

1995



Department of the Treasury
Internal Revenue Service

Instructions for Forms 1099, 1098, 5498, and W-2G

(Including Instructions for Forms 1099-A, 1099-B, 1099-C, 1099-DIV, 1099-G, 1099-INT, 1099-MISC, 1099-OID, 1099-PATR, 1099-R, 1099-S, and 5754)

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

Paperwork Reduction Act Notice.—We ask for the information on these forms 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.

The time needed to complete and file the following forms will vary depending on individual circumstances. The estimated average times are:

	Insts. begin on page
1098	7 minutes 8
1099-A	10 minutes 11
1099-B	15 minutes 12
1099-C	11 minutes 13
1099-DIV	14 minutes 14
1099-G	11 minutes 15
1099-INT	12 minutes 15
1099-MISC	14 minutes 17
1099-OID	10 minutes 20
1099-PATR	11 minutes 21
1099-R	20 minutes 22
1099-S	8 minutes 26
5498	7 minutes 29
W-2G	19 minutes 29
1096	10 minutes (see form)
5754	(see form) 31

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can write to the **Internal Revenue Service**, Attention: Tax Forms Committee, PC:FP, Washington, DC 20224. **DO NOT** send these forms to this address. Instead, see **Where To File** on page 5.

Items You Should Note

Changes to Where To File

Some filing sites have changed again. You may have to file with an Internal Revenue Service Center that is different from the one you filed with for 1994. Check the addresses listed on page 5 under **Where To File** for your proper filing location.

Form 1098—Seller-Paid Points

For 1995 and later years, you must report points paid by the seller on the buyer's **Form 1098**, Mortgage Interest Statement. The title of box 2 was changed to "Points paid on purchase of principal residence." See **Points** on page 10.

Filing Forms 1099-A and 1099-C Coordinated; Some Boxes Changed

Rather than filing both **Forms 1099-A**, Acquisition or Abandonment of Secured Property, and **1099-C**, Cancellation of Debt, for the same year, you may be required to file only **Form 1099-C**. Box 3 on **Form 1099-A**, previously titled "Gross foreclosure proceeds," was eliminated, and the title of box 4 was changed to "Fair market value of property." On **Form 1099-C**, the title of box 6 was changed to "Check for bankruptcy," and a new box 7 titled "Fair market value of property" was added. See the instructions for both forms, which begin on pages 11 and 13.

Form 1099-R Changes

New box 9b, Total employee contributions, was added to the 1995 **Form 1099-R**, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. See the 1995 **Form 1099-R** and the instructions for box 9b on page 26.

Distribution codes A, B, and C, used in box 7, were changed to indicate "May be eligible...." See page 26.

Form 945—Withholding Tax Return

Report backup withholding and withholding from gambling winnings, pensions, annuities, IRAs, and military retirement on **Form 945**, Annual Return of Withheld Federal Income Tax. File **Form 945** for 1995 by January 31, 1996. Generally, any income tax withheld reported on **Forms 1099** or **W-2G** must be reported on **Form 945**. Any income tax withheld reported on **Form W-2**, including withholding on distributions to plan participants from nonqualified plans, must be reported on **Form 941**, Employer's Quarterly Federal Tax Return. For more information, including the deposit requirements for **Form 945**, see the separate **Instructions for Form 945**.

Use Form 1096 To Send Forms to the IRS

You must send Copies A of all paper **Forms 1099**, **1098**, **5498**, and **W-2G** to the IRS with **Form 1096**, Annual Summary and Transmittal of U.S. Information Returns. Instructions for completing **Form 1096** are contained on **Form 1096**.

REMINDER—Substitute Statements to Recipients

If you are not using the official IRS form (generally Copy B) to furnish statements to recipients, be sure your substitute statements comply with the rules in **Pub. 1179**, Rules and Specifications for Private Printing of Substitute Forms 1096, 1098, 1099 Series, 5498, and W-2G. **Pub. 1179**, which is revised annually, is a revenue procedure that explains the requirements for format and content of substitute statements to recipients. **If you are using a substitute form to furnish information to recipients, it must comply with the requirements in Pub. 1179.**

Guide to Information Returns

See the chart on pages 32 and 33 for a brief summary of information return reporting rules.

Need Help?

Information Reporting Call Site.—The IRS operates a centralized call site to answer questions about reporting on information returns—**Forms 1096**, **1098**, **1099**, **5498**, **W-2**, **W-2G**, and **W-3**. If you have questions related to reporting on any of these forms, you may call 304-263-8700 (not a toll-free number) Monday through Friday from 8:30 a.m. to 4:30 p.m. eastern time.

Bulletin Board Service.—The IRS also operates an electronic bulletin board (IRP-BBS). The IRP-BBS offers changes and updates that affect information reporting. By using your personal computer and modem, you can access the IRP-BBS by dialing 304-263-2749. For more information, see **Pub. 1220**, Specifications for Filing Forms 1098, 1099, 5498 and W-2G Magnetically or Electronically.

