

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

PRENTISS E. SELLERS

APPELLANT

VS.

CAUSE NO. 2007-CA-01459

NANCY BRIDGES SELLERS

APPELLEE

BRIEF OF THE APPELLEE

Appeal From the Chancery Court of Neshoba County, Mississippi
Cause No. 2005-0332

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CERTIFICATE OF INTERESTED PARTIES

The undersigned counsel of record certifies that the following listed persons have an interest in the out come of this case. The representations are made in order that the Justices of the Court may evaluate possible disqualifications or recusal.

- | | | |
|----|-----------------------------------|----------------------------|
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| 6. | Honorable J. Max Kilpatrick | Chancellor, Sixth Chancery |
| 7. | Prentiss E. Sellers | Appellant |
| 8. | Nancy Bridges Sellers | Appellee |

THIS the 31st day of July, 2008.


WILLIAM B. JACOB

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SUMMARY OF THE ARGUMENT

Mr. Sellers argues that lump sum rehabilitative alimony should not have been awarded after a division of marital assets in this cause. It is uncontested that at the time of trial Mr. Sellers was gainfully employed and his wife, Nancy Sellers, was unemployed. She had been a stay at home mom for almost twenty (20) years. She cared for the two (2) minor children of the parties, along with her step-son, Eddie's child by a prior marriage.

Nancy had previously been employed as a dental hygienist. However, due to the requirements Eddie placed upon her to care for the minor children, especially one who suffered from Tourette's Syndrome, Nancy's dental hygienist certificate had lapsed.

The Chancellor went through a lengthy Ferguson analysis in dividing the marital assets and arriving upon an equitable distribution thereof. There was approximately a fifty-three percent (53%) to forty-seven percent (47%) advantage that Eddie enjoyed as a result of this equitable distribution.

Since Nancy was unemployed and Eddie was not providing support to her, Nancy was forced to live on credit cards. Additionally, medical expenses, especially Isaac, had been incurred. Since Eddie was the only party employed, the Chancellor assigned the outstanding marital debt to Eddie. Considering the debt, there was an equal division of marital assets.

The Trial Court further went through an analysis of non-marital property. The Trial Court determined that Eddie enjoyed approximately \$138,000.00 in separate estate and Nancy had just under \$14,000.00 in separate estate. Combining the equity in the marital assets with the respective separate estates, Eddie enjoyed a sixty-four percent (64%) to thirty-six percent (36%) advantage in assets.

Recognizing, that there was substantial shortfall in income and that Nancy was going to be

re-entering the workforce, the Trial Court determined that for a seventeen (17) month time, ending December 2008, Nancy would need some financial assistance from Eddie. This was especially true since she had custody of one of the minor children of the parties. As such, the Trial Court determined that Nancy should receive \$62,600.00 in lump sum rehabilitative alimony. The Trial Court then offset this award by \$50,000.00 representing Eddie's one-half (½) interest in the former marital home leaving the sum of \$12,600.00 to be paid in cash for the support of Nancy and the minor child to which she had custody.

This award was not only equitable, but considered the station and needs of both parties. Contrary to Eddie's assertion, this was in the form of support for Nancy and not as an equalizer. As such, the Chancellor was eminently correct in so awarding.

Eddie next complains about the division of marital assets. Eddie was awarded fifty-three percent (53%) of those assets and Nancy only forty-seven percent (47%). However, since Eddie was the only party employed at the time of trial and Nancy had expended credit card resources in which to live since she was not being supported by Eddie as previously, the Trial Court, in its equitable division, required that Eddie assume the outstanding credit card and medical expense indebtedness. Some of these medical expenses were for the minor child, Isaac, who suffered from Tourette's Syndrome.

After allowing for the division of indebtedness, the Trial Court determined that there was an equal division of assets between the parties.

The Trial Court made this equitable division utilizing the Ferguson factors and went through a lengthy analysis of those factors. Thus, as a result of the above and foregoing, an equitable division of marital assets was obtained from the Chancellor and any complaint that Eddie has regarding same

is without merit.

Eddie goes through a lengthy analysis of “the types of alimony that could be awarded”. He concludes that there is no such thing as “lump sum rehabilitative alimony”. However, at least two (2) cases from the Appellate Courts from the State of Mississippi have found otherwise.

Ironically, Eddie concedes in his Brief that “a tyrannical exercise in labeling” should not be utilized and the Appellate Court should look to substance rather than label.

That having been said, Eddie launches into this “tyrannical exercise in labeling”.

Eddie further argues that the award of lump sum rehabilitative alimony is for the purpose of equalization of assets. However, the Trial Court, not once, but twice, specifically stated that the purpose of this alimony award was for the support of Nancy to enable her to get back into the workforce. This was needed especially in light of her having custody of one of the minor children of the parties who suffers from Tourette’s Syndrome. Additionally, this support will end December 2008 based upon the Chancellor’s ruling.

Thus, contrary to the generalizations used by Eddie and the erroneous arguments made by him, it is eminently clear that the Chancellor’s decision was correct. Further, the decision is completely supported by the record. Finally, the Chancellor’s decision contains no clear and unmistakable error. As a result of the above and foregoing, the ruling of the Chancery Court should be affirmed.

Eddie next complains about the amount of child support. He asserts that the child support award was based on calculations and computations by the Trial Court. However, nothing could be further from the truth. Eddie complains that the Trial Judge “did not accept his word” for his income. Again, nothing could be further from the truth.

It is elemental that the Chancellor is not bound by an 8.05 financial statement of a party nor

that parties' testimony concerning it. However, in this case, the Trial Judge, for child support purposes, accepted Eddie's financial statement and his testimony.

Eddie's generalizations again gets him in trouble. He tries to mix income for child support purposes and income for alimony purposes. The Chancellor accepted Eddie's computation regarding child support even though the amount should have been greater. The Chancellor awarded child support in the sum of \$490.00 per month when, based on Eddie's true adjusted gross income the correct amount of child support should have been \$563.00 per month. Yet, Eddie still complains.

The Chancellor relied upon the appropriate legal authorities, child support guidelines, and upon the financial statement of Eddie in setting the amount of child support. This was done notwithstanding the fact that Eddie's financial statement as to income was incorrect and his financial statement as to his expenses were incorrect.

Therefore, the Chancellor did not abuse his discretion nor was his decision based on any clear or unmistakable error. As such, the decision of the Trial Court should be affirmed.

ARGUMENT

STATEMENT OF THE CASE

This appeal deals with the divorce issues of Prentiss E. Sellers (hereinafter referred to as Eddie), and Nancy Bridges Sellers (hereinafter referred to as Nancy).

This cause was tried before the Chancery Court of Neshoba County, Mississippi pursuant to a Consent for Divorce wherein the parties had agreed to some of the issues, leaving the contested issues to be decided by the Court.

Of those contested issues two (2) of them are the subject of this appeal, namely, the alimony award and the amount of child support.

At the conclusion of the trial, the Chancellor awarded Nancy \$62,600.00 in lump sum rehabilitative alimony (CP 222, RE 38). The Trial Court also set the amount of child support to be paid by Eddie to Nancy at the sum of \$490.00 per month (CP 194, RE 10). From these two (2) awards, Eddie appeals the decision of the Trial Court.

The scope of review in domestic relations matters is limited by the familiar substantial evidence/manifest error rule. In Magee v. Magee, 661 So.2d, 1117 (Miss. 1995), the Court stated:

“This Court will not disturb the findings of a Chancellor unless the Chancellor was **manifestly wrong**, clearly erroneous or an erroneous legal standard was applied.” (Page 1122).

In Magee (supra), the Court went on to state:

“The amount of an alimony award is a matter to a great extent within **the discretion of the Chancery Court because of its peculiar opportunity to sense the equities of the situation before it.**” (Page 1122).

In the case Brennan v. Brennan, 638 So.2d, 1320 (Miss. 1994), this Court held:

“We have recently defined ‘manifest error’ as error that is ‘**unmistakable, clear,**

plain or indisputable’.” (Page 1323).

As a result, this scope of review accords great deference to the Chancellor’s opinions and findings and this deference remains unless and until there is **clear and indisputable evidence** presented that the Chancellor incorrectly exercised his discretion within the matter. This is a heavy burden to bear and is extremely difficult to accomplish.

PROPOSITION 1: THE CHANCELLOR CORRECTLY ADDRESSED THE ALIMONY ISSUES OF THE PARTIES

Eddie raised three (3) issues which are virtually synonymous contending that the award of lump sum rehabilitative alimony was improperly made. He addressed these first three (3) issues collectively. However, a collective analytical analysis of multiple issues subjects itself to the use of generalizations. This process of using generalizations will lead to faulty reasoning. This faulty reasoning of Eddie was made throughout his presentation of these three (3) issues. Therefore, Nancy will address these three (3) issues separately.

ISSUE NUMBER 1 - The Awarding of Lump Sum Rehabilitative Alimony After the Division of Marital Assets of the Parties:

The parties agreed that certain issues were contested and were to be decided by the Trial Court. (CP 192-193, RE 8-9).

Contested Area Number 2 dealt with the former marital home; Number 3 dealt with the Karate school, Number 4 dealt with the determination of marital assets, Number 5 dealt with an equitable division of the marital assets and Number 9 dealt with alimony. These Contested Areas were referenced in Eddie’s brief but the award of lump sum rehabilitative alimony was the major topic of argument and the area to which reversal is sought by Eddie.

The Chancellor had before him the marital assets of the parties. Likewise, the parties had, for

the most part, agreed on the fair market values of each of these assets. At the conclusion of the trial, the Chancellor made a by item division of these marital assets. (CP 210-213, RE 26-29). After a division was made by the Chancellor, the Trial Court determined that the parties had accumulated \$304,230.00 worth of assets and assigned \$161,210.00 to Eddie and \$142,990.00 to Nancy. Thus, Eddie received approximately fifty-three percent (53%) of the assets and Nancy only forty-seven percent (47%). (CP 213, RE 29).

The Trial Court further concluded that:

“Mr. Sellers has a substantial income which has been determined by the Court to be in excess of the amount listed on the 8.05 (Exhibit 3) for purposes of the child support calculation. Once the voluntary retirement plan is added back to his income, he has an adjusted gross income of approximately \$3,500.00.” (CP 194, RE 10).

Eddie showed on his 8.05 Financial Statement (Exhibit No. 3) (Attached hereto as Appendix 1) that he had two (2) sources of income. He had salary from his job at the Choctaw Health Center of \$4,279.41 per month gross. He also showed income from the Karate School of \$200 per month. Thus, his gross income was in the sum of \$4,479.41 per month. (See also CP 215, RE 31). He also showed a federal tax refund of \$3,393 which averages to an additional \$283.75 per month. With this addition, Eddie's monthly gross income is \$4,762.16. On Exhibit No. 3, Eddie shows State, Federal and Social Security Taxes of \$738.96. Therefore, Eddie's Adjusted Gross Income is actually \$4,023.32.

