**8559. What is the net investment income tax?**

The investment income tax is surtax of 3.8% in addition to the regular income tax that certain high income taxpayers would otherwise owe on such income. The tax is imposed on the *lesser* of the following amounts:

(1) Net investment income (see Q 8560 for an explanation of what amounts are included in net investment income); or

(2) The excess (if any) of (i) the taxpayer’s modified adjusted gross income (MAGI) (as explained in Q 8559.02, below, for most taxpayers MAGI is actually AGI) for the year over (ii) the applicable threshold amount.[[1]](#footnote-1)

The applicable threshold amount for single taxpayers is $200,000. For married taxpayers filing a joint return, the applicable threshold amount is $250,000 (see Q 8561 for a detailed discussion of who is liable for the investment income tax).

*Example*: In 2014, Erica and Mickey a married couple filing jointly have an AGI of $400,000 including net investment income of $125,000. The applicable threshold amount for a married couple filing jointly is $250,000.

Applying the formula, the 3.8% net investment tax is imposed on the lesser of:

1. Net investment income of $125,000; or
2. The excess of (i) AGI of $400,000 over (ii) the applicable threshold amount of $250,000, or $150,000.

Because the lesser of the two amounts is the $125,000 of net investment income, the 3.8% net investment income tax is imposed on the entire amount of net investment income.

*Example*: Assume in 2015, Erica and Mickey have AGI of $300,000 including net investment income of $125,000 (the same amount as it 2014).

Applying the formula, the 3.8% net investment tax is imposed on the lesser of:

1. Net investment income of $125,000; or
2. The excess of (i) AGI of $300,000 over (ii) the applicable threshold amount of $250,000, or $50,000.

In this case, the lesser of the two amounts is the excess of AGI over the applicable threshold amount. Thus, in spite of having net investment income of $125,000, only $50,000 is subject to the 3.8% net investment income tax.

Finally, certain trusts and estates are also subject to the net investment income tax (see Q 8569).

**8559.02 What is modified adjusted gross income for purposes of the investment income tax?**

For most taxpayers, MAGI is the same as their AGI. This is because the only adjustments made to AGI in arriving at MAGI relate to foreign earned income. Specifically, in arriving at MAGI, AGI is increased by the excess of (1) any amounts excluded under IRC 911(a)(1) (foreign earned income) over (2) the amount of deductions and exclusions disallowed under IRC 911(d)(6) (which disallows certain deductions and exclusions that would otherwise be properly allocable to an amount excluded from gross income because it is foreign earned income).[[2]](#footnote-2) Thus, absent any foreign earned income, AGI and MAGI are the same amount.

1. . IRC Sec. 1411(a)(1). [↑](#footnote-ref-1)
2. IRC Sec. 1411(d). [↑](#footnote-ref-2)