Internal Revenue Bulletin.—The Internal Revenue Bulletin (IRB), published weekly, contains newly issued regulations, as well as notices, announcements, legislation, court decisions, and other items of general interest. You may find this publication useful to keep you up to date with current developments. The IRB is sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, and is available on a subscription basis. To order the IRB, you can write to the Superintendent of Documents or call 202-512-1800 (not a toll-free number).

Forms and Publications.—You may order forms, instructions, and publications by calling 1-800-TAX-FORM (1-800-829-3676).

Backup Withholding

Interest, dividends, rents, royalties, commissions, nonemployee compensation, and certain other payments (including broker and barter exchange transactions, and certain payments made by fishing boat operators) may be subject to backup withholding at a 31% rate. To be subject to backup withholding, a payment must be a reportable interest or dividend payment under section 6049(a), 6042(a), or 6044 (if the patronage dividend is paid in money or qualified check), or an "other" reportable payment under section 6041, 6041A(a), 6045, 6050A, or 6050N. If the payment is one of these reportable payments, backup withholding will apply if:

1. The payee fails to furnish his or her taxpayer identification number (TIN) to you, OR
2. The IRS notifies you to impose backup withholding because the payee furnished an incorrect TIN, OR
3. You are notified that the payee is subject to backup withholding (under section 3406(a)(1)(C)), OR
4. For interest and dividend accounts opened or instruments acquired after 1983, the payee fails to certify to you, under penalties of perjury, that he or she is not subject to backup withholding under 3 above, OR
5. For interest, dividend, broker, or barter exchange accounts opened or instruments acquired after 1983, or broker accounts considered inactive in 1983, the payee fails to certify, under penalties of perjury, that the TIN provided is correct.

Except as explained in 5 above, reportable "other" payments are subject to backup withholding only if 1 or 2 above applies.

Some payees are exempt from backup withholding. For a list of types of exempt payees and other information, please see **Form W-9, Request for Taxpayer Identification Number and Certification, and Instructions for the Requester of Form W-9.**

Real estate transactions reportable under section 6045(e) and canceled debts reportable under section 6050P are not subject to backup withholding.

Generally, the period for which the 31% should be withheld is as follows:

1. Failure to furnish TIN in the manner required.—Withhold on payments made until the TIN is furnished in the manner required. Special backup withholding rules apply if the payee has applied for a TIN. The payee may certify to this on Form W-9 by noting "Applied For" in the TIN block and by signing the form. This form then becomes an "awaiting-TIN certificate," and the payee has 60 days to obtain a TIN and furnish it to you. For information about whether backup withholding applies during the 60-day period, see Temporary Regulations section 35a.9999-3, Q/A-59A. If you do not receive a TIN from the payee within 60 days and you have not already

begun backup withholding, begin backup withholding and continue until the TIN is provided.

2. Notice from the IRS that payee's TIN is incorrect ("B" notice).—You may elect to withhold on any reportable payment made to the account(s) subject to backup withholding after receipt of the "B" notice, but you must withhold on any reportable payment made to the account more than 30 business days after you received the "B" notice. Stop withholding within 30 days after you receive a certified Form W-9 (or acceptable substitute).

Note: *The IRS will furnish a notice to you, and you are required to promptly furnish a copy of such notice, or an acceptable substitute, to the payee. For further information, see Regulations section 31.3406(d)-5 and Rev. Proc. 93-37, 1993-2 C.B. 477.*

If you receive two incorrect TIN notices within 3 years for the same account, follow the procedures in Regulations section 31.3406(d)-5(g) and Rev. Proc. 93-37.

3. Notice from the IRS that payee is subject to backup withholding due to notified payee underreporting.—Start withholding on payments made on the 31st day after the date you receive notification from the IRS, or you may elect to withhold any time before the 31st day. The IRS will notify you in writing when to stop withholding, or the payee may furnish you a written certification from the IRS stating when withholding is to stop. In most cases, the stop date will be January 1 of the year following the year of the notice.

Note: *You must notify the payee when withholding under this procedure starts. For further information, see Temporary Regulations section 35a.3406-2.*

4. Payee failure to certify that he or she is not subject to backup withholding.—Withhold on reportable interest and dividends until certification has been received.

For exceptions to these general timing rules, see section 3406(e).

Note: *For information about backup withholding on gambling winnings, see the Specific Instructions for Form W-2G for the specific type of gambling winnings later.*

Reporting Backup Withholding.—Backup withholding must be reported on **Form 945, Annual Return of Withheld Federal Income Tax.** For more information, see the **Instructions for Form 945.** Also report backup withholding on each Form W-2G, 1099-B, DIV, G, INT, MISC, OID, or PATR used to report the payment.

Additional Information.—For more information about backup withholding, see Temporary Regulations sections 35a.9999-1, 2, and 3, and 35a.3406-1 and 2.

Penalties

The following penalties generally apply to the person required to file information returns. The penalties apply to paper filers as well as magnetic media/electronic filers.

Failure To File Correct Information Returns by the Due Date (Section 6721)

If you fail to file a correct information return by the due date and you cannot show reasonable cause, you may be subject to a penalty. The penalty applies if you fail to file timely, you fail to include all information required to be shown on a return, or you include incorrect information on a return. The penalty also applies if you file on paper when you were required to file on magnetic media, you report an incorrect TIN or fail to report a TIN, or you fail to file paper forms that are machine readable.

