

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 the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

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

Recordkeeping	7 hr., 39 min.
Learning about the law or the form	35 min.
Preparing and sending the form to the IRS	45 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the tax form to this office. Instead, see **When and Where To File** below.

A Change To Note

If a fund's total deposits of social security, Medicare, and withheld income taxes were more than \$50,000 in 1995, the fund must make electronic deposits for all depository tax liabilities that occur after June 30, 1997. For details, see **Depository Method of Tax Payment** below.

General Instructions

Section references are to the Internal Revenue Code.

Purpose of Form

Form 2438 is used only 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. The term "fund" as used in these instructions refers to the definition in section 851(h) and to any RIC that does not have more than one portfolio of assets.

See the instructions for **Schedule D (Form 1120)**, Capital Gains and Losses, for a definition of capital assets and other information on figuring and reporting capital gains and losses.

When and Where To File

File the original of Form 2438 by the 30th day after the end of the fund's tax year. File the form with the same 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 Form 2438 to the fund's Form 1120-RIC.

Who Must Sign

Form 2438 must be signed and dated by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or by any other corporate officer (such as tax officer) authorized to sign. Receivers, trustees, or assignees must also sign and date any return filed on behalf of a fund.

Note: *If this return is being filed for a series fund (discussed in section 851(h)), 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 completes Form 2438, the Paid Preparer's space should remain blank. Anyone who prepares Form 2438 but does not charge the fund should not sign the return. Generally, anyone who is paid to prepare Form 2438 must sign it and fill in the Paid Preparer's Use Only area.

The paid preparer must complete the required preparer information and:

- Sign the return, by hand, in the space provided for the preparer's signature (signature stamps and labels are not acceptable).
- Give a copy of Form 2438 to the taxpayer.

Rounding Off to Whole Dollars

The fund may show amounts on the return as whole dollars. 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.

Penalty for Late Filing of Return

A fund that does not file its tax return by the due date, including extensions, may be penalized 5% of the unpaid tax for each month or part of a month the return is late, up to a maximum of 25% of the unpaid tax. The minimum penalty for a return that is more than 60 days late is the smaller of the tax due or \$100. The penalty will not be imposed if the fund can show that the failure to file on time was due to reasonable cause. Funds that file late must attach a statement explaining the reasonable cause.

Penalty for Late Payment of Tax

A fund that does not pay the tax when due may be penalized 1/2 of 1% of the unpaid tax for each month or part of a month the tax is not paid, up to a maximum of 25% of the unpaid tax. The penalty will not be imposed if the fund can show that the failure to pay on time was due to reasonable cause.

Depository Method of Tax Payment

Some funds (described below) are required to electronically deposit all depository taxes, including corporation income tax payments.

Electronic deposit requirement.—If the fund's total deposits of social security, Medicare, and withheld income taxes were more than \$50,000 in 1995, the fund must make electronic deposits for all depository tax liabilities that occur after June 30, 1997. If the fund was required to deposit by electronic funds transfer in prior years, continue to do so in 1997. The Electronic Federal Tax Payment System (EFTPS) must be used to make electronic deposits. If the fund is required to make deposits by electronic funds transfer and fails to do so, it may be subject to a 10% penalty. Funds that are not required to make electronic deposits may voluntarily

participate in EFTPS. For information on EFTPS, call 1-800-945-8400 or 1-800-555-4477. (These numbers are for EFTPS information only.)

Form 8109, Federal Tax Deposit Coupon.—If the fund does not use EFTPS, deposit fund income tax payments with Form 8109, Federal Tax Deposit Coupon. Do not send deposits directly to an IRS office. Mail or deliver the completed Form 8109 with the payment to a qualified depository for Federal taxes or to the Federal Reserve bank (FRB) servicing the fund's geographic area. Make checks or money orders payable to that depository or FRB.

To help ensure proper crediting, write the fund's employer identification number, the tax period to which the deposit applies, and "Form 1120-RIC" on the fund's check or money order. Be sure to darken the "1120" box on the coupon. Records of these deposits will be sent to the IRS.

A penalty may be imposed if the deposits are mailed or delivered to an IRS office rather than to an authorized depository or FRB.

For more information on deposits, see the instructions in the coupon booklet (Form 8109) and **Pub. 583**, Starting a Business and Keeping Records.

Caution: *If the fund owes tax when it files Form 2438, do not include the payment with the tax return. Instead, mail or deliver the payment with Form 8109 to a qualified depository or FRB or use the EFTPS if applicable.*

Specific Instructions

Period covered.—File the 1996 return for calendar year 1996 and fiscal years that begin in 1996 and end in 1997. For a fiscal year, fill in the tax year space at the top of the form.

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 fund has a P.O. box, show the box number instead of the street address.

Lines 1 and 5

Column (d).—Enter either the gross sales price or the net sales price. If the net sales price is entered, do not increase the cost or other basis in column (e) by any expenses reflected in the net sales price.

Column (e).—If the gross sales price is reported in column (d), increase the cost or other basis by any expense of sale such as broker's fees, commissions, or option premiums before entering an amount in column (e).

Line 4

If the fund has any net short-term capital gain on line 4, enter it on line 1 of Schedule D (Form 1120). Report this amount as "Net short-term capital gain from line 4, Form 2438." For information on reporting a short-term capital loss, see the Schedule D (Form 1120) instructions.

Line 12

Enter the amount from line 12 on line 6 of Schedule D (Form 1120). Report this amount as "Undistributed capital gains not designated under section 852(b)(3)(D) from Form 2438."

Line 13

Deposit the tax due by the 30th day after the end of the fund's tax year.

