Form **2438**

Department of the Treasury
Internal Revenue Service

Regulated Investment Company Undistributed Capital Gains Tax Return

File only if the fund elects to designate undistributed capital gains under section 852(b)(3)(D).
▶ Attach a copy of this form to Form 1120-RIC.

OMB No. 1545-0144

1990

For calendar year 1990 or tax year beginning , 1990, ending , 19

Please Type or Print	Name of fund	Employer identification number
	Number, street, and room or suite no. (If a P.O. box, see Instructions.)	
	City or town, state, and ZIP code	

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

a. Kind of property and description (Example, 100 shares of Z Company)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Cost or other basis, plus expense of sale	f. Gain (or loss) ((d) less (e))
1					

2 Short-term capital gain from installment sales from Form 6252, line 22 or 30 2

3 [illegible]

General Instructions

(Section references are to the Internal Revenue Code.)

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us this information. We need it to ensure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping . . . . 7 hrs., 25 min.

Learning about the law or the form . . . . . 35 min.

Preparing and sending the form to IRS . . . . . 45 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the **Internal Revenue Service,** Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP; and the **Office of Management and Budget,** Paperwork Reduction Project (1545-0144), Washington, DC 20503. **DO NOT** send the tax form to either of these offices. Instead, see the instructions below for information on where to file.

Purpose of Form

Form 2438, Regulated Investment Company Undistributed Capital Gains Tax Return, is used by regulated investment companies (RICs) to figure income tax on undistributed capital gains designated under section 852(b)(3)(D). If a RIC has more than one fund, each fund must file a separate Form 2438. As used in these instructions, the term "fund" refers to the definition in section 851(h) and to any RIC that does not have more than one portfolio of assets.

Undistributed capital gains designated under section 852(b)(3)(D) are taxed at a 34% rate and are treated as constructively distributed to shareholders at year end. See the instructions for **Schedule D (Form 1120),** Capital Gains and Losses, for a definition of capital assets and other details on figuring and reporting capital gain transactions.

When and Where To File

File the original of this form by the 30th day after the end of the fund's tax year with the Internal Revenue Service Center where the fund will file its **Form 1120-RIC,** U.S. Income Tax Return for Regulated Investment Companies.

Attach a copy of this form to the fund's Form 1120-RIC. Also attach to Form 1120-RIC, Copy A of **Form 2439,** Notice to Shareholder of Undistributed Long-Term Capital Gains, for each shareholder for whom the fund paid tax on the undistributed capital gains designated on line 11 of Form 2438. Copies B and C of Form 2439 must be furnished to the shareholder by the 60th day after the end of the fund's tax year.

Period Covered by Return

File the 1990 return for calendar year 1990 and fiscal years that begin in 1990 and end in 1991. For a fiscal year, fill in the tax year space at the top of the form.

Rounding Off to Whole-Dollar Amounts

Money items may be shown on the return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 cents through 99 cents to the next higher dollar.

Late Filing of Return

A fund that fails to file Form 2438 when due (including extensions) may be subject to a penalty of 5% of the unpaid tax for each month or part of a month the return is late. The penalty cannot exceed 25% of the unpaid tax. The minimum penalty for failure to file Form 2438 within 60 days of the due date (including extensions) is the lesser of the underpayment of tax or $100.

Late Payment of Tax

Generally, the penalty for not paying tax when due is ½ of 1% of the unpaid amount for each month or fraction of a month the tax remains unpaid. The penalty cannot exceed 25% of the unpaid amount. The penalty applies to any unpaid tax shown on a return. It also applies to any additional tax shown on the bill not paid within 10 days of the date of the bill. This penalty is in addition to the applicable interest charge for late payments.

Depository Method of Tax Payment

Deposit fund income tax payments with a Federal Tax Deposit Coupon **(Form 8109).** Make these tax deposits with either a financial institution qualified as a depositary for Federal taxes or the Federal Reserve bank or branch servicing the geographic area where the fund is located. Records of deposits will be sent to IRS for crediting to the fund's account. Darken the boxes on Form 8109 for Form 1120 (type of tax) and 4th quarter (tax period). See the instructions contained in the coupon book for more information.

To get more deposit forms, use the reorder form **(Form 8109A)** provided in the coupon book. If you do not have a Form 8109A, please contact your IRS district office.

Do not submit deposits directly to an IRS office; otherwise, the fund may be subject to a penalty.

For more information concerning deposits, see **Pub. 583,** Taxpayers Starting a Business.

Signature

Form 2438 must be signed and dated by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or by any other officer (such as tax officer) authorized to sign. A receiver, trustee, or assignee must sign and date any return that he or she is required to file on behalf of the fund.

Note: *If this return is being filed for a series fund (as defined in section 851(h)(2)), the return may be signed by any officer authorized to sign for the RIC in which the fund is a series.*

If a corporate officer filled in Form 2438, the Paid Preparer's space under "signature of officer" should remain blank. If someone fills out Form 2438 and does not charge the fund, that person should not sign the return. Certain others who prepare Form 2438 should not sign. For example, a regular, full-time employee of the fund such as a clerk, secretary, etc., should not sign.

Generally, anyone who is paid to prepare Form 2438 must sign the return and fill in the other blanks in the Paid Preparer's Use Only area of the return.

The preparer required to sign the return MUST complete the required preparer information and:

- Sign it, by hand, in the space provided for the preparer's signature. (Signature stamps or labels are not acceptable.)
- Give a copy of Form 2438 to the fund in addition to the copy filed with IRS.

Specific Instructions

Address.—Include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and the corporation has a P.O. box, show the P.O. box number instead of the street address.

Lines 4 and 10

Report on line 1, Schedule D (Form 1120) any net short-term capital gain shown on line 4 as "Net short-term capital gain from line 4, Form 2438." Report on line 5, Schedule D (Form 1120) the **excess** of the amount on line 10 over the amount on line 11 as "Undistributed net capital gain not designated under section 852(b)(3)(D) from Form 2438." Attach Schedule D (Form 1120) to the Form 1120-RIC you file and report the gains from Schedule D, Part III, on the proper lines of Form 1120-RIC.

Line 12

The tax due must be deposited by the 30th day after the end of the fund's tax year.

*U.S. GOVERNMENT PRINTING OFFICE: 1990-265-304