The amount of the penalty is based on when you file the correct information return. The penalty is:

- \$15 per information return if you correctly file within 30 days (by March 30 if the due date is February 28); maximum penalty \$75,000 per year (\$25,000 for small businesses, defined later).
- \$30 per information return if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$150,000 per year (\$50,000 for small businesses).
- \$50 per information return if you file after August 1 or you do not file required information returns; maximum penalty \$250,000 per year (\$100,000 for small businesses).

Exceptions to the Penalty.—

1. The penalty will not apply to any failure that you can show was due to reasonable cause and not to willful neglect.

2. An inconsequential error or omission is not considered a failure to include correct information. An inconsequential error or omission does not prevent or hinder the IRS from processing the return, from correlating the information required to be shown on the return with the information shown on the payee's tax return, or from otherwise putting the return to its intended use. Errors and omissions that are never inconsequential are those relating to (a) a TIN, (b) a payee's surname, and (c) any money amounts.

3. *De Minimis Rule for Corrections.*—Even though you cannot show reasonable cause, the penalty for failure to file correct information returns will not apply to a certain number of returns if:

- a. You filed those information returns,
- b. Either you failed to include all the information required to be shown on a return or you included incorrect information, and
- c. You filed corrections of these information returns by August 1.

If you meet all the conditions in a through c, the penalty for filing incorrect returns (but not for filing late) will not apply to the greater of 10 information returns or 1/2 of 1% of the total number of information returns you are required to file for the calendar year.

Lower Maximum Penalties for Small Businesses.—For purposes of the lower maximum penalties shown in parentheses

above, you are a small business if your average annual gross receipts for the 3 most recent tax years (or for the period you were in existence, if shorter) ending before the calendar year in which the information returns were due are \$5 million or less.

Intentional Disregard of Filing Requirements.—If any failure to file a correct information return is due to intentional disregard of the filing and correct information requirements, the penalty is at least \$100 per information return with no maximum penalty.

Failure To Furnish Correct Payee Statements (Section 6722)

If you fail to provide correct payee statements and you cannot show reasonable cause, you may be subject to a penalty. The penalty applies if you fail to provide the statement by January 31 (see part **H** under **General Instructions** later), you fail to include all information required to be shown on the statement, or you include incorrect information on the statement. "Payee statement" has the same meaning as "statement to recipient" as used in part **H** under **General Instructions**.

The penalty is \$50 per statement, regardless of when the correct statement is furnished, with a maximum of \$100,000 per year. There is no reduction in the penalty for furnishing a correct statement by August 1.

Exception.—An inconsequential error or omission is not considered a failure to include correct information. An inconsequential error or omission cannot reasonably be expected to prevent or hinder the payee from timely receiving correct information and reporting it on his or her income tax return or from otherwise putting the statement to its intended use. Errors and omissions that are never inconsequential are those relating to (a) a dollar amount, (b) a payee's address, (c) the appropriate form for the information provided (i.e., whether the form is an acceptable substitute for the official IRS form), and (d) whether the statement was furnished in person or by "statement mailing," when required.

Intentional Disregard of Payee Statement Requirements.—If any failure to provide a correct payee statement is due to intentional disregard of the requirements to furnish a correct payee statement, the penalty is at least \$100 per payee statement with no maximum penalty.

Forms 1099-R and 5498

The penalties under sections 6721 and 6722 do not apply to Form 1099-R, which is filed under section 6047. The penalty for failure to timely file Form 1099-R is \$25 per day with a maximum of \$15,000 per year. See section 6652(e).

The penalties under sections 6721 and 6722 do not apply to Form 5498, which is filed under section 408(i). The penalty for failure to timely file Form 5498 is \$50 per

return with no maximum. See section 6693.

Caution: *Congress has considered, and may consider again, legislation that would apply the penalties under sections 6721 and 6722 to Forms 1099-R and 5498.*

Magnetic Media/Electronic Reporting

Magnetic media reporting may be required for filing all information returns discussed in this publication. Acceptable forms of magnetic media are magnetic tape, tape cartridge, 3 $\frac{1}{2}$ -, 5 $\frac{1}{4}$ -, and 8-inch diskette. **Pub. 1220**, Specifications for Filing Forms 1098, 1099, 5498 and W-2G Magnetically or Electronically, is the revenue procedure for magnetic media and electronic reporting. Different types of payments, such as interest, dividends, and rents, may be reported on the same tape or other submission.

Electronic submissions are filed using the Information Reporting Bulletin Board System (IRP-BBS). The IRP-BBS operates 24 hours a day, 7 days a week, and is accessed using your personal computer and modem at 304-263-2749. For more information, see Pub. 1220.

Note: *Filing electronically will satisfy the magnetic media filing requirements. Any reference to magnetic media in these instructions includes electronic filing.*

Due Dates.—The due dates for magnetic media reporting are the same as for paper document reporting.

Extension of Time To File.—For information about requesting an extension of time to file, see part **B** under **General Instructions** later.

