



2008



Department of the Treasury
Internal Revenue Service

Instructions for Form 1099-DIV

Section references are to the Internal Revenue Code unless otherwise noted.

What's New

Capital gains rate reduction. The capital gains rate for qualified dividends has generally been reduced to zero after December 31, 2007, for individuals whose other income is taxed at the 10% or 15% rate.

RIC reporting changes. RICs meeting the requirements under final Regulations section 1.853-4 have new reporting requirements. See the instructions for boxes 6 and 7.

Reminder

In addition to these specific instructions, you should also use the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G. Those general instructions include information about the

3. Substitute payments in lieu of dividends. For payments received by a broker on behalf of a customer in lieu of dividends as a result of a loan of a customer's securities, see box 8 in the 2008 Instructions for Form 1099-MISC.



Substitute payments in lieu of dividends may be reported on a composite statement to the recipient with Form 1099-DIV. See Pub. 1178, General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, W-2G, and 1042-S.

4. Payments made to certain payees including a corporation, tax-exempt organization, any IRA, U.S. agency, state, the District of Columbia, U.S. possession, or registered securities or commodities dealer.



Certain distributions commonly referred to as "dividends" are actually interest and are to be reported on Form 1099-INT. These include so-called "dividends" on deposit or on share accounts in cooperative banks, credit unions, domestic building and loan associations, domestic and

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RIC reporting changes. RICs meeting the requirements under final Regulations section 1.853-4 have new reporting requirements. See the instructions for boxes 6 and 7.

Reminder

In addition to these specific instructions, you should also use the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G. Those general instructions include information about the following topics.

- Backup withholding.
- Electronic reporting requirements.
- Penalties.
- Who must file (nominee/middleman).
- When and where to file.
- Taxpayer identification numbers.
- Statements to recipients.
- Corrected and void returns.
- Other general topics.

You can get the general instructions from the IRS website at www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

Specific Instructions for Form 1099-DIV

File Form 1099-DIV, Dividends and Distributions, for each person:

- To whom you have paid dividends (including capital gains dividends) and other distributions on stock of \$10 or more,
- For whom you have withheld and paid any foreign tax on dividends and other distributions on stock,
- For whom you have withheld any federal income tax under the backup withholding rules, or
- To whom you have paid \$600 or more as part of a liquidation.

Dividends

If you make a payment that may be a dividend but you are unable to determine whether any part of the payment is a dividend by the time you must file Form 1099-DIV, the entire payment must be reported as a dividend. See regulations under section 6042 for a definition of dividends.

Exceptions

You are not required to report on Form 1099-DIV the following:

1. Taxable dividend distributions from life insurance contracts are reported on Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
2. Exempt-interest dividends from regulated investment companies retain their tax-exempt status, but after December 31, 2005, are reported on Form 1099-INT, Interest Income (see section 852(b)(5)).

3. Substitute payments in lieu of dividends. For payments received by a broker on behalf of a customer in lieu of dividends as a result of a loan of a customer's securities, see box 8 in the 2008 Instructions for Form 1099-MISC.



Substitute payments in lieu of dividends may be reported on a composite statement to the recipient with Form 1099-DIV. See Pub. 1179, General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, W-2G, and 1042-S.

4. Payments made to certain payees including a corporation, tax-exempt organization, any IRA, U.S. agency, state, the District of Columbia, U.S. possession, or registered securities or commodities dealer.



Certain distributions commonly referred to as "dividends" are actually interest and are to be reported on Form 1099-INT. These include so-called "dividends" on deposit or on share accounts in cooperative banks, credit unions, domestic building and loan associations, domestic and federal savings and loan associations, and mutual savings banks.

Qualified Dividends

Except as provided below, qualified dividends are dividends paid during the tax year from domestic corporations and qualified foreign corporations. For individuals, estates, and trusts, qualified dividends are taxed at a maximum rate of 15% (generally, after December 31, 2007, the rate is zero for individuals whose other income is taxed at the 10% or 15% rate).

Exceptions. The following dividends are not qualified dividends.