The Trial Court additionally found that Mrs. Sellers had no appreciable income **at the time of trial**. (CP 195, RE 11). The Trial Court recognized that she had been a stay at home mom for many years taking care of the parties' two (2) children as well as a step-child from a prior relationship of Eddie. One of the children of the parties (namely Isaac), suffers from Tourette's Syndrome (CP

202, RE 18). Further, Nancy, who had been a dental hygienist, lost her certification as such in order to take care of the minor children of the parties hereto. (CP 203, RE 19). Thus, Nancy had been out of the workforce approximately eighteen (18) years during the marriage of the parties.

During the separation of the parties, Nancy had been required to utilize credit cards to maintain her standard of living for herself and her minor child, Isaac. (CP 219, RE 35). As a result of the above and foregoing, the Trial Court addressed certain outstanding expenses, medical bills and credit card debt of the parties, especially those used by Nancy for support since she had no income and Eddie was not supporting her. He assigned that debt to Eddie since he was the only employed party before him. (CP 213-214, RE 29-30). The aforesaid debt was subtracted from the total fair market value of the assets of the parties leaving a net equity of \$285,980.00. Further, after subtracting the aforesaid debt from Eddie's fair market value of the assets awarded, a total equity was awarded to Eddie in the sum of \$142,990.00 with a like amount awarded Nancy. (CP 214, RE 30). In determining this equitable division of the marital assets, the Trial Court specifically relied upon the case of Ferguson v. Ferguson, 639 So.2d, 921 (Miss. 1994). (CP 201, RE 17). The Chancellor conducted a lengthy Ferguson analysis regarding equitable distribution. (CP 201-209, RE 17-25). That lengthy analysis led to the above referenced division of marital assets. It should be noted that the marital home being the first item of assets was equally divided between the parties. (CP 210, RE 26).

As required by Ferguson (supra), The Trial Court first made an equitable division of the assets of the parties. Additionally, the Trial Court went through an analysis previously dealing the respective separate estates (non-marital assets) of the parties. The Trial Court then concluded:

“The Court, after equitably dividing the assets and debts and taking into consideration

that **Mr. Sellers has a SEPARATE ESTATE of approximately \$137,500.00 and Mrs. Sellers has a SEPARATE ESTATE of approximately \$13,620.00, CONCLUDES THAT THE NEEDS AND FINANCIAL SECURITY OF THE WIFE HAVE NOT BEEN FULLY MET.”** (CP 215, RE 31).

At this time of the analysis, the respective positions of the parties consisted of the following:

	EDDIE	NANCY
GROSS MONTHLY INCOME	\$4,762.16	-0-
EQUITY IN MARITAL ASSETS	\$142,990.00	\$142,990.00
SEPARATE ESTATE	\$137,500.00	\$13,620.00
TOTAL ASSETS	\$280,490.00	\$156,610.00
PERCENTAGE	64%	36%

Based upon the above and foregoing it is eminently clear that not only was the Chancellor correct in his conclusion, but also that conclusion was supported by the evidence before him as demonstrated by the above table. Eddie had almost twice the amount of available assets as did Nancy. Further, Nancy was having to re-integrate into the workforce and needed some financial assistance to do so.

Contested Area Number 9 states “**Alimony.** Whether or not if either party shall receive alimony from the other and, if so, what amount, in what form, and what duration.” (CP 193, RE 9).

The Trial Court went through a lengthy analysis using the prior precedent of Armstrong v. Armstrong, 618 So.2d, 1278 (Miss. 1993) and Cheatham v. Cheatham, 537 So.2nd, 435 (Miss. 1988). (CP 215, RE 31). This analysis was contained within the Court’s lengthy Opinion. (CP 215-223, RE 31-39).

Eddie first complains that the income figures relied upon by the Court regarding Eddie’s

income was not accurate. He states:

“The lower Court did not rely upon the financial figures provided by Eddie on the stand or in his Rule 8.05 form and income tax return. The Court revised the numbers and crafted new figures, from which it then made the aforesaid awards.” (Appellant’s Brief Page 20).

As stated previously, generalizations can lead to erroneous statements. Further, the credibility of witnesses is the province of the trier of fact. In this case, the trier of fact was the Chancellor. The Chancellor went through a methodical recitation of the inaccuracies of Eddie’s testimony and “financial figures” utilized by him in this cause. (CP 215-217, RE 31-33). This methodical analysis included information provided by documentation which included Eddie’s gross salary from his place of employment; income from his Karate school; tax returns; depreciation of personal assets; use of personal assets for business deductions; and exaggerated expenses. Thus, not only did Eddie understate his true income, he inflated his expenses associated therewith.(CP 215-217, RE 31-33). On the other hand, Nancy did not commit these errors in testimony.(CP 217, RE 33). This factor weighed heavily upon the Trial Court in its determination of the needs of the respective parties.

Further, it should be remembered that based upon the agreement of the parties, the type, duration and amount of alimony was left to the sound discretion of the Trial Court once a short fall was determined. As such, the Trial Court had to address all of the factors for the various types of alimony and determine, based upon all of the facts presented and the proof elicited, an equitable solution therefrom.

Two (2) major factors were upper most in the mind of the Chancellor. These two (2) factors, after considering the income and assets of the parties, and after an equal and equitable division of the marital assets, along with the disparity in income were (1) to minimize friction between the parties;

and (2) the recognition that Nancy would be returning to the workforce and thus, have her own independent income.

Eddie had testified that he recognized that both parties could no longer live in the former marital home. He further recognized that the Karate school building was closely associated with the former marital home. The Trial Court acknowledged in its ruling that these parties, if in close proximity, one to the other, would result in a massive amount of friction between the parties. Therefore, to minimize that friction, the former marital home and the karate school building would have to be owned by one of the parties. Since both could not own the property, the Chancellor awarded the former marital home and the associated karate building to Nancy.

Eddie, through his brief, continued to use speculation and conjecture on the reason the Court made such an award. He used generalizations that this was done as an "equalizer." There is no need to speculate as to the Court's reasoning, since the Court answered this question.

On July 6, 2007, the Trial Court conducted a hearing on a Motion for Reconsideration of the final Judgment entered. The issue of the lump sum rehabilitative alimony was raised at that hearing. The Chancellor further explained his reasoning for the award of lump sum rehabilitative alimony. At the conclusion of the hearing, the Trial Court rendered a Bench Opinion wherein the Court stated:

"I feel that it is fair and equitable and reaches the goal of the rehabilitative lump sum law which basically is allowing her (Nancy) to re-enter the workforce as she has with a minor child to keep her from being desolate during the process." (RE 54).

The Trial Court further explained the need for this alimony in that Nancy required some type of financial security to keep her and her minor child from being destitute as she re-entered the workforce after an absence of approximately twenty (20) years.

The Trial Court went on to state that he off-set the lump sum alimony award by \$50,000.00

to provide Nancy and Isaac with a home recognizing that she had no assets in funds upon which to live. The Trial Court concluded this issue by stating:

“The Court felt that by making this award of lump sum rehabilitative alimony that I did in the manner that I made it would be to the effect that it would comply with the law, allow Mrs. Sellers some security to keep her and the minor child from being desolate as she attempts to re-enter the workforce and at the same time allow her a stable home environment for her and her child that would be free and clear from any liens or encumbrances.” (RE 55).

Additionally, Nancy required cash money assistance to get back into the workforce. As such, the Trial Court awarded lump sum rehabilitative alimony to Nancy in the sum of \$62,600.00 (CP 222, RE 38). Credit was awarded to Eddie in the sum of \$50,000.00 as his interest in the former marital home with said residence being awarded to Nancy. (CP 222, RE 38).

Eddie then complains:

“The award by the Chancellor to Nancy Sellers of ‘lump sum rehabilitative alimony is not recognized by the law.’” (Appellant’s Brief, Page 28).

In the case of Gray v. Gray, 909 So.2d, 108 (Miss. App. 2005), this Court was faced with the following issue:

“Whether the Chancellor was in error in awarding periodic alimony and **LUMP SUM REHABILITATIVE ALIMONY** to Angela or, in the alternative, in awarding alimony in an amount that was more than Richard can pay.” (Page 112).

In that case, the matter was reversed not on “award grounds”, but on “the brevity of the Chancellor’s order” preventing the Appellate Court from reviewing the evidence and the statement of factors that the Chancellor considered in awarding alimony. (¶18).

In the case before the Court at this time, it cannot be said that the Chancellor’s Opinion was scanty or brief. The Chancellor went through a well reasoned Opinion citing findings of fact and conclusions of law unlike Gray (supra).

As a result of the above and foregoing, the first issue is not well taken and the reasoning of the Trial Court is substantiated by clear and unmistakable facts and conclusions of law. Thus, no manifest error has occurred.

ISSUE NUMBER 2: The Chancellor was Correct in His Division of Marital Assets.

This Court has stated in Ferguson (supra) that equitable division of marital assets should be made in divorce cases. Mississippi is not a community property state, but is an equitable division state.

However, in this case, the Trial Court awarded Eddie fifty-three percent (53%) of the marital assets and Nancy only forty-seven percent (47%) of them. This division of marital assets included an equal division of the fair market value of the marital home and the 401K of Eddie. Those two (2) assets were the major assets of the parties. (CP 213, RE 29). When the marital debts were factored into the assets, the resulting division between the parties was an equal division. (CP 214, RE 30).

The division of the remaining assets, being the separate estates of the parties, was also conducted. The Trial Court concluded that Eddie's separate estate included a value of \$137,500.00. Nancy's separate estate consisted of \$13,620.00.(CP204, RE 20). Thus, Eddie had a ten-fold greater separate estate than did Nancy. The Trial Court further concluded that Nancy had no interest in Eddie's separate estate and likewise, Eddie had no interest in Nancy's separate estate.

As a result of the above and foregoing, the equitable division as mandated by Ferguson (supra) and Hemsley v. Hemsley, 639 So.2d, 909 (Miss. 1994), has been followed.

Thus, the equitable division of marital assets has been followed by the Chancellor and any complaint of Eddie is without merit.

ISSUE NUMBER 3 - The Trial Court Correctly Divided the Marital Assets and Awarded

Lump Sum Rehabilitative Alimony.

As state above, an equitable division of the marital assets was accomplished by the Trial Court. Further, the Trial Court acknowledged that a deficit existed. This deficit mainly centered around two (2) indisputable and uncontested facts, namely (1) a vast discrepancy in income, just under \$5,000.00 per month gross for Eddie and no income for Nancy; and (2) a lack of cash available by either party.

Eddie resorts to a lengthy general recitation of the different types of alimony recognized by this State and contends that “lump sum rehabilitative alimony” is not among those types of alimony.

However, Gray (supra) holds to the contrary. Additionally, the case of Caldwell v. Caldwell, 805 So.2d, 659 (Miss. App. 2002), states the following:

“When the Judge awarded Elizabeth \$15,466.66 as one-third of the sale price, he also **AWARDED HER \$8,500.00 IN LUMP SUM REHABILITATIVE ALIMONY. This sum was to be paid from the proceeds of the sale of the home.**” (¶6).

This case was affirmed by the Appellate Court.