Caution: *If you file on magnetic media, do not file the same returns on paper.*

Who Must File on Magnetic Media.—If you are required to file 250 or more information returns, you must file on magnetic media. The 250-or-more requirement applies separately to each type of form. For example, if you must file 500 Forms 1098 and 100 Forms 1099-A, you are not required to file Forms 1099-A on magnetic media, but you must file Forms 1098 on magnetic media.

Note: *Even if you are not required to file on magnetic media, the IRS encourages you to do so. Also, you may file electronically even if you are not required to file on magnetic media.*

The magnetic media filing requirement does not apply if you apply for and receive an undue hardship waiver. See **How To Request a Waiver From Filing on Magnetic Media** later.

Filing Requirement Applies Separately to Originals and Corrections.—The magnetic media filing requirements below apply separately to original returns and corrected returns. Originals and corrections are not aggregated to determine whether you are required to file on magnetic media. For example, if you file 400 Forms 1098 on magnetic media and you are making 75

corrections, your corrections can be filed on paper because the number of corrections for Form 1098 is less than the 250 filing requirement. However, if you were filing 250 or more Form 1098 corrections, they would have to be filed on magnetic media.

How To Get Approval To File on Magnetic Media.—File **Form 4419**, Application for Filing Information Returns Magnetically/Electronically, at least 30 days (45 days for some electronic filing) before the due date of the returns. Only one Form 4419 need be filed for all types of returns that will be filed on magnetic media. Once you have received approval, you need not reapply each year. The IRS will provide a written reply to the applicant and further instructions at the time of approval, usually within 30 days. A magnetic media reporting package, which includes all the necessary transmittals, labels, and instructions, will be mailed to all approved filers.

How To Request a Waiver From Filing on Magnetic Media.—To receive a waiver from the required filing of information returns on magnetic media, submit **Form 8508**, Request for Waiver From Filing Information Returns on Magnetic Media, requesting an undue hardship waiver from filing on magnetic media. You cannot apply for a waiver for more than 1 tax year at a time. If you need a waiver for more than 1 tax year, you must reapply at the appropriate time each year.

If a waiver for original returns is approved, any corrections for the same types of returns will be covered under the waiver. However, if you submit original returns on magnetic media but you want to submit your corrections on paper, a waiver must be approved for the corrections if the corrections exceed the 250 filing requirement.

Waiver requests generally must be filed at least 45 days before the due date of the returns. However, new brokers and new barter exchanges may request an undue hardship waiver by filing Form 8508 by the end of the second month following the month in which they became a broker or barter exchange.

If you are seeking, in a single application, approval for filing returns on magnetic media and, if approval is not granted, a waiver from the magnetic media filing requirement, submit both Forms 4419 and 8508.

If you receive an approved waiver, do not send a copy of it to the service center where you file your paper returns. Keep the waiver for your records only.

Penalty.—If you are required to file on magnetic media but fail to do so, and you do not have an approved waiver on record, you may be subject to a penalty of \$50 per return for failure to file information returns on magnetic media unless you establish reasonable cause. However, you can file up to 250 returns on paper; those returns will not be subject to a penalty for failure to file on magnetic media.

The penalty applies separately to original returns and corrected returns. See **Filing**

Requirement Applies Separately to Originals and Corrections earlier.

Paper Document Reporting

If you are required to file 250 or more information returns, see **Magnetic Media/Electronic Reporting** earlier.

Common Errors.—Please be sure to check your returns to prevent the following common errors:

1. Duplicate filing. Sending the same information to the IRS more than once.
2. Filer's name, address, and taxpayer identification number are not the same on Form 1096 and Forms 1099, 1098, 5498, or W-2G.
3. Decimal point to show dollars and cents omitted (1000.00).
4. Two or more types of returns submitted with one Form 1096 (e.g., Forms 1099-INT and 1099-MISC with one Form 1096). You must submit a separate Form 1096 with each type of document.
5. Failure to make an entry in box 1a, "Gross dividends and other distributions on stock," on Form 1099-DIV. An amount must be entered in box 1a if any amount is entered in box 1b, 1c, 1d, or 1e.

Required Format.—Because paper forms are read by machines (optical character recognition equipment), all Forms 1096, 1098, 1099, and 5498 must be prepared in accordance with the following instructions. If these instructions are not followed, you may be subject to a penalty of \$50 per incorrectly filed document.

1. **DO NOT CUT OR SEPARATE** the forms that are printed two or three to a sheet (except Form W-2G). Forms 1098, 1099, and 5498 are printed two or three to an 8- by 11-inch sheet. Form 1096 is printed one to an 8- by 11-inch sheet. These forms must be submitted to the IRS on the 8- by 11-inch sheet. If at least one form on the page is correctly completed, you must submit the entire page. Forms W-2G may be separated and submitted as single forms.

Send the forms to the IRS in a flat mailing (not folded). **Note:** *Large envelopes may require extra postage.*

2. **NO PHOTOCOPIES** of any forms are acceptable. Official forms are available from your IRS district office or by calling 1-800-TAX-FORM (1-800-829-3676).

3. **DO NOT STAPLE**, tear, or tape any of these forms. It will interfere with the IRS's ability to scan the documents.