- Dividends the recipient received on any share of stock held for less than 61 days during the 121-day period that began 60 days before the ex-dividend date. See the instructions for box 1b on page 3. When determining the number of days the recipient held the stock, you cannot count certain days during which the recipient's risk of loss was diminished. The ex-dividend date is the first date following the declaration of a dividend on which the purchaser of a stock is not entitled to receive the next dividend payment. When counting the number of days the recipient held the stock, include the day the recipient disposed of the stock but not the day the recipient acquired it.
- Dividends attributable to periods totaling more than 366 days that the recipient received on any share of preferred stock held for less than 91 days during the 181-day period that began 90 days before the ex-dividend date. See the instructions for box 1b on page 3. When determining the number of days the recipient held the stock, you cannot count certain days during which the recipient's risk of loss was diminished. Preferred dividends attributable to periods totaling less than 367 days are subject to the 61-day holding period rule above.
- Dividends that relate to payments that the recipient is obligated to make with respect to short sales or positions in substantially similar or related property.
- Dividends paid by a regulated investment company that are not treated as qualified dividend income under section 854.
- Dividends paid by a real estate investment trust that are not treated as qualified dividend income under section 857(c).
- Deductible dividends paid on employer securities. See Section 404(k) Dividends, on page 2.

Qualified foreign corporation. A foreign corporation is a qualified foreign corporation if it is:

1. Incorporated in a possession of the United States or
2. Eligible for benefits of a comprehensive income tax treaty with the United States that the Secretary determines is satisfactory for this purpose and that includes an exchange of information program.



TIP For a list of income tax treaties of the United States that (a) are comprehensive, (b) include an information exchange program, and (c) have been determined by the Treasury Department to be satisfactory for this purpose, see Notice 2006-101, which is on page 930 of Internal Revenue Bulletin 2006-47 at www.irs.gov/pub/irs-irbs/irb06-47.pdf.

If the foreign corporation does not meet either 1 or 2 above, then it may be treated as a qualified foreign corporation for any dividend paid by the corporation if the stock associated with the dividend paid is readily tradable on an established securities market in the United States. See Notice 2003-71, which is on page 922 of Internal Revenue Bulletin 2003-43 at www.irs.gov/pub/irs-irbs/irb03-43.pdf, for more information on when a stock may be considered to be readily tradable. For additional requirements that must be met, see Notice 2006-3 available on page 306 of Internal Revenue Bulletin 2006-3 at www.irs.gov/pub/irs-irbs/irb06-03.pdf.



TIP For guidance on the extent to which distributions, inclusions, and other amounts received by, or included in the income of, individual shareholders as ordinary income from foreign corporations subject to certain anti-deferral regimes may be treated as qualified dividends, see Notice 2004-70, which is on page 724 of Internal Revenue Bulletin 2004-44 at www.irs.gov/pub/irs-irbs/irb04-44.pdf.

Section 404(k) Dividends

Report as ordinary dividends in box 1a of Form 1099-DIV dividends distributed under section 404(k) on stock held by an employee stock ownership plan (ESOP) or a tax credit ESOP. If a section 404(k) distribution is made in the same year as a total distribution from the ESOP, you may report the entire amount on Form 1099-R or you may report the dividends on Form 1099-DIV and the remaining amount on Form 1099-R.



CAUTION For 2009, the IRS is considering changing the way section 404(k) dividends are reported. For more information, see What's Hot in Forms and Publications on the Tax Forms and Publications webpage in the IRS website at www.irs.gov, at a later date.

Section 404(k) dividends are not subject to backup withholding. Also, these dividends are not eligible for the zero and 15% capital gains rates (see *Exceptions* under *Qualified Dividends* on page 1).

RICs and REITs

Qualified dividends. If any part of the total ordinary dividends reported in box 1a is qualified dividends, report the qualified dividends in box 1b.



TIP For guidance pertaining to dividends designated by RICs and REITs, see Notice 2004-39 (capital gain dividends of RICs and REITs) which is on page 982 of Internal Revenue Bulletin 2004-22 at www.irs.gov/pub/irs-irbs/irb04-22.pdf and Rev. Rul. 2005-31 (limitations applicable to dividends received from RICs) which is on page 1084 of Internal Revenue Bulletin 2005-21 at www.irs.gov/pub/irs-irbs/irb05-21.pdf.