Therefore, lump sum rehabilitative alimony is in fact a part of the jurisprudence of this State. This is true contrary to Eddie’s assertions throughout his Brief. This again illustrates that generalities result in incorrect conclusions.

Eddie contends throughout his Brief that lump sum alimony is “an equalizer”. (Appellant’s Brief, Page 21, 24, 29, and others).

Eddie relies upon the case of Miller v. Miller, 874 So.2d, 469 (Miss. App. 2004), wherein this Court held that when lump sum alimony was paid “as an equalizer” it is because the property distribution has left one spouses’ assets out of balance to the other in such a way as to be inequitable. However, the difficulty with generalizations again appears. Miller (supra) acknowledges that lump

sum alimony is a hybrid divorce concept. It has two (2) parts, not just one (1). **One part is to provide support to the receiving spouse** and the second part is to be “an equalizer”.

The purpose of alimony in any of its forms is to cure inequities that exist between the parties. In analyzing the concept of alimony both of the purposes of it must be considered together. Alimony can be part of division of assets and alimony can also be a part of support. Eddie’s generalization regarding “equalizer” fails to consider the second purpose of alimony and that is, **support**.

Illustrative of this faulty generalization is the argument made by Eddie as follows:

“The Chancellor below considered the Ferguson and Armstrong factors, in the context of equitable distribution and periodic alimony. However, he failed to consider the Cheatham/Ferguson factors in light of a lump sum alimony award.” (Appellant’s Brief, Page 28).

Eddie further fails to consider the reasoning set forth by the Chancellor himself. This reasoning was done twice. First, the Chancellor set out the reasoning in his original opinion. This reasoning clearly was in the nature of support NOT EQUALIZATION. The second time was on the Motion for Reconsideration. Both opinions stated that the reason for the award was support NOT EQUALIZATION. (See original opinion and RE 55)

Eddie relies, in support of this contention, on the case of Haney v. Haney, 907 So.2d, 948 (Miss. 2005). In discussing equitable division Haney (supra) took the Ferguson factors and the Cheatham factors and made a side-by-side comparison of them. (§25). It was evident that the Ferguson/Cheatham factors in equitable distribution of assets are all enumerated in the Ferguson factors and thus, Cheatham has been subsumed by Ferguson. However, the Ferguson factors relied upon by Haney (supra) dealt with the issue of equitable division and not with the issue of alimony.

In Armstrong (supra), the Court stated:

“The following factors are to be considered by the Chancellor in arriving at findings and entering judgment **for alimony**:” (1280).

The Court then went on to list the twelve (12) “alimony factors” to be considered by a Trial Court in making an alimony award. These factors would apply to ALL TYPES OF ALIMONY.

Directly following those twelve (12) factors, the Supreme Court then addressed “the types of alimony awards”. The Court then stated:

“Our Chancery Courts are vested with **broad authority to provide for the material needs of spouses incident to the divorce**. Our cases recognize several general forms of awards. We have recognized and approved several general types including, **BUT NOT LIMITED TO** (a) periodic alimony, sometimes called permanent or continuing alimony; (b) lump sum alimony or alimony in gross; (c) division of jointly accumulated property; (d) award of equitable interest in property.” (Page 1281).

Subsequently, in Hubbard v. Hubbard, 656 So.2d, 124 (Miss. 1995), the Supreme Court recognized that putting a time limit on periodic alimony would be appropriate in certain circumstances. The Court coined the term “rehabilitative periodic alimony” as applying to individuals who were re-entering the workforce and needing certain financial assistance in doing so. This type of alimony was crafted to prevent one party from being destitute while getting back into the workforce. It is **for the purpose of support for the party** that is less well off than the other.

Once the Chancellor in this case determined that Eddie had a substantial income in comparison to Nancy, Nancy had custody of Isaac by agreement of the parties, Eddie was gainfully employed and Nancy was not, Eddie had residential opportunities other than the former marital home, Nancy did not have residential opportunities except for the former marital home, Isaac needed a roof over his head, Nancy needed to re-entered the workforce and time was needed for this purpose, the issue of friction between the parties needed to be minimized, and a consideration of the alimony factors listed in Armstrong (supra) was made, then the Trial Court wisely considered the Armstrong

and Cheatham factors which resulted in the lump sum rehabilitative alimony award made.

Contrary to the assertions of Eddie, the Chancellor utilized the Armstrong factors and the Cheatham factors and specifically stated that not only were those factors considered, but in addition, specific findings of fact and conclusions of law made regarding each of those factors. (CP 215-222, RE 31-38).

Ironically, Eddie relies upon the case of Elliott v. Rogers, 775 So.2d, 1285 (Miss. App. 2000) when he states:

“The Appellate Court looks to the **substance, not the label.**”

In that case involving an agreed settlement, the Court noted that it was being invited to a “**tyrannical exercise in labeling.**” (Appellant’s Brief, Page 28). This “tyrannical exercise in labeling” is identical to that which Eddie is trying to invite this Court to do.

Based upon the evidence presented, the Trial Court was of the opinion that a seventeen (17) month rehabilitative alimony cash award would be sufficient to allow Nancy to regain and re-enter the workforce. This seventeen (17) month time period will end December 2008. (CP 223, RE 39).

Throughout his Brief, Eddie contends that this alimony award is for the purpose of “**equalization**”. He does this in general terms throughout his Brief and then speculates that “in the instant case, this new label **appears to be a post-equitable distribution transfer of assets** from Eddie to Nancy.” (Appellant’s Brief, Page 28). Again, however, generalizations and speculation result in misleading and inaccurate statements.

The Trial Court answered the speculation, specifically when it stated:

“The award (lump sum rehabilitative alimony) is in the nature of spousal support for Mrs. Sellers.” (CP 223, RE 39).

This same reasoning was stated by the Chancellor on the Motion for Reconsideration when the Court stated that Nancy's need for cash and a stable home for Isaac was critical. He ruled that support NOT EQUALIZATION was the reason for the award. This stated reason is completely contrary to that espoused by Eddie.

Thus, based upon actual fact and not speculation, the Trial Court awarded this alimony sum to Nancy in the form of support, not as an equalizer. The Trial Court went on to further announce that since this award was in the nature of spousal support, the Trial Court would then grant unto Eddie an off-set by allowing him to claim both children for tax purposes during the period of time that he was to be paying this lump sum rehabilitative alimony. (CP 223, RE 39).

When generalizations are removed and specifics are considered, the Chancellor correctly awarded lump sum rehabilitative alimony to Nancy and equitably divided the marital assets between the parties.

As a result of all of the above and foregoing in these three (3) issues, the Chancellor's decision was completely supported by the record, contained no **clear and unmistakable error** and should be affirmed by this Court.

PROPOSITION II: THE CHANCELLOR CORRECTLY DETERMINED THE AMOUNT OF CHILD SUPPORT TO BE PAID BY THE PARTIES

The amount of child support to be awarded in divorce matters is governed by Section 43-19-101 of the Mississippi Code of 1972, as amended. Pursuant to this statute, the child support guidelines for one (1) child is fourteen percent (14%) of the paying parties' adjusted gross income. This section defines gross income as income from all sources. Subtracted from the gross income are Federal, State and local taxes, Social Security contributions and mandatory retirement and disability

contributions. Excepted from this subtraction is any **“voluntary retirement and disability contributions.”** (See Section 43-19-101(3)(b)(iii)). The resulting figure is defined by this statute as “adjusted gross income”.

Based upon Eddie’s Rule 8.05 financial statement, he claimed that his salary from employment at the Choctaw Health Center was in the sum of \$4,279.41 per month. Eddie additionally showed income from the Karate school of \$200.00 per month, giving him a total gross income of \$4,479.41. On this same 8.05 Statement, Eddie contended that his State Income Tax liability was \$129.60 per month; Federal Income Tax liability was \$305.10 per month; Social Security taxes in the sum of \$304.26 per month; and medical insurance premiums of \$302.40 per month. Eddie further listed a voluntary 401K retirement sum in the amount of \$342.36 per month. Thus, excluding the voluntary 401K contribution, pursuant to **his 8.05 financial statement (Exhibit No 3)**, Eddie shows an adjusted gross income of \$3,438.05. Further, the tax return attached to the aforesaid Rule 8.05 statement shows a tax refund of \$3,393.00 which averages to the sum of \$282.75 per month additional income. The Chancellor rounded the adjusted gross income of Eddie to the sum of \$3,500.00 per month. Based thereon, the child support computation was made.

In this case, the Trial Court determined that Eddie’s adjusted gross income was the sum of \$3,500.00 per month. Utilizing the above referenced statute, the Trial Court determined that fourteen percent (14%) of the adjusted gross income was in the sum of \$490.00 per month which is the amount of child support set by the Chancellor for Eddie to pay unto Nancy. (CP 194, RE 10). As stated previously (Appellee’s Brief page 4), Eddie’s true Adjusted Gross Income was in the sum of \$4,023.32. This would mean that his actual child support based on the guidelines would be in the sum of \$563.26 per month. Yet, the Chancellor only set the child support amount as \$490 per month.

Eddie contends in his Brief:

“In this cause, the child support determination was based upon figures that were not traceable to the record.’ The award of child support was predicated upon the **revision by the Trial Judge of Eddie’s financial figures**. His projected monthly income was increased by \$200.00 from the “Eddie Sellers’ Karate School”, which was later awarded to Nancy. The lower Court added to the monthly income a voluntary retirement deduction, gave a credit of an unstated amount for hospitalization insurance paid by Eddie, and allowed no credit for Austin while in Eddie’s custody.” (Appellant’s Brief, Page 32).

This entire proposition is predicated upon this one paragraph. The assertion made by Eddie in his Brief, quoted above, is totally and completely contrary to the true facts and Opinion of the Chancellor. (It should be noted that Eddie NOT NANCY was awarded the “Eddie Sellers’ Karate School” (CP 230, RE 46).)

In the case of Bittick v. Bittick, Slip Opinion No. 2007-CP-00401-COA (Miss. App. July 22, 2008), that Court determined that the Chancellor has the sole responsibility to determine the credibility of witnesses and evidence and the weight to be given to each. (§3). Eddie contends that his “revised monthly adjusted gross income” of \$3,500.00 was not supported by substantial evidence. Yet, **this adjusted gross income** for child support purposes, **came not from financial projections** made and through extrapolations, as in Fountain v. Fountain, 877 So.2d, 474 (Miss. App. 2003); not from business expense adjustments as in Nix v. Nix, 790 So.2d, 198 (Miss. 2001); **not from non-introduced financial declarations** as in Ellzey v. White, 922 So.2d, 40 (Miss. App. 2006); **not from parochial school tuition additions** as in Moses v. Moses, 879 So.2d, 1043 (Miss. App. 2004), **BUT FROM EXHIBIT 3 WHICH WAS THE FINANCIAL DECLARATION, RULE 8.05, STATEMENT OF EDDIE SELLERS HIMSELF.**

After determining the appropriate amount of **child support** for Eddie, the Trial Court did

utilize an **income analysis of Eddie** regarding a totally and separate distinct issue, namely **alimony**. (CP 215-217, RE 31-33). This analysis being required by Armstrong (supra) was made in order to show that the true income of Eddie Sellers was not supported by his Rule 8.05 statement. This analysis not only looked at Eddie's income but also his expenses. After this analysis of his income and expenses, the Trial Court did not find it appropriate to adjust upward the child support that Eddie was required to pay unto Nancy. Thus, if anyone should be complaining, it is Nancy, not Eddie.