4. Pinfeed holes on the form are **NOT** acceptable. Pinfeed strips outside the 8- by 11-inch area must be removed before submission, without tearing or ripping the form. Substitute forms prepared in continuous or strip form must be burst and stripped to conform to the size specified for a single sheet (8 by 11 inches) before they are filed with the IRS.

5. **DO NOT** change the title of any box on any form. Do not use a form to report information that is not properly reportable on that form. If you are unsure of where to

report the data, call 304-263-8700 or your local IRS office.

6. Report information only in the appropriate boxes provided on the forms. Make only one entry in each box unless otherwise indicated in these instructions.

7. **DO NOT** submit any copy other than Copy A to the IRS.

8. **DO NOT** use prior year forms unless you are reporting prior year information; do not use subsequent year forms for the current year. Because forms are "read" by machine, you **MUST** use the current year form to report current year information.

9. Use the official forms or substitute forms that meet the specifications in the 1995 **Pub. 1179**, Rules and Specifications for Private Printing of Substitute Forms 1096, 1098, 1099 Series, 5498, and W-2G. If you submit substitute forms that do not meet the current specifications and that are not machine scannable, you may be subject to a penalty of \$50 for each return for improper format.

10. **DO NOT** use dollar signs (\$) (they are preprinted on the forms), ampersands (&), asterisks (*), commas (,), or other special characters in money amount boxes.

Suggested Format.—Below are suggestions that will allow the IRS to process the submitted forms in the most economical manner:

1. Type or machine print data entries using 10 pitch (pica) or 12 pitch (elite) black type. Use block print, not script characters. Entries should not be handwritten. Insert data in the middle of the blocks well separated from other printing and guidelines, and take other measures to guarantee a dark black, clear, sharp image.

2. Do not enter 0 (zero) or "None" in money amount boxes when no entry is required. Leave the boxes blank unless the instructions specifically require that you enter a zero. For example, in some cases, you must enter zero to make corrections. See **Corrected Returns** later.

3. You may use the **account number** box for an account number designation. This number must not appear anywhere else on the form, and this box may not be used for any other item. Showing the account number is optional. However, it may be to your benefit to include the recipient's account number on paper documents if your system of records uses the account number rather than the name, social security number, or employer identification number for identification purposes. If you furnish the account number, the IRS will include it in future notices to you about backup withholding. If you are using window envelopes to mail statements to recipients, and if you are using reduced rate mail, be sure the account number does not appear in the window because the Postal Service may not accept these for reduced rate mail.

4. Do not enter number signs (#); for example, enter RT 2, not Rt. #2.

General Instructions

A. Who Must File.—See the **Specific Instructions** for each form.

Nominee/Middleman Returns.—

Generally, if you receive a Form 1099 for amounts that actually belong to another person, you are considered a nominee recipient. You must file a Form 1099 (the same type of Form 1099 you received) for each of the other owners showing the amounts allocable to each. You must also furnish a Form 1099 to each of the other owners. File Form 1099 with **Form 1096**, Annual Summary and Transmittal of U.S. Information Returns, with the Internal Revenue Service Center for your area. On each Form 1099, list yourself as the "payer" and the other owner as the "recipient." On Form 1096, list yourself as the "filer." A husband or wife is not required to file a nominee return to show amounts owned by the other. The nominee, not the original payer, is responsible for filing the subsequent Forms 1099.

Mergers.—If two corporations merge and the surviving corporation becomes the owner of all the assets and assumes all the liabilities of the absorbed corporation, the reporting requirements explained in this publication will be met if the surviving corporation files Forms 1098, 1099, 5498, and/or W-2G for reportable payments of both corporations. See Rev. Rul. 69-556, 1969-2 C.B. 242.

For information on filing Form 1099-INT for a successor/predecessor corporation, see **Form 1099-INT** later.

Qualified Settlement Funds.—A qualified settlement fund must file information returns as explained in this publication for distributions to claimants if any transferor to the fund would have been required to file if the transferor had made the distributions directly to the claimants.

For distributions to transferors, a fund is subject to the information reporting requirements of sections 6041 and 6041A and may be required to file Form 1099-MISC. For payments made by the fund on behalf of a claimant or transferor, the fund is subject to these same rules and may have to file Form 1099-MISC for the payment to a third party. For information reporting purposes, a payment made by the fund on behalf of a claimant or transferor is considered a distribution to the claimant or transferor and is also subject to information reporting requirements.

The same filing requirements, exceptions, and thresholds apply to qualified settlement funds as apply to any other payer. That is, the fund must determine the character of the payment (e.g., interest, fixed and determinable income, or gross proceeds from broker transactions) and to whom the payment is made (e.g., corporation or individual).

For more information, see Regulations section 1.468B-2(i).

Payments to Foreign Persons.—See the **Instructions for Forms 1042 and 1042-S**, relating to U.S. source income of foreign persons, and for reporting requirements relating to payments of income items to foreign persons.