Dividend payment delayed until January. If a regulated investment company (RIC) or a real estate investment trust (REIT) declares a dividend in October, November, or December payable to shareholders of record on a specified date in such a month, the dividends are treated as paid by the RIC or REIT and received by the recipients on December 31 of such year as long as the dividends are actually paid by the RIC or REIT during January of the following year. Report the dividends on Form 1099-DIV for the year preceding the January they are

actually paid. See sections 852(b)(7) and 857(b)(9) for RICs and REITs respectively.

If a dividend paid in January is subject to backup withholding, withhold when the dividend is actually paid. Therefore, backup withhold in January, deposit the withholding when appropriate, and reflect it on Form 945, Annual Return of Withheld Federal Income Tax, for the year withheld. However, since the dividend is reportable on Form 1099-DIV in the prior year, the related backup withholding is also reportable on the prior year Form 1099-DIV.

Qualified small business stock—RICs. Under section 1202, a 50% exclusion may be allowed on the gain from the sale or exchange of qualified small business stock issued after August 10, 1993, and held for more than 5 years. If any part of the capital gain distribution reported in box 2a may qualify for this exclusion (taking into consideration the recipient's holding period), report the gain in box 2c, and furnish the recipient a statement that reports separately for each designated section 1202 gain the:

- Name of the corporation that issued the stock that was sold,
- Date(s) on which the RIC acquired the stock,
- Date sold,
- Recipient's part of the sales price,
- Recipient's part of the RIC's basis in the stock, and
- Amount of the recipient's section 1202 gain.

Restricted Stock

For information about reporting dividends on restricted stock, see Rev. Proc. 80-11, 1980-1 C.B. 616, distinguished by Rev. Proc. 83-38, 1983-1 C.B. 773, and Rev. Rul. 83-22, 1983-1 C.B. 17.

Widely Held Fixed Investment Trusts (WHFITs)

Trustees and middlemen must report the gross amount of dividend income attributable to a trust income holder (TIH) in the appropriate box on Form 1099-DIV, if that amount exceeds \$10. If the trustee or middleman provides WHFIT information using the safe harbor rules in Regulations section 1.671-5(f)(1) or (g)(1), the trustee or middleman must determine the amounts reported on all Forms 1099 under section 1.671-5(f)(2) or (g)(2), as appropriate.

Due date exception and other requirements for furnishing the tax information statement to TIHs. A tax information statement that includes the information provided to the IRS on all Forms 1099 filed for the calendar year with respect to the TIH's interest in the WHFIT, as well as additional information identified in Regulations section 1.671-5(e), must be provided to the TIH. The written tax information statement furnished to the TIH for 2008 is due on or before March 16, 2009. The amount of an item of trust expense that is attributable to a TIH must be included on the tax information statement provided to the TIH and is not required to be included in box 5 on the Form 1099-DIV.

For more filing requirements, see the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.

Statements to Recipients

If you are required to file Form 1099-DIV, you must provide a statement to the recipient. For information about the requirement to furnish an official or acceptable substitute Form 1099-DIV to recipients in person, by statement mailing, or electronically, see part M in the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.

2nd TIN Not.

You may enter an "X" in this box if you were notified by the IRS twice within 3 calendar years that the payee provided an incorrect taxpayer identification number (TIN). If you mark this box, the IRS will not send you any further notices about this account. However, if you received both IRS notices in the same year, or if you received them in different years but they both related to information returns filed for the same year, do not check the box at this time. For purposes of the two notices in the 3-year rule, you are considered to have received one notice. You are not required to send a second "B" notice to the

taxpayer on receipt of the second notice. See part N in the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G for more information.



For information on the TIN Matching System offered by the IRS, see the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.

Account Number

The account number is required if you have multiple accounts for a recipient for whom you are filing more than one Form 1099-DIV. Additionally, the IRS encourages you to designate an account number for all Forms 1099-DIV that you file. See part L in the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G.