Further, Eddie is the one who increased his monthly income by \$200.00 per month from his Karate school. This figure was placed on his Rule 8.05 financial statement by himself, not by the Trial Court. Contrary to the assertions in his Brief, Eddie recognized that his tax return showed a loss for the Karate school, **for tax purposes only**, but for child support purposes he had an income of \$200.00 per month. This representation was made by Eddie, not by the Trial Court.

Eddie asserts in his Brief that the voluntary retirement deduction from his paycheck should not have been re-added to his income for computation of child support. Yet, pursuant to the child support guideline statute quoted above, voluntary contributions to a retirement plan are not appropriate deductions from gross income in the computation of adjusted gross income for child support purposes.

Eddie further asserts that the Trial Court "gave him credit for an unstated amount of hospitalization insurance paid by Eddie." (Appellant's Brief, Page 32). However, it is true that the Chancellor did not quote the figure for medical insurance, but that figure was presented to the Trial Court by **Eddie through his financial declaration as the sum of \$302.40 per month**.

In utilizing the computations of Eddie's true monthly income, during the alimony analysis of Eddie's monthly income, the Trial Court acknowledged that Eddie had substantially greater sums than

those submitted on his Rule 8.05 statement. Additionally, there is at least \$282.75 per month of additional income from the tax refund that was not included on Eddie's financial statement.

It is acknowledged that consideration should be given to Eddie's support of one (1) of the two (2) minor children of the parties and the Trial Court gave that consideration to Eddie by leaving the "adjusted gross income" at the lower figure as shown on the Rule 8.05 statement instead of the true adjusted gross income which is substantially higher. As such, the amount of child support assessed by the Trial Court for Eddie to pay unto Nancy, is the appropriate sum and is supported by the evidence and the record.

At the time of trial, Nancy was unemployed. As such, the Trial Court recognized that both parents have a responsibility of supporting their children. In this case, each parent had custody of one (1) child. Based upon Magruder v. Magruder, 881 So.2d, 365 (Miss. App. 2004), this Court acknowledged that when both parents have **separate incomes**, then child support should be paid in proportion to the relative financial ability of each. At the time of trial since Nancy was unemployed, her financial ability to pay child support was non-existent.

As such, the Trial Court ruled:

"On the other hand, Mrs. Sellers shows no income whatsoever, and the Court finds that no child support can be assessed at this time; however, once she becomes gainfully employed, her child support obligation will be subject to reconsideration. Accordingly, the Court orders that Mrs. Sellers is to pay no child support at this time." (CP 195, RE11).

Thus, contrary to Eddie's assertion, Nancy did not "receive a pass from paying child support". (Appellant's Brief, Page 34).

Eddie cited no case that stood for the proposition that child support was based on "assets". All cases cited by Eddie indicate that child support is based upon income, not upon assets. If assets

were to be utilized in determining child support, then Eddie's assets would likewise come into play and his child support would be substantially higher than awarded by the Trial Court.

Based upon the above and foregoing, it is eminently clear that the amount of child support awarded to Nancy complies with the statutory guidelines for child support determination. Thus, the Chancellor was eminently correct in his award of child support and his findings should be affirmed.

CONCLUSION


The Trial Court correctly divided the marital assets. The Trial Court correctly assessed the spousal support awarded to Nancy. Further, the amount of child support to be paid by Eddie to Nancy was calculated upon the proper adjusted gross income with appropriate considerations made for the circumstances for which the Trial Court found itself.

As such, the decision of the Trial Court should be affirmed in all respects and all costs of this appeal should be assessed against Eddie.

Respectfully submitted, this the 31st day of July, 2008.

NANCY BRIDGES SELLERS, APPELLEE

BY:


WILLIAM B. JACOB,
OF COUNSEL FOR APPELLEE

CERTIFICATE OF SERVICE

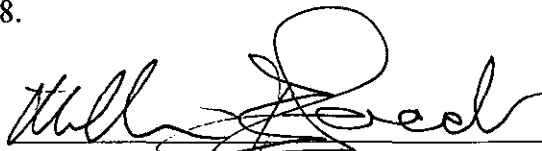
I, the undersigned, William B. Jacob, of counsel for the Appellee, Nancy Bridges Sellers, do hereby certify that I have caused to be delivered a true and correct copy of the above and foregoing Appellee's Brief to the following:

Henry Palmer, Esquire
Lawyers, PLLC
Post Office Box 1205
Meridian, Mississippi 39302-1205

Marvin E. Wiggins, Jr., Esquire
Attorney at Law
Post Office Box 696
DeKalb, Mississippi 39328-0696

Honorable J. Max Kilpatrick
Chancellor, Sixth District
Post Office Drawer 520
Philadelphia, Mississippi 39350

THIS the 31st day of July, 2008.


WILLIAM B. JACOB

WILLIAM B. JACOB
SELF, JACOB & KIERONSKI, LLP
Post Office Box 949
Meridian, Mississippi 39302-0949
Telephone: 601/693-6994
Facsimile: 601/483-4935
MISSISSIPPI STATE BAR NO. 2977

APPENDIX 1

RULE 8.05 FINANCIAL STATEMENT OF EDDIE SELLERS

IN THE CHANCERY COURT OF NESHOBIA COUNTY
THE STATE OF MISSISSIPPI

EXHIBIT "A"

NANCY BRIDGES SELLERS

PLAINTIFF

VS.

CIVIL ACTION NUMBER: 2005-332

PRENTISS E. (EDDIE) SELLERS

DEFENDANT

I. GENERAL INFORMATION

NAME:	Prentiss E. (Eddie) Sellers
ADDRESS:	15560 Hwy 15 South
CITY, STATE & ZIP CODE:	Philadelphia, MS
DATE OF BIRTH:	1/7/55
SOCIAL SECURITY NUMBER:	587-84-9212
OCCUPATION:	Energy Manager
EMPLOYER:	Choctaw Health Center
EMPLOYER'S ADDRESS:	210 Hospital Circle
	Philadelphia, MS

MINOR CHILDREN:

NAME	DATE OF BIRTH
Prentiss Austin Sellers	10/27/89
Isaac Lucas Sellers	3/15/98

EXHIBIT NO GE-3
CAUSE NO. 2005-332
Evidence _____
For Identification _____

FILED

AUG 4 - 2006

Time 2:30pm
NESHOBIA COUNTY CHANCERY CLERK

EXHIBIT "A" CONTINUED

II. INCOME STATEMENT

AS OF 8/3/06

GROSS MONTHLY INCOME

AMOUNT

1. Salary and Wages including commission, bonuses, allowances and overtime. (To arrive at a monthly income figure if paid weekly, multiply income by 4.3; if paid bi-weekly, multiply income by 2.16	\$4,279.41 *See attached 2005 W-2, 2004 Tax Return & 2006 YTD check stub
2. Pension and retirement	
3. Social Security	
4. Disability and unemployed insurance	
5. Public assistance (welfare, AFDC payments, etc)	
6. Dividends and interest	
7. Rental income	
8. Other income (Karate School)	200.00
9. Other income	
TOTAL MONTHLY INCOME:	\$4,479.41
1. State income taxes	63.00
2. Federal income taxes	583.78
3. Social Security	59.88
4. Medical insurance	302.40
5. Retirement	355.19
6. Union or other dues	
7. Other (specify) 401k	
8. Other (specify)	
9. TOTAL MONTHLY DEDUCTIONS:	1,364.35
10. NUMBER OF EXEMPTIONS	
11. NET MONTHLY PAY:	\$3,115.06

III. EXPENSE STATEMENT

A. LIVING EXPENSES

AS OF 8/3/06 AS OF _____

	Household	Children	Household	Children
1. Rent/Mortgage (Residence)	\$ 0.00			
2. Real Property Taxes (Second Mortgage)	\$ 80.00			
3. Real Property Insurance	\$ 159.00			
4. Maintenance (Residence)	\$ 50.00	\$ 50.00		
5. Food/Household Supplies	\$ 350.00	\$ 350.00		
6. Water, Sewer, Garbage, etc.	\$ 55.00	\$ 30.00		
7. Electricity	\$ 115.00	\$ 115.00		
8. Gas (Residence)	\$ 0.00			
9. Telephone (and Pager)	\$ 160.00			
10. Laundry & Cleaning	\$ 100.00			
11. Clothing	\$ 50.00	\$ 50.00		
12. Insurance (not payroll deducted)	\$ 67.00			
13. Medical	\$ 150.00			
14. Dental				
15. Child Care				
16. Children's Allowance	\$	\$ 60.00		
17. Payment of Child Support/Alimony (prior marriage)				
18. School Expenses		\$ 83.00		
19. Entertainment (clubs, social, travel, recreation, etc)	\$ 150.00	\$ 50.00		
20. Incidentals (grooming, gifts, tobacco)	\$ 150.00	\$ 100.00		
21. Transportation other than automobile	\$ 41.00			
22. Gasoline & Oil (Auto)	\$ 200.00	\$ 150.00		
23. Repair (Auto)	\$ 100.00			
24. Insurance (Auto)	\$ 130.00			
25. Auto Payments	\$ 0.00			

26. Church Donations	\$ 280.00			
27. Charitable Donations	\$ 20.00			
28. Newspaper/Magazines	\$ 25.00			
29. Cable TV	\$ 59.00			
30. Pet Expenses	\$ 20.00	\$ 20.00		
31. Yard Expenses	\$ 40.00			
32. Maid				
33. Retirement (IRA etc.)				
34. Pest Control	\$ 5.00	\$ 5.00		
B. TOTAL LIVING EXPENSES:	\$ 2,556.00	\$1,063.00		
Installment Payment - Notes, Loans, Charge Accounts, Etc.				
35. \$15,000 owed to my mother (borrowed to buy camper to live in)				
36.				
37.				
38.				
39.				
40.				
OTHER EXPENSES:				
41.				
42.				
TOTAL INSTALLMENT PAYMENTS:				
COMBINED TOTAL EXPENSES:	\$ 2,536.00	\$1,043.00		

TOTAL

\$3,619.00

EXHIBIT "B"**IV. STATEMENT OF ASSETS****A. Real Estate**

Title in the name of:	Eddie & Nancy Sellers
Address:	15560 Hwy 15 South, Philadelphia, MS
Who paid costs:	Eddie
Value (estimate)	118,000.00
Mortgage balance	-0-
Equity	118,000.00

Title in the name of:	Prentiss Sellers and Betty Crane
Address:	11200 Rd 410, Philadelphia, MS
Who paid costs:	
How cost paid:	
Value (estimate)	\$95,000.00 to \$100,000.00
Mortgage balance	0.00
Equity	\$95,000.00 to \$100,000.00

Title in the name of:	Prentiss Sellers and Betty Crane
Address:	1108 Keith Street, Philadelphia
Who paid costs:	gift from mother
How cost paid:	
Value (estimate)	\$50,000.00
Mortgage balance	0.00
Equity	\$50,000.00

*List mortgage balance also under liabilities on the next page. List the amount of your monthly payment only under LIABILITIES.