B. When To File.—File Form 1096 and Forms 1098, 1099, or W-2G by February 28, 1996. Brokers may file Forms 1096 and 1099-B anytime after the reporting period they elect to adopt (month, quarter, or year), but not later than February 28, 1996. File Form 1096 and Forms 5498 by May 31, 1996. You will meet the requirement to file if the form is properly addressed, mailed, and postmarked on or before the due date. If the regular due date falls on a Saturday, Sunday, or legal holiday, file on the next business day. A business day is any day that is not a Saturday, Sunday, or legal holiday. See part **H** later about providing Forms 1098, 1099, 5498, and W-2G or statements to recipients.

Reporting period.—Forms 1098, 1099, and W-2G are used to report amounts received, paid, credited, or canceled in the case of Form 1099-C, during the calendar year. Form 5498 is used to report amounts contributed for the calendar year.

Extension.—For paper or magnetic media filing, you may request an extension of time to file by sending **Form 8809**, Request for Extension of Time To File Information Returns, to the address shown on the form. You must request the extension by the due date of the returns for your request to be considered. If your request for an extension is approved, you will have an additional 30 days to file. You may request an additional extension. See Form 8809. For information on extensions for providing statements to recipients, see page 7.

Note: *If you are a magnetic media transmitter requesting extensions of time to file for more than 50 payers, you must submit the extension requests magnetically or electronically. For instructions on submitting extension requests on magnetic media, see Pub. 1220.*

C. Where To File

Caution: **NEW FILING LOCATIONS.** Check the addresses below carefully because you may have to file in a service center that is different from the one where you filed last year.

Send all information returns filed on paper to the following:

If your principal business, office or agency, or legal residence in the case of an individual, is located in	Use the following Internal Revenue Service Center address
Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, New Mexico, Texas	Austin, TX 73301
Arkansas, Connecticut, Kentucky, Maine, Massachusetts, New Hampshire, New York, Ohio, Rhode Island, Vermont, West Virginia	Cincinnati, OH 45999

Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, Wisconsin
 Kansas City, MO 64999

Delaware, District of Columbia, Maryland, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia
 Memphis, TN 37501

Alaska, California, Colorado, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, Wyoming
 Ogden, UT 84201

If you have no legal residence, principal place of business, or principal office or agency in any Internal Revenue district, file your return with the Internal Revenue Service Center, Cincinnati, OH 45999.

Send all information returns filed magnetically to IRS-Martinsburg Computing Center, P.O. Box 1359, Martinsburg, WV 25401-1359.

D. Filing Returns With the IRS.—The IRS strongly encourages the quality review of data before filing to prevent erroneous notices being mailed to payees (or others for whom information is being reported).

If you must file any Form 1098, 1099, 5498, or W-2G with the IRS, and you are filing paper documents, you must send a **Form 1096**, Annual Summary and Transmittal of U.S. Information Returns, with each type of form as the transmittal document. You must group the forms by form number and submit each group with a separate Form 1096. For example, if you file Forms 1098, 1099-A, and 1099-MISC, complete one Form 1096 to transmit Forms 1098, another Form 1096 to transmit Forms 1099-A, and a third Form 1096 to transmit Forms 1099-MISC. Specific instructions for completing Form 1096 are included on Form 1096. Also see **Transmitters, paying agents, etc.** later. For information about filing corrected returns, see **Corrected Returns** later.

If you are filing on magnetic media, **Form 4804**, Transmittal of Information Returns Reported Magnetically/ Electronically, must accompany your submissions.

For information on the preparation of transmittal documents for magnetic media and paper document reporting (Forms 4804 and 1096), see Rev. Proc. 84-24, 1984-1 C.B. 465, or other current revenue procedure.

If you use paper forms, report payments on the appropriate form, as explained in the **Specific Instructions** later.

See Pub. 1179 on specifications for private printing of information documents. You may not request special consideration. Only forms that conform with the official form and the specifications in Pub. 1179 are acceptable.

Transmitters, paying agents, etc.—A transmitter, service bureau, paying agent, or disbursing agent (hereafter referred to as “agent”) may sign Form 1096 or 4804 on behalf of any person required to file

(hereafter referred to as “payer”) if the conditions in items 1 and 2 below are met:

1. The agent has the authority to sign the form under an agency agreement (oral, written, or implied) that is valid under state law, and

2. The agent signs the form and adds the caption “For: (Name of payer).”

Signing of the form by an authorized agent on behalf of the payer does not relieve the payer of the liability for penalties for not filing a correct, complete, and timely Form 1096 or 4804 and accompanying returns.

Forms 1098, 1099, 5498, W-2G, or other statements to recipients issued by a service bureau or agent should show the same payer’s name as shown on the information returns filed with the IRS.

For information about the election to report and deposit backup withholding under the agent’s TIN and how to prepare forms if the election is made, see Rev. Proc. 84-33, 1984-1 C.B. 502 (Pub. 1272).

Keeping copies.—Generally, keep copies of information returns you filed with the IRS or have the ability to reconstruct the data for at least 3 years from the due date of the returns. If backup withholding was imposed and for Form 1099-C, keep copies of information returns for 4 years.

E. Shipping and Mailing.—If you are sending many forms, you may send them in conveniently sized packages. On each package write your name and TIN, number the packages consecutively, and place Form 1096 in package number one. Postal regulations require forms and packages to be sent by First-Class Mail.