Box 1a. Total Ordinary Dividends

Enter dividends, including dividends from money market funds, net short-term capital gains from mutual funds, and other distributions on stock. Include reinvested dividends and section 404(k) dividends. Include as a dividend the amount of the recipient's share of investment expenses that you report in box 5.



An S corporation reports as dividends on Form 1099-DIV only distributions made during 2008 out of accumulated earnings and profits. See section 1368 for more information.

Box 1b. Qualified Dividends

Enter the portion of the dividends in box 1a that qualify for the zero and 15% capital gains rates. Include dividends for which it is impractical to determine if the section 1(h)(11)(B)(iii) holding period requirement has been met. See *Qualified Dividends* on page 1.

You must report a dividend paid by a foreign corporation according to the guidance provided in Notice 2003-79 and Notice 2004-71 which contain the rules for reporting the dividend for tax years 2003 and 2004. These rules are extended for 2005 and subsequent tax years by Notice 2006-3.

- Notice 2003-79 is available on page 1206 of Internal Revenue Bulletin 2003-50 at www.irs.gov/pub/irs-irbs/irb03-50.pdf.

- Notice 2004-71 is on page 793 of Internal Revenue Bulletin 2004-45 at www.irs.gov/pub/irs-irbs/irb04-45.pdf.

- Notice 2006-3 is on page 306 of Internal Revenue Bulletin 2006-3 at www.irs.gov/pub/irs-irbs/irb06-03.pdf.

Box 2a. Total Capital Gain Distr.

Enter total capital gain distributions (long-term). Include all amounts shown in boxes 2b, 2c, and 2d.



For more information about reporting amounts in boxes 2a through 2d, see section 1(h).

Box 2b. Unrecap. Sec. 1250 Gain

Enter any amount included in box 2a that is an unrecaptured section 1250 gain from certain depreciable real property.

Box 2c. Section 1202 Gain

Enter any amount included in box 2a that is a section 1202 gain from certain qualified small business stock. See *Qualified small business stock—RICs* on page 2.

Box 2d. Collectibles (28%) Gain

Enter any amount included in box 2a that is a 28% rate gain from sales or exchanges of collectibles.

Box 3. Nondividend Distributions

Enter nondividend distributions, if determinable.



File Form 5452, Corporate Report of Nondividend Distributions, if you are a corporation and paid nondividend distributions to shareholders.

Box 4. Federal Income Tax Withheld

Enter backup withholding. For example, if a recipient does not furnish its TIN to you in the manner required, you must backup withhold at a 28% rate on certain dividend payments reported on this form. Use Form W-9, Request for Taxpayer Identification Number and Certification, to request the TIN of the recipient. For foreign recipients, use the applicable Form W-8. See the Instructions for the Requester of Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY.

Box 5. Investment Expenses

Enter the recipient's *pro rata* share of certain amounts deductible by a nonpublicly offered RIC in computing its taxable income. This amount is includible in the recipient's gross income under section 67(c) and must also be included in box 1a. Do not include any investment expenses in box 1b.

Box 6. Foreign Tax Paid

Enter creditable foreign tax withheld and paid (within the meaning of section 901) on dividends and other distributions on stock. A RIC must report only the amount it elects to pass through to the recipient. Report this amount in U.S. dollars.

Box 7. Foreign Country or U.S. Possession

Enter the name of the foreign country or U.S. possession to which the withheld tax applies.

RICs—special reporting instructions. Do not complete box 7. Under Regulations section 1.853-4, country-by-country reporting to shareholders for the amount reported in box 6 is not required. The requirement to file a separate statement to the Internal Revenue Service has been modified to require filing a statement that elects the application of section 853 for the tax year with the return for the tax year. See Regulations section 1.853-4 for more information. The statement does not have to be sent with the Forms 1096 and 1099.



Boxes 8 and 9 apply only to corporations in partial or complete liquidation. Do not include these amounts in box 1a or 1b.

Box 8. Cash Liquidation Distr.

Enter cash distributed as part of a liquidation.

Box 9. Noncash Liquidation Distr.

Enter noncash distributions made as part of a liquidation. Show the fair market value as of the date of distribution.