Registered in the name of:	Eddie & Nancy Sellers	
Year: 1999	Model: Dodge Mini-Van	Mileage: 100,000
Who paid costs:	Both	
How cost paid:	Monthly	
Value:	4,610.00	
Loan Balance:	0	
Equity:	4,610.00	

Registered in the name of:	Eddie Sellers
Year: 2000	Model Ford Ranger Mileage:77,000
Who paid costs:	Eddie
How cost paid:	Monthly
Value:	4,735.00
Loan Balance:	0
Equity:	4,735.00

C. Other Personal Property (such as home computers, guns, lawnmowers, TVs, jewelry, household furnishings, etc.)

ITEM	VALUE
1986 Ford Bronco	1500.00
1983 Ford Bronco	0.00
2003 Buell Blast Motorcycle	2,000.00
Terry Bass Boat, Motor & Trailer	1,000.00
1997 Yamaha 4-wheeler	1,000.00
Household Furnishings	15,000.00
Yard & Garden Equipment	1,000.00
Computer	1,000.00
** See attached asset sheet	
TOTAL	\$22,500.00

D. Checking/Savings (name of Bank, Account Number and Amount in Account, including CD's, money markers, passbook accounts, etc.)

Name(s) on Account	Bank/Acct No.	Type of Acct.	Balance
Eddie Sellers	2142255	Checking	\$500.00
Eddie Sellers (Karate School)	1522184	Checking	\$200.00
Eddie Sellers	181052683	Checking	\$333.39

E. Other Investments (IRA's stock(s), mutual funds, pension plans, etc.)

Bank Account No.	Type of investment	Balance
TransAmerica	401K	\$162,000.00
Total:		\$162,000.00

F. Life Insurance (exclude children)

Insured	Company	Face Amount Less Loans	Cash value	Beneficiary
Eddie Sellers	Choctaw Health Center		\$50,000.00	Nancy Sellers

G. All Other Assets

ITEM	VALUE
Karate School & Land	10,000
1/2 All Marital Assets	

STATEMENT OF LIABILITIES

II. LIABILITIES (Include mortgage, car loan, credit cards, personal loans).
(Include also under 35-44 on Page 4 of Exhibit "A")

Creditor	Whose Name(s)	Current Balance Due	Monthly Payment	Who Pays
Jeff Anderson	Nancy Sellers			
University	Eddie	3500.00	What I can pay	Eddie
Roma M. Sellers	Eddie	15,000.00		Eddie
Medical Foundation	Eddie, Austin & Issac	569.56		
Meridian Anesthesiology	Nancy	458.40		
Meridian Radiology	Eddie and Nancy	247.56		
Rush Medical Grp.	Eddie, Austin & Isaac	639.17		

ACKNOWLEDGMENT OF TRUTHFULNESS

I declare to the Court that the foregoing Exhibits "A" and "B" including attachments, are true and correct and that this declaration was executed on the 4 day of Aug, A.D. 2006.


PARTY'S SIGNATURE

IN THE CHANCERY COURT OF NESHOB COUNTY
THE STATE OF MISSISSIPPI

NANCY BRIDGES SELLERS

PLAINTIFF

VS.

CIVIL ACTION NUMBER: _____

PRENTISS E. (EDDIE) SELLERS

DEFENDANT

CERTIFICATE OF COMPLIANCE

I, Prentiss E. Sellers, do hereby certify that I have this date complied with Rule 8.05 of the Uniform Chancery Court Rules and that I have mailed and/or delivered a copy of a detailed written statement of actual income and expenses and assets and liabilities to the attorney for the opposing party.

SO CERTIFIED on this the 4 day of Aug, A.D., 2006.



ATTORNEY FOR OPPOSING PARTY

EMPLOYMENT HISTORY

The following is a general statement of the employment history and earnings from the inception of the marriage or the date of divorce, whichever is applicable.

<u>EMPLOYMENT</u>	<u>DATES (INCLUSIVE)</u>	<u>RATE OF PAY</u>
Choctaw Health Center	<u>May 1985 - Present</u>	\$24.76 per hour

This the 4 day of Aug, 2006.

Phenice C. Sellers
Party

bel
(See instructions.)Use the
IRS label.
Otherwise,
please print
or type.Presidential
Election
Campaign
(See instructions.)

For the year Jan 1 - Dec 31, 2004, or other tax year beginning , 2004, ending , 20		OMB No. 1545-0074
Your first name PRENTISS E	MI Last name SELLERS	Your social security number 587-84-9212
If a joint return, spouse's first name NANCY	MI Last name SELLERS	Spouse's social security number 426-02-6580
Home address (number and street). If you have a P.O. box, see instructions. 15560 HWY 15S		Apartment no.
City, town or post office. If you have a foreign address, see instructions. PHILADELPHIA, MS 39350		State ZIP code

Note: Checking 'Yes' will not change your tax or reduce your refund.
Do you, or your spouse if filing a joint return, want \$3 to go to this fund? ☐ Yes ☒ No ☐ Yes ☒ No

Filing Status

- 1 ☐ Single 4 ☐ 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.
- 2 ☒ Married filing jointly (even if only one had income)
- 3 ☐ Married filing separately. Enter spouse's SSN above & full name here.
- 5 ☐ Qualifying widow(er) with dependent child (see instructions)

Check only
one box.

Exemptions

6a <input checked="" type="checkbox"/> Yourself. If someone can claim you as a dependent, do not check box 6a.	Dases checked on 6a and 6b	2
b <input checked="" type="checkbox"/> Spouse.	No. of children on 6c who:	
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 qualifying child for child tax credit (see instrs)	
AUSTIN SELLERS	426-67-0642 SON	<input checked="" type="checkbox"/>
ISAAC SELLERS	587-83-6223 SON	<input checked="" type="checkbox"/>
d Total number of exemptions claimed		4

If more than
four dependents,
see instructions.

Income

Attach Form(s)
W-2 here. Also
attach Forms
W-2G and 1099-R
if tax was withheld.If you did not
get a W-2,
see instructions.Enclose, but do
not attach, any
payment. Also,
please use
Form 1040-V.

7 Wages, salaries, tips, etc. Attach Form(s) W-2	7	44,405.
8a Taxable interest. Attach Schedule B if required.	8a	
b Tax-exempt interest. Do not include on line 8a.	8b	
9a Ordinary dividends. Attach Schedule B if required.	9a	
b Qualified divs (see instrs)	9b	
10 Taxable refunds, credits, or offsets of state and local income taxes (see instructions)	10	
11 Alimony received.	11	
12 Business income or (loss). Attach Schedule C or C-EZ.	12	-516.
13 Capital gain or (loss). Att Sch D if reqd. If not reqd, ck here.	13	
14 Other gains or (losses). Attach Form 4797.	14	
15a IRA distributions	15a	
b Taxable amount (see instrs)	15b	
16a Pensions and annuities	16a	
b Taxable amount (see instrs)	16b	
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E	17	263.
18 Farm income or (loss). Attach Schedule F	18	
19 Unemployment compensation	19	
20a Social security benefits	20a	
b Taxable amount (see instrs)	20b	
21 Other income	21	
22 Add the amounts in the far right column for lines 7 through 21. This is your total income.	22	44,152.
23 Educator expenses (see instructions)	23	
24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ	24	
25 IRA deduction (see instructions)	25	
26 Student loan interest deduction (see instructions)	26	
27 Tuition and fees deduction (see instructions)	27	
28 Health savings account deduction. Attach Form 8889	28	
29 Moving expenses. Attach Form 3903	29	
30 One-half of self-employment tax. Attach Schedule SE	30	
31 Self-employed health insurance deduction (see instrs)	31	
32 Self-employed SEP, SIMPLE, and qualified plans	32	
33 Penalty on early withdrawal of savings	33	
34a Alimony paid to Recipient's SSN.	34a	
35 Add lines 23 through 34a	35	0.
36 Subtract line 35 from line 22. This is your adjusted gross income	36	44,152.

Adjusted
Gross
Income

Tax and Credits**Standard deduction**

for —
• People who checked any box on line 38a or 38b or who can be claimed as a dependent, see instructions.

• All others:

Single or Married filing separately, \$4,850

Married filing jointly or Qualifying widow(er), \$9,700

Head of household, \$7,150

37	Amount from line 36 (adjusted gross income)	37	44,152.
38a	Check if: <input type="checkbox"/> You were born before January 2, 1940, <input type="checkbox"/> Blind. Total boxes checked <input type="checkbox"/> 38a		
	<input type="checkbox"/> Spouse was born before January 2, 1940, <input type="checkbox"/> Blind. Total boxes checked <input type="checkbox"/> 38b		
b	If your spouse itemizes on a separate return, or you were a dual-status alien, see instructions and check here		
39	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	39	9,700.
40	Subtract line 39 from line 37	40	34,452.
41	If line 37 is \$107,025 or less, multiply \$3,100 by the total number of exemptions claimed on line 6d. If line 37 is over \$107,025, see the worksheet in the instructions.	41	12,400.
42	Taxable income. Subtract line 41 from line 40. If line 41 is more than line 40, enter -0-	42	22,052.
43	Tax (see instrs). Check if any tax is from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4372	43	2,596.
44	Alternative minimum tax (see instructions). Attach Form 6251	44	0.
45	Add lines 43 and 44	45	2,596.
46	Foreign tax credit. Attach Form 1116 if required	46	
47	Credit for child and dependent care expenses. Attach Form 2441	47	
48	Credit for the elderly or the disabled. Attach Schedule R	48	
49	Education credits. Attach Form 8863	49	
50	Retirement savings contributions credit. Attach Form 8880	50	200.
51	Child tax credit (see instructions)	51	2,000.
52	Adoption credit. Attach Form 8839	52	
53	Credits from: a <input type="checkbox"/> Form 8396 b <input type="checkbox"/> Form 8859	53	
54	Other credits. Check applicable box(es): a <input type="checkbox"/> Form 3800 b <input type="checkbox"/> Form 8801 c <input type="checkbox"/> Specify	54	
55	Add lines 46 through 54. These are your total credits	55	2,200.
56	Subtract line 55 from line 45. If line 55 is more than line 45, enter -0-	56	396.
57	Self-employment tax. Attach Schedule SE	57	
58	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	58	
59	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	59	
60	Advance earned income credit payments from Form(s) W-2	60	
61	Household employment taxes. Attach Schedule H	61	
62	Add lines 56-61. This is your total tax	62	396.

Other Taxes**Payments**

If you have a qualifying child, attach Schedule EIC.