F. Recipient Names and Taxpayer Identification Numbers.—Taxpayer identification numbers (TINs) are used to associate and verify amounts reported to the IRS with corresponding amounts on tax returns. Therefore, it is important that you furnish correct names, social security numbers (SSNs) or employer identification numbers (EINs) for recipients on the forms or magnetic media sent to the IRS.

Use Form W-9 to request the recipient’s TIN. (You may be subject to a penalty for an incorrect or missing TIN. See **Penalties** on page 2.) You are required to maintain the confidentiality of information obtained on Form W-9 relating to the taxpayer’s identity (including SSNs), and you may use such information only to comply with the tax laws.

Note: *If the recipient does not provide a TIN, leave the box for providing the TIN to the IRS blank on the Form 1098, 1099, 5498, or W-2G. See **Backup Withholding** on page 2. **Only one recipient TIN can be entered on the form.***

The TIN for individual recipients of information returns is the social security number. But see the information about sole proprietors below. For other recipients, including corporations, partnerships, and estates, it is the EIN.

SSNs have nine digits separated by two hyphens (000-00-0000), and EINs have

nine digits separated by only one hyphen (00-0000000).

Show the full name and address in the section provided on the return. **If payments have been made to more than one recipient or the account is in more than one name, show as the ONLY name on the first name line the name of the recipient whose TIN is shown on the return.** Show the names of any other individual recipients in the area below the first line, if desired. Form W-2G filers see **Form 5754** later.

For **sole proprietors**, show the individual's name on the first name line; on the second name line, you may enter the business name. You may not enter only the business name. For the TIN, enter either the individual's SSN or the EIN of the business (sole proprietorship).

G. Filer's Name, Identification Number, and Address.—The TIN for filers of information returns, including sole proprietors and nominees/middlemen, is the Federal EIN. However, sole proprietors and nominees/middlemen who are not otherwise required to have an EIN should use their social security numbers. A sole proprietor is not required to have an EIN unless he or she must file excise or employment tax returns. See **Pub. 583**, *Taxpayers Starting a Business*.

The filer's name and TIN should be consistent with the name and number used on the filer's other tax returns. The name of the filer's paying agent or service bureau must not be used in place of the name of the filer.

To obtain an EIN, file **Form SS-4**, *Application for Employer Identification Number*, with the IRS. If you do not have your EIN by the time you must file information returns, enter "Applied For" in any space where the number must be entered.

Include the room, suite, or other unit number after the street address.

H. Statements to Recipients (Borrowers, Debtors, Participants, Payers/Borrowers, Transferors, or Winners on Certain Forms).—Be sure that the statements you provide to recipients are clear and legible.

If you are not using the official IRS form to furnish statements to recipients, see **Pub. 1179**, *Rules and Specifications for Private Printing of Substitute Forms 1096, 1098, 1099 Series, 5498, and W-2G*, for specific rules about providing "substitute" statements to recipients. A substitute is any statement other than Copy B (generally) of the official form. You may develop them yourself or buy them from a private printer. However, the substitutes must comply with the format and content requirements specified in **Pub. 1179**.

Different rules apply to furnishing statements to recipients depending on the type of payment you are reporting and the form you are filing. See the heading below for the type of payment you are reporting. The headings are (1) **Interest, dividend, and royalty payments**; (2) **Real estate transactions**; and (3) **Other payments**.

Interest, dividend, and royalty payments.—For payments of dividends or interest (including original issue discount) under section 6042, 6044, or 6049 (reported on Forms 1099-DIV, 1099-PATR, 1099-INT, or 1099-OID), you are required to furnish an official or substitute Form 1099 to a recipient either in person or in a statement mailing by First-Class Mail. Payers of **royalties** are also required to furnish the statement in person or in a statement mailing by First-Class Mail, but the statement need not be the official form. Statements may be sent by intraoffice mail if you use intraoffice mail to send account information and other correspondence to the recipient.

Statement mailing requirements for Forms 1099-DIV, 1099-INT, 1099-OID, and 1099-PATR, and forms reporting royalties only.—The statement mailing requirements apply only to Forms 1099-DIV (except for section 404(k) dividends), 1099-INT (except for interest reportable under section 6041), 1099-OID, 1099-PATR, and royalties reported under section 6050N (on Form 1099-MISC or 1099-S). In addition to Forms W-2, W-8, W-9, or other 1098, 1099, and 5498 statements, the following enclosures are permitted in a statement mailing: (1) a check, (2) a letter explaining why no check is enclosed, (3) a statement of the person's account shown on Form 1099, and (4) a letter limited to an explanation of the tax consequences of the information shown on a recipient statement.

A recipient statement may be perforated to a check with respect to the account reported on the recipient statement or to a statement of the recipient's specific account if payments on such account are reflected on the recipient's statement. The check or account statement to which the recipient statement is perforated must contain, in a bold and conspicuous type, the legend "Important Tax Return Document Attached."

No additional enclosures, such as advertising, promotional material, or a quarterly or annual report, are permitted. Even a sentence or two on the yearend statement describing new services offered by the payer is not permitted. However, logos are permitted on the envelope and on any enclosures.

