must file a tax return if:

- They were self-employed with net earnings of more than \$400.00. "Net earnings from self-employment" is total self-employment income less the expenses paid in operating the trade or business, multiplied by 92.35%. For more details, refer to [Publication 533](#).
- They sold a home.
- Will they owe any special tax on a qualified retirement plan ([including an individual retirement account \(IRA\)](#) or [medical savings account \(MSA\)](#)) because they:
 - Received an early distribution from a qualified plan
 - Made excess contributions to an IRA or MSA
 - Were born before July 1, 1933, and did not take the minimum required distribution from your qualified retirement plan.
 - Received a distribution in the excess of \$160,000 from a qualified retirement plan.
- They owe social security and Medicare tax on tips they did not report to their employer?

There are other special situations listed on the IRS website, but these seemed most pertinent to our issues.

If none of these special circumstances apply, then the debtor must file a return (for 2004) if:

Single Debtor under 65 – Gross income exceeded \$7,950.00

Single Debtor over 65 – Gross income exceeded \$9,150.00

Head of Household under 65 – Gross income exceeded \$10,250.00

Head of Household over 65 – Gross income exceeded \$11,450.00

Married Filing Jointly, both spouses under 65 – Gross income exceeded \$15,900.00

Married Filing Jointly, one spouse over 65 – Gross Income exceeded \$16,850.00

Married Filing Jointly, both spouses over 65 – Gross income exceeded \$17,800.00

Married Filing Separately – must always file regardless of income or age

Qualifying Widow(er) under 65 and with dependant child – Gross income exceeded \$12,800.00

Qualifying Widow(er) over 65 and with dependant child – Gross income exceeded \$13,750.00.

“Gross income” includes all income you receive in the form of money, goods, property, and services that is not exempt from tax.

Social Security distributions **may** constitute “Gross income”. To figure this out, add:

1. One-half of the benefits, plus
2. All other income, including tax-exempt interest.

The benefits are taxable (to one extent or another – more in a minute) If that total exceeds

- \$25,000 if single, head of household, or qualifying widow(er),
- \$25,000 if married filing separately and lived apart from the spouse for all of 2004,
- \$32,000 if married filing jointly, or
- \$-0- if married filing separately and lived with the spouse at any time during 2004.

If the benefits are taxable, then the taxable amount (used to calculate Gross Income) is generally 50% of the Social Security Benefits received. It can go higher, but the formula is far too complicated and we likely would rarely encounter the situation, because a person who would be in the 85% bracket would have sufficient taxable gross income from other sources to trigger the filing requirement in virtually every situation. If you really want to read the IRS version, see <http://www.irs.gov/publications/p915/ar02.html#d0e798>.