63	Federal income tax withheld from Forms W-2 and 1099	63	3,789.
64	2004 estimated tax payments and amount applied from 2003 return	64	
65a	Earned income credit (EIC)	65a	
b	Nontaxable combat pay election	65b	
66	Excess social security and tier 1 RRTA tax withheld (see instructions)	66	
67	Additional child tax credit. Attach Form 8812	67	
68	Amount paid with request for extension to file (see instructions)	68	
69	Other pmts from: a <input type="checkbox"/> Form 2439 b <input type="checkbox"/> Form 4136 c <input type="checkbox"/> Form 8885	69	
70	Add lines 63, 64, 65a, and 66 through 69. These are your total payments	70	3,789.

Refund

Direct deposit? See instructions and fill in 72b, 72c, and 72d.

71	If line 70 is more than line 62, subtract line 62 from line 70. This is the amount you overpaid	71	3,393.
72a	Amount of line 71 you want refunded to you	72a	3,393.
b	Routing number	XXXXXXX	c Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings
d	Account number	XXXXXXXXXXXXXXXXXXXXXXX	
73	Amount of line 71 you want applied to your 2005 estimated tax	73	

Amount You Owe

74	Amount you owe. Subtract line 70 from line 62. For details on how to pay, see instructions	74	
75	Estimated tax penalty (see instructions)	75	

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see instructions)? ☒ Yes. Complete the following. ☐ No

Sign Here

Joint return? See instructions.

Keep a copy for your records.

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
Spouse's signature. If a joint return, both must sign.	Date
Your occupation	Spouse's occupation
Daytime phone number	

Preparer's Use Only

Preparer's signature	Date	Check if self-employed <input checked="" type="checkbox"/>	Preparer's EIN or PTIN
Firm's name (or yours if self-employed)			
Address, and ZIP code			
Marsha L. McDonald CPA			P00403010
Watkins, Ward & Stafford, PLLC			
318 W. Main St.			
Philadelphia, MS 39350			
EIN	64-0394922		
Phone no.	(601) 656-4252		

SCHEDULE C
(Form 1040)

Profit or Loss From Business
(Sole Proprietorship)

OMB No. 1545-0074

2004

09

Department of the Treasury
Internal Revenue Service

► Partnerships, joint ventures, etc. must file Form 1065 or 1065-B.
► Attach to Form 1040 or 1041. ► See instructions for Schedule C (Form 1040).

of proprietor

PRENTISS E SELLERS

Social security number (SSN)

587-84-9212

A Principal business or profession, including product or service (see instructions)

KARATE AND RETAIL SALES

B Enter code from Instructions

► **812990**

C Business name. If no separate business name, leave blank.

D Employer ID number (EIN), if any

80-0044070

E Business address (including suite or room no.)
City, town or post office, state, and ZIP code

F Accounting method: (1) ☒ Cash (2) ☐ Accrual (3) ☐ Other (specify) ►

G Did you 'materially participate' in the operation of this business during 2004? If 'No,' see instructions for limit on losses. ☒ Yes ☐ No

H If you started or acquired this business during 2004, check here

Part I Income

1 Gross receipts or sales. Caution. If this income was reported to you on Form W-2 and the 'Statutory employee' box on that form was checked, see the instructions and check here. <input type="checkbox"/>	1	13,819.
2 Returns and allowances	2	
3 Subtract line 2 from line 1	3	13,819.
4 Cost of goods sold (from line 42 on page 2)	4	1,284.
5 Gross profit. Subtract line 4 from line 3	5	12,535.
6 Other income, including Federal and state gasoline or fuel tax credit or refund	6	
7 Gross income. Add lines 5 and 6	7	12,535.

Part II Expenses. Enter expenses for business use of your home only on line 30.

8 Advertising	8	1,345.	19 Pension and profit-sharing plans	19	
9 Car and truck expenses (see instructions)	9	3,376.	20 Rent or lease (see instructions):		
10 Commissions and fees	10		a Vehicles, machinery, and equipment	20a	
11 Contract labor (see instructions)	11		b Other business property	20b	
12 Depletion	12		21 Repairs and maintenance	21	458.
13 Depreciation and section 179 expense deduction (not included in Part III) (see instructions)	13	1,328.	22 Supplies (not included in Part III)	22	830.
14 Employee benefit programs (other than on line 19)	14		23 Taxes and licenses	23	
15 Insurance (other than health)	15		24 Travel, meals, and entertainment:		
16 Interest:			a Travel	24a	1,449.
a Mortgage (paid to banks, etc)	16a		b Meals and entertainment		300.
b Other	16b	371.	c Enter nondeductible amount included on line 24b (see instrs)		150.
17 Legal & professional services	17	125.	d Subtract line 24c from line 24b	24d	150.
18 Office expense	18	190.	25 Utilities	25	951.
28 Total expenses before expenses for business use of home. Add lines 8 through 27 in columns	28	13,051.	26 Wages (less employment credits)	26	
29 Tentative profit (loss). Subtract line 28 from line 7	29	-516.	27 Other expenses (from line 48 on page 2)	27	2,478.
30 Expenses for business use of your home. Attach Form 8829	30		28		13,051.
31 Net profit or (loss). Subtract line 30 from line 29.	31	-516.			

• If a profit, enter on Form 1040, line 12, and also on Schedule SE, line 2 (statutory employees, see instructions). Estates and trusts, enter on Form 1041, line 3.

• If a loss, you must go to line 32.

32 If you have a loss, check the box that describes your investment in this activity (see instructions).

• If you checked 32a, enter the loss on Form 1040, line 12, and also on Schedule SE, line 2 (statutory employees, see instructions). Estates and trusts, enter on Form 1041, line 3.

• If you checked 32b, you must attach Form 6198.

32a ☒ All investment is at risk.

32b ☐ Some investment is not at risk.

BAA For Paperwork Reduction Act Notice, see Form 1040 instructions.

Schedule C (Form 1040) 2004

Part III Cost of Goods Sold (see instructions)33 Method(s) used to value closing inventory: a ☐ Cost b ☐ Lower of cost or market c ☐ Other (attach explanation)34 Was there any change in determining quantities, costs, or valuations between opening and closing inventory?
If 'Yes,' attach explanation.☐ Yes ☐ No

35 Inventory at beginning of year. If different from last year's closing inventory, attach explanation.

35

1,000.

36 Purchases less cost of items withdrawn for personal use.

36

1,284.

37 Cost of labor. Do not include any amounts paid to yourself.

37

38 Materials and supplies.

38

39 Other costs.

39

40 Add lines 35 through 39.

40

2,284.

41 Inventory at end of year.

41

1,000.

42 Cost of goods sold. Subtract line 41 from line 40. Enter the result here and on page 1, line 4.

42

1,284.

Part IV Information on Your Vehicle. Complete this part only if you are claiming car or truck expenses on line 9 and are not required to file Form 4562 for this business. See the instructions for line 13 to find out if you must file Form 4562.

43 When did you place your vehicle in service for business purposes? (month, day, year)

44 Of the total number of miles you drove your vehicle during 2004, enter the number of miles you used your vehicle for:

a Business

b Commuting

c Other

45 Do you (or your spouse) have another vehicle available for personal use?

☐ Yes ☐ No

46 Was your vehicle available for personal use during off-duty hours?

☐ Yes ☐ No

47a Do you have evidence to support your deduction?

☐ Yes ☐ No

b If 'Yes,' is the evidence written?

☐ Yes ☐ No**Part V Other Expenses.** List below business expenses not included on lines 8-26 or line 30.

Dues and Subscriptions

263.

Licenses

125.

Postage

237.

Printing

100.

Telephone

1,753.

48 Total other expenses. Enter here and on page 1, line 27.

48

2,478.

SCHEDULE E
(Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Supplemental Income and Loss
(From rental real estate, royalties, partnerships,
S corporations, estates, trusts, REMICs, etc.)
• Attach to Form 1040 or Form 1041.
• See Instructions for Schedule E (Form 1040).

OMB No. 1545-0074

2004

13

Your social security number
587-84-9212

PRENTISS E AND NANCY SELLERS

Part I Income or Loss From Rental Real Estate and Royalties Note. If you are in the business of renting personal property, use Schedule C or C-EZ (see instructions). Report farm rental income or loss from Form 4835 on page 2, line 40

1	List the type and location of each rental real estate property:	2	For each rental real estate property listed on line 1, did you or your family use it during the tax year for personal purposes for more than the greater of: • 14 days, or • 10% of the total days rented at fair rental value? (See instructions.)	Yes	No
A	RENTAL HOUSE PHILADELPHIA, MS				X
B					
C					

Income:		Properties			Totals
		A	B	C	(Add columns A, B, and C.)
3	Rents received.....	3	1,140.		3 1,140.
4	Royalties received.....	4			4
Expenses:					
5	Advertising.....	5			
6	Auto and travel (see instructions).....	6			
7	Cleaning and maintenance.....	7			
8	Commissions.....	8			
9	Insurance.....	9	259.		
10	Legal and other professional fees.....	10			
11	Management fees.....	11			
12	Mortgage interest paid to banks, etc (see instructions).....	12			12
13	Other interest.....	13			
14	Repairs.....	14			
15	Supplies.....	15			
16	Taxes.....	16	364.		
17	Utilities.....	17			
18	Other (list).....	18			
19	Add lines 5 through 18.....	19	623.		19 623.
20	Depreciation expense or depletion (see instructions).....	20	254.		20 254.
21	Total expenses. Add lines 19 and 20.....	21	877.		
22	Income or (loss) from rental real estate or royalty properties. Subtract line 21 from line 3 (rents) or line 4 (royalties). If the result is a (loss), see instructions to find out if you must file Form 6198.....	22	263.		
23	Deductible rental real estate loss. Caution. Your rental real estate loss on line 22 may be limited. See instructions to find out if you must file Form 8582. Real estate professionals must complete line 43 on page 2.....	23			
24	Income. Add positive amounts shown on line 22. Do not include any losses.....	24			24 263.
25	Losses. Add royalty losses from line 22 and rental real estate losses from line 23. Enter total losses here.....	25			
26	Total rental real estate and royalty income or (loss). Combine lines 24 and 25. Enter the result here. If Parts II, III, IV, and line 40 on page 2 do not apply to you, also enter this amount on Form 1040, line 17. Otherwise, include this amount in the total on line 41 on page 2.....	26			26 263.

BAA For Paperwork Reduction Act Notice, see Form 1040 Instructions.

Schedule E (Form 1040) 2004

Form **4562**Depreciation
(Including)

OMB No. 1545-0172

2004

67

Identifying number
587-84-9212Department of the Treasury
Internal Revenue Service

Name(s) shown on return

PRENTISS E AND NANCY SELLERS

Business or activity to which this form relates

Schedule C - PRENTISS E SELLERS**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 for a higher limit for certain businesses	1	\$102,000.
2	Total cost of section 179 property placed in service (see instructions)	2	
3	Threshold cost of section 179 property before reduction in limitation	3	\$410,000.
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 2003 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 2005. 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.)

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 (see instructions)	15	
16	Other depreciation (including ACRS) (see instructions)	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 2004	17	1,198.
18	If you are electing under section 168(f)(4) to group any assets placed in service during the tax year into one or more general asset accounts, check here <input type="checkbox"/>		

Section B - Assets Placed in Service During 2004 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		649.	5	HY	200DB	130.
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	

Section C - Assets Placed in Service During 2004 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	1,328.
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.

FDZ0812L 09/30/04

Form 4562 (2004)

Eddie's sister just inherited. Her 1/2 of worth is \$154,000. \$104,500 \$54,500

Part V**Listed Property** (Include automobiles, certain other vehicles, cellular telephones, 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 instructions for limits for passenger automobiles.)

24a Do you have evidence to support the business/investment use claimed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No									24b If 'Yes,' is the evidence written? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
(a) Type of property (list vehicles 1st)	(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 (see instructions):										
PICK UP	12/01/90	54.17								
TRUCK	10/01/03	62.50								
27 Property used 50% or less in a qualified business use (see instructions):										
28 Add amounts in column (h), lines 25 through 27. Enter here and on line 21, page 1.									28	0.
29 Add amounts in column (i), line 26. Enter here and on line 7, page 1.									29	0.

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	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
30 Total business/investment miles driven during the year (do not include commuting miles – see instructions).	6,500		2,500									
31 Total commuting miles driven during the year.												
32 Total other personal (noncommuting) miles driven.	5,500		1,500									
33 Total miles driven during the year. Add lines 30 through 32.	12,000		4,000									
34 Was the vehicle available for personal use during off-duty hours?	X		X									
35 Was the vehicle used primarily by a more than 5% owner or related person?	X		X									
36 Is another vehicle available for personal use?	X		X									

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 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 2004 tax year (see instructions):					
43 Amortization of costs that began before your 2004 tax year.					
44 Total. Add amounts in column (f). See instructions for where to report.					

Department of the Treasury
Internal Revenue Service

▶ Attach to Form 1040 or Form 1040A.

▶ See instructions.

2004

129

Name(s) shown on return

Your social security number

RENTISS E AND NANCY SELLERS

587-84-9212

CAUTION: You cannot take this credit if either of the following applies.

- The amount on Form 1040, line 37, or Form 1040A, line 22, is more than \$25,000 (\$37,500 if head of household; \$50,000 if married filing jointly).
- The person(s) who made the qualified contribution or elective deferral (a) was born after January 1, 1987, (b) is claimed as a dependent on someone else's 2004 tax return, or (c) was a student (see instructions).

	(a) You	(b) Your spouse
1 Traditional and Roth IRA contributions for 2004. Do not include rollover contributions	1	
2 Elective deferrals to a 401(k) or other qualified employer plan, voluntary employee contributions, and 501(c)(18)(D) plan contributions for 2004 (see instructions)	2 4,112.	
3 Add lines 1 and 2	3 4,112.	
4 Certain distributions received after 2001 and before the due date (including extensions) of your 2004 tax return (see instructions). If married filing jointly, include both spouses' amounts in both columns. See instructions for an exception	4	
5 Subtract line 4 from line 3. If zero or less, enter -0-	5 4,112.	
6 In each column, enter the smaller of line 5 or \$2,000	6 2,000.	
7 Add the amounts on line 6. If zero, stop; you cannot take this credit	7	2,000.
8 Enter the amount from Form 1040, line 37*, or Form 1040A, line 22	8 44,152.	

9 Enter the applicable decimal amount shown below:

If line 8 is—		And your filing status is—		
Over—	But not over—	Married filing jointly	Head of household	Single, Married filing separately, or Qualifying widow(er)
Enter on line 9—				
...	\$15,000	.5	.5	.5
\$15,000	\$16,250	.5	.5	.2
\$16,250	\$22,500	.5	.5	.1
\$22,500	\$24,375	.5	.2	.1
\$24,375	\$25,000	.5	.1	.1
\$25,000	\$30,000	.5	.1	.0
\$30,000	\$32,500	.2	.1	.0
\$32,500	\$37,500	.1	.1	.0
\$37,500	\$50,000	.1	.0	.0
\$50,000	---	.0	.0	.0

Note: If line 9 is zero, stop; you cannot take this credit.

10 Multiply line 7 by line 9	10	200.
11 Enter the amount from Form 1040, line 45, or Form 1040A, line 28	11	2,596.
12 Enter the total of your credits from Form 1040, lines 46 through 49, or Form 1040A, lines 29 through 31	12	
13 Subtract line 12 from line 11. If zero, stop; you cannot take this credit	13	2,596.
14 Credit for qualified retirement savings contributions. Enter the smaller of line 10 or line 13 here and on Form 1040, line 50, or Form 1040A, line 32	14	200.

*See Publication 590 for the amount to enter if you are filing Form 2555, 2555-EZ, or 4563 or you are excluding income from Puerto Rico.

BAA For Paperwork Reduction Act Notice, see instructions.

Form 8880 (2004)



801050451146

MS

Mississippi

Resident Individual Income Tax Return
2004

For Official Use Only

50 1 2

IS B

Page 1 of 2

Form 80-105-04-5-1-146 (Rev 5/04)

C	50	3000	44405	0	961	1575	4266706425
C	1	12000	-253	0	1575	614	5878362234
N	2	15000	0	0	0	0	0
N	0	0	44152	0	0	0	0
N	2		6925	0	0	0	5878492122
N			15000	0	0	0	4260265808
N			22227	0	0	0	2004
N				0	0	0	P00403010
				0	0	614	
				0	0	0	
				0	0	0	
				0	0	0	

SELLERS PRENTISS E
SELLERS NANCY
15560 HWY 15S
PHILADELPHIA MS 39350

- 1 ☒ Married - Combined or Joint Return - Enter \$12,000 on Line 12.
2 ☐ Married - Spouse Died in 2004 - Enter \$12,000 on Line 12.
3 ☐ Married - Filing Separate Returns - Enter \$12,000 on Line 12. Enter Spouse's name above.
4 ☐ Head of Family - Enter \$8,000 on Line 12. Provide Name, SSN, and Relationship of the Dependent Living in the Home with You on Line 6.
5 ☐ Single - Enter \$6,000 on Line 12.
6 Dependents (In column (c) enter C for child, P for parent or R for relative).

(a) Name	(b) Dependent SSN	(c) Relationship
AUSTIN SELLERS	426-67-0642	C
ISAAC SELLERS	587-83-6223	C

For Computer Use Only - Do Not Write Above This Line

SSN 587-84-9212

Spouse SSN 426-02-6580

County Code 50

- 8 Number of Dependents Listed on Line 6 8 2
9 Number of Boxes Marked 'X' on Line 7 9
10 Total of Line 8 plus Line 9 10 2
11 Line 10 x \$1,500 11 3,000.
12 Enter Amount from Lines 1-8 12 12,000.
13 Total (Line 11 plus 12) 13 15,000.
14 If Married - Filing Separate Returns, Enter 1/2 of Line 13 14

- 7 Mark 'X' if: ☐ Taxpayer Age 65 or Over ☐ Taxpayer Blind ☐ Spouse Age 65 or Over ☐ Spouse Blind

- 15 Wages, salaries, tips, etc (Attach W-2s)
16 Other Income (Amount from Line 46, Page 2 of this Form)
17 Adjustments to Gross Income (Amount from Line 55, Page 2 of this Form)
18 Mississippi Adjusted Gross Income (Line 15 plus Line 16 minus Line 17) (P)
19 Standard or Itemized Deductions (If Itemized, see Schedule A, Form 80-108) (F)
20 Amount of Exemption (Line 13 or Line 14 if Married Filing Separately)
21 Mississippi Taxable Income (Line 18 less Lines 19 and 20). See Instructions. If less than 0, enter 0
22 Total Income Tax Due (For Tax Computation, See Instructions)
23 Mississippi Income Tax Withheld (Attach W-2s)
24 Estimated Tax Payments and/or Amount Paid with Extension
25 Credit for Income Tax Paid to Another State (Attach Copy of Return filed with other States)
26 Other Credits (See Instructions) Enter code for each type of credit claimed: 26A ☐ 26B ☐ 26C ☐ 26D ☐ 26
27 Total Credits (Add Lines 23 through 26)
28 Enter the Amount of Overpayment if Line 27 is Larger than Line 22. OVERPAYMENT 28
29 Amount of Overpayment to be Applied to Your Next Year Estimated Tax Account
Voluntary Contribution Check-offs (See Form 80-108, Page 1 and instructions) Enter Total of L, M, K, and Z in Right Column
30 (L) ☐ (M) ☐ (K) ☐ (Z) ☐ 30
31 Amount of Overpayment to be Refunded to You (Subtract Lines 29 and 30 from Line 28). REFUND 31
32 Enter Balance Due if Line 22 is Larger Than Line 27. BALANCE DUE 32
33 Interest on Underpayment of Estimated Tax Payments (Attach Form 80-320)
34 Late Payments - Interest at 1% Per Month and Penalty at 1/2% Per Month
35 TOTAL DUE (Add Lines 32, 33, and 34). Attach Check or Money Order for Total Due payable to: State Tax Commission, ENCLOSE PAYMENT VOUCHER 80-106 TOTAL DUE 35

Column A (Taxpayer)

44,405.	15
-253.	16
	17
44,152.	18
6,925.	19
15,000.	20
22,227.	21

Column B (Spouse)

	15
	16
	17
0.	18
	19
	20
0.	21
961.	22
1,575.	23
	24
	25
	26
1,575.	27
614.	28
	29
614.	30
	31
	32
	33
	34
	35

PLEASE SIGN THIS TAX RETURN IN THE SIGNATURE AREA PROVIDED ON THE BOTTOM OF PAGE 2



801050452146

MS
Mississippi
Resident Individual Income Tax Return
2004

Page 2 of 2

SSN

Form 80-105-04-5-2-146 (Rev 5/04)

587-84-9212

812990	-516	-253	0	0	0
0	0	0	0	0	0
0	263	0	0	0	0
	0	0	0	0	0
	0	0	0	0	0
	0	0	0	0	0
	0	0	0	0	0
	0	0	0	0	0
	0	0	0	0	0
	0	0	0	0	0

Enter the Six Digit Principal Business
Code for Each Schedule C - Business

812990

For Computer Use Only - Do Not Write Above This Line

To show a loss, place a minus (-) in front of the dollar amount.

OTHER INCOME

Column A (Taxpayer)

Column B (Spouse)

36 Business Income (Loss) (Attach Federal Schedule C or C-EZ)	-516.	36	
37 Capital Gain (Loss) (Attach Federal Schedule D)		37	
38 Rental real estate, royalties, partnerships, Scorp, trusts, etc (Attach Federal Sch E)	263.	38	
39 Farm Income (Loss) (Attach Federal Schedule F)		39	
40 Interest Income		40	
41 Dividend Income		41	
42 Alimony Received		42	
43 Pensions and Annuities (See Instructions) Taxable Amount		43	
44 Unemployment Compensation (Form(s) 1099-G)		44	
45 Other Income (Loss) - Schedule N		45	
46 Total Income (Add Lines 36 through 45. Carry Amounts to Page 1, Line 16)	-253.	46	

JUSTMENTS TO GROSS INCOME

47 Payments to an IRA		47	
48 Payments to Self-employed SEP, SIMPLE, and qualified plans		48	
49 Interest Penalty on Early Withdrawal of Savings		49	
50 Alimony Paid (Complete Schedule P Below)		50	
51 Moving Expense (Attach Federal Form 3903 or 3903F)		51	
52 National Guard or Reserve Pay (Enter the Lesser of the Guard/Reserve Pay or the \$5,000 Statutory Exclusion Per Taxpayer)		52	
53 Mississippi Prepaid Affordable College Tuition (MPACT) and/or Mississippi Affordable College Savings (MACS)		53	
54 Self-Employed Health Insurance Deduction (Same as Federal Deduction)		54	
55 Total Adjustments (Add Amts for Lines 47 through 54. Carry Amts to Page 1, Line 17)		55	

Schedule P - Alimony Paid

If a deduction is claimed for Alimony Paid, please furnish the name, SSN, and the state of residency of the individual to whom the amount was paid.	Name	SSN of Recipient
		State of Residency

THIS RETURN MUST BE SIGNED. 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.

Taxpayer Signature	Taxpayer Phone	This Return may be discussed with the preparer.	Paid Firm Identification Number or PTIN
Spouse Signature (if joint. BOTH must sign)	Date	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	64-0394922
Paid Preparer Signature	Date	Paid Preparer Social Security Number or PTIN	P00403010
Marsha L. McDonald CPA		Paid Preparer (Print Firm Name)	Watkins, Ward & Stafford, PLLC
Preparer Phone	Paid Preparer Address		
(601) 656-4252	318 W. Main St. Philadelphia, MS 39350		

Mail REFUND To: Office of Revenue, P.O. Box 23058, Jackson, MS 39225-3058

Mail All Other Returns To: Office of Revenue, P.O. Box 23050, Jackson, MS 39225-3050

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MS

Mississippi

Schedule A - Itemized Deductions
Schedule B - Interest and Dividends

2004

Page 1

Form 80-108-04-5-1-146 (Rev 6/04)

PRENTISS E AND NANCY SELLERS

Social Security Number 587-84-9212

0	2498	0	6925	0
0	130	0	0	0
0	4297	0	0	0
4073	0	0	0	0
1575	0	0	0	5878492122

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PART 1: SCHEDULE A - Itemized Deductions - (From Federal Form 1040 Schedule A, enter the amount from the line indicated)

If the amount of AGI on Form 1040 exceeds the federal limits, you must refer to your Federal Schedule A and complete the worksheet provided in the Mississippi Instructions. Enter the result on Line 9 below. In the event you filed using the standard deduction on your Federal Return and wish to itemize for Mississippi purposes, use Federal Form 1040 Schedule A as a worksheet and transfer the information from the specific lines indicated to this Schedule A.

1a Medical and Dental Expenses (Form 1040 Schedule A).....	1a	
b AGI from Federal Form 1040: \$ _____ X7.5% (.075).....	b	
c Medical and Dental Expense Deduction (Subtract line 1b from line 1a.).....	c	
2a Total Taxes Paid.....	2a	4,073.
b Less State Income Taxes.....	b	1,575.
c Total Taxes Paid Deduction (Subtract Line 2b from Line 2a.).....	c	2,498.
3 Total Interest Paid.....	3	130.
4 Charitable Contributions.....	4	4,297.
5 Total Casualty or Theft Loss (Attach Federal Form 4684).....	5	
6a Employee Expenses and Miscellaneous Deductions Subject to 2% Limitation (Attach Federal Form 2106)...	6a	
b AGI from Federal Form 1040: \$ _____ x2% (.02).....	b	
c Subtract line 6b from line 6a.....	c	
7a Miscellaneous Deductions not subject to Federal 2% AGI Limit.....	7a	
b Less Gambling Losses.....	b	
c Other Miscellaneous Deductions (Subtract Line 7b from Line 7a.).....	c	
8 Mississippi Itemized Deductions - (Add Lines 1c, 2c, 3, 4, 5, 6c, and 7c.) Enter here and on Form 80-105, Page 1, Line 19 or Form 80-205, Page 1, Line 16a.....	8	6,925.
9 Mississippi Itemized Deductions (Federal limits due to AGI apply) Enter the amount here and on Form 80-105, Page 1, Line 19 or Form 80-205, Page 1, Line 16a.....	9	

PART 2: SCHEDULE B - Interest and Dividend Income (From Federal Form 1040 Schedule B, enter the amount from the line indicated)

If you received capital gain distributions but do not need SCHEDULE D to report any other gains or losses, then enter the gain on Form 80-105, Page 2, Line 40 or Form 80-205, Page 2, Line 39. Total interest and dividend amounts on Lines 4 and 5 below, from jointly owned accounts, may be split between taxpayer and spouse before the amounts are transferred to Form 80-105, Page 2, Lines 36 and 37, respectively.

	Interest	Dividends
1 Interest Income From All Sources.....	1	
2 Interest from obligations of the U.S. Government included in Line 1 above.....	2	
3 Interest on obligations of other countries, states, cities, or political subdivisions OUTSIDE Mississippi.....	3	
4 Total Interest (Line 1 minus Line 2, plus Line 3). Enter here and on Form 80-105, Page 2, Line 40 or Form 80-205, Page 2, Line 39.....	4	
5 Total Dividends From All Sources.....	5	
6 Amount of Nontaxable Distributions Reported in Line 5.....	6	
7 Ordinary Dividends for Mississippi. (Line 5 minus Line 6) Enter here and on Resident Form 80-105, Page 2, Line 41 or Non-Resident Form 80-205, Page 2, Line 40.....	7	

PART 3: VOLUNTARY CONTRIBUTION CHECK-OFFS (Resident Returns Only)

You may elect to voluntarily contribute all or part (at least \$1) of your income tax refund to one or more of the funds listed below. Your contribution may be claimed as a tax deductible charitable contribution on your state and federal income tax returns. Once your return is filed, your contribution is final and cannot be refunded. On page 1, Line 30, form 80-105 please indicate by each Fund L, M, K and/or Z the amount(s) of your refund you wish to contribute to each of these funds, then enter total in the box provided. Refer to the instruction booklet 80-100 (may be downloaded from our website www.mstc.state.ms.us) for an explanation of the purpose of each of these funds and how the fund donations will be used.

- (L) Mississippi Wildlife Heritage Fund
- (M) Mississippi Educational Trust Fund
- (K) Mississippi Commission for Volunteer Service Fund
- (Z) Mississippi Fire Fighters Memorial Burn Center Fund



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MISSISSIPPI
Other Income (Loss) and Supplemental Income
2004

Page 2

m 80-108-04-5-2-14G (Rev 5/04)

5878492122	0	0	263
263	0	0	0
0	0	0	0
263	0	0	0
0	0	0	0
0	0	0	0
0	0	0	0
0	0	0	0

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PRENTISS E AND NANCY SELLERS

SSN 587-84-9212

PART 4: Income (Loss) from Rents, Royalties, Partnerships, S Corporations, Trusts and Estates**INCOME (LOSS) FROM RENTAL REAL ESTATE AND ROYALTIES**

Total Rental Real Estate and Royalty Income (Loss) from Part 1, Federal Schedule E. (Attach Copy.)	\$ 263.
Add: Depletion claimed in excess of cost basis.	\$
A Rental Real Estate and Royalty Income (Loss) for Mississippi purposes. Add above 2 lines.	\$ 263.

INCOME (LOSS) FROM PARTNERSHIPS AND S CORPORATIONS

Name of Partnership or S Corporation	FEIN	INCOME (LOSS) (Non-residents Use Mississippi K-1's)
B Total Partnership and/or S Corporation Income (Loss)		\$

INCOME LOSS FROM ESTATES AND TRUSTS

Name of Estate or Trust	FEIN	INCOME (LOSS) (Non-residents Use Mississippi K-1's)
C Total Estate and Trust Income (Loss)		\$
D Total of lines A, B and C. Enter here and on Line 38, Page 2, Form 80-105 or Line 37 Page 2, Form 80-205. (Income From Rents, Royalties, Partnerships, S Corporations, Trusts, etc)		\$ 263.

PART 5: Schedule N - Other Income (Loss) and Supplemental Income

List type of Income or Adjustment

1	
2	
3	
4	
5	
6	\$
Total Schedule N Other Income Or Loss. Enter here and on Line 45, Page 2, Form 80-105 or Line 44 Page 2, Form 80-205	\$

Mississippi Form 4562
Depreciation and Amortization
(Including Information on Listed Property)

OMB No. 1545-0172

2004

67

Department of the Treasury
Internal Revenue Service

Name(s) shown on return

PRENTISS E AND NANCY SELLERS

Business or activity to which this form relates

Schedule E (rental) - RENTAL HOUSE

Identifying number

587-84-9212**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 for a higher limit for certain businesses	1	\$102,000.
2	Total cost of section 179 property placed in service (see instructions)	2	
3	Threshold cost of section 179 property before reduction in limitation	3	\$410,000.
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 2003 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 2005. 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.)

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 (see instructions)	15	
16	Other depreciation (including ACRS) (see instructions)	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 2004	17	254.
18	If you are electing under section 168(i)(4) to group any assets placed in service during the tax year into one or more general asset accounts, check here <input type="checkbox"/>		

Section B - Assets Placed in Service During 2004 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	

Section C - Assets Placed in Service During 2004 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	254.
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	

Mississippi Form 4562
Depreciation and Amortization
 (Including Information on Listed Property)
 ▶ See separate instructions.
 ▶ Attach to your tax return.

OMB No. 1545-0172

2004

67

Department of the Treasury
Internal Revenue Service

Name(s) shown on return

PRENTISS E AND NANCY SELLERS

Identifying number

587-84-9212

Business or activity to which this form relates

Schedule C - PRENTISS E SELLERS**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 for a higher limit for certain businesses.	1	\$102,000.
2	Total cost of section 179 property placed in service (see instructions).	2	
3	Threshold cost of section 179 property before reduction in limitation.	3	\$410,000.
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 2003 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 2005. 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.)

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 (see instructions).	15	
16	Other depreciation (including ACRS) (see instructions).	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 2004.	17	1,198.
18	If you are electing under section 168(i)(4) 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 2004 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		649.	5	HY	200DB	130.
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	

Section C - Assets Placed in Service During 2004 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	1,328.
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	

Part V Listed Property (Include automobiles, certain other vehicles, cellular telephones, 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 instructions for limits for passenger automobiles.)

24a Do you have evidence to support the business/investment use claimed?		Yes	No	24b If 'Yes,' is the evidence written?		Yes	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 (see instructions):								
27 Property used 50% or less in a qualified business use (see instructions):								
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 – see instructions).						
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
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 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 2004 tax year (see instructions):					
43 Amortization of costs that began before your 2004 tax year.					43
44 Total. Add amounts in column (f). See instructions for where to report.					44