For a statement mailing, the legend "Important Tax Return Document Enclosed" must appear in a bold and conspicuous manner on the outside of the envelope and on each letter, or check or account statement that is not perforated to the recipient statement. This legend is not required on any tax form, tax statement, or permitted letter of tax consequences included in a statement mailing. Further, you need not pluralize the word "document" in the legend simply because more than one recipient statement is enclosed.

Note: *If you provide recipient statements in a "separate mailing" that contains only recipient statements, Forms W-8 and W-9, and a letter limited to the explanation of the tax consequences of the information shown on a recipient statement included in*

the envelope, you are not required to include the legend "Important Tax Return Document Enclosed" on the envelope.

Substitute forms.—You may furnish to the recipient Copy B of the official form, or you may use substitute Forms 1099-DIV, 1099-INT, 1099-OID, and 1099-PATR if they contain the same language as the official forms and they comply with the rules in **Pub. 1179**, relating to substitute Forms 1099. Applicable box captions and numbers must be clearly identified, using the same wording and numbering as the official form. However, for Form 1099-INT, if your substitute does not contain box 3, "Interest on U.S. Savings Bonds and Treas. obligations," you may omit "not included in box 3" from the box 1 caption. The substitute must show the form number (e.g., Form 1099-INT), form title (e.g., Interest Income), and tax year (e.g., 1995).

If you are using substitutes, the IRS encourages you to use boxes so that the substitute has the appearance of a form. The substitute form must contain the applicable instructions as on the front and back of Copy B of the official form. See **Pub. 1179** for additional requirements. For information about substitute Form 1099-MISC for royalties, see **Other payments** below.

Certain "composite" statements are permitted. See **Pub. 1179**.

Real estate transactions.—You must furnish a statement to the transferor containing the same information reported to the IRS on Form 1099-S. You may use Copy B of Form 1099-S or a substitute form that complies with **Pub. 1179** and **Regulations section 1.6045-4(m)**. You may use a Uniform Settlement Statement (under **RESPA**) as the written statement if it is conformed by including on the statement the legend shown on Form 1099-S and by designating which information is reported to the IRS on Form 1099-S. You may furnish the statement to the transferor in person or by mail. Furnish the statement at or after closing but by January 31 of the following year. The statement mailing requirements explained earlier do not apply to statements to transferors for proceeds from real estate transactions reported on Form 1099-S. However, the statement mailing requirements do apply to statements to transferors for timber royalties reportable under section 6050N on Form 1099-S.

Other payments.—Statements to recipients for Forms 1098, 1099-A, 1099-B, 1099-C, 1099-G, 1099-MISC, 1099-R, 5498, W-2G, 1099-DIV only for section 404(k) dividends reportable under section 6047, or 1099-INT only for interest reportable under section 6041 need not be, but can be, a copy of the paper form filed with the IRS. If you do not use a copy of the paper form, the form number and title of your **substitute** must be the same as the official form. All information required to be reported must be numbered and titled on your substitute in substantially the same manner as on the official form. However, if you are reporting a payment as "Other income" in box 3 of Form 1099-MISC, you may substitute

appropriate explanatory language for the box title. For example, for payments of accrued wages to a beneficiary of a deceased employee required to be reported on Form 1099-MISC by Rev. Rul. 86-109, you might change the title of box 3 to "Beneficiary payments" or something similar.

Appropriate instructions to the recipient, similar to those on the official form, must be provided to aid in the proper reporting of the items on the recipient's income tax return. For payments reported on Form 1099-B, rather than furnish appropriate instructions with each Form 1099-B statement, you may furnish to the recipient one set of instructions for all statements required to be furnished to a recipient in a calendar year.

The statement mailing requirements explained earlier do not apply to statements to recipients for information reported on Forms 1098, 1099-A, 1099-B, 1099-C, 1099-G, 1099-MISC (except for royalties), 1099-R, 5498, W-2G, 1099-DIV for section 404(k) dividends only, and 1099-INT for interest reportable under section 6041 only. You may combine the statements with other reports or financial or commercial notices, or expand them to include other information of interest to the recipient. Be sure that all copies of the forms are legible.

Certain "composite" statements are permitted. See Pub. 1179.

Time for furnishing forms or statements.—Generally, you must furnish Forms 1098, 1099, and W-2G information by January 31, 1996. However, you may issue them earlier in some situations, as provided by the regulations. For example, you may furnish Form 1099-INT to the recipient on redemption of U.S. Savings Bonds at the time of redemption. Brokers and barter exchanges may furnish Form 1099-B anytime but not later than January 31.

Trustees or issuers of IRAs or SEPs must furnish participants with a statement of the value of the participant's account by January 31, 1996. IRA contribution information must be furnished to the participant by May 31, 1996.

For real estate transactions, you may furnish the statement to the transferor at closing or by mail on or before January 31, 1996.

Filers of Form 1099-G who report state or local income tax refunds, credits, or offsets must furnish the statements to recipients **during** January 1996.

You will meet the requirement to furnish the statement if it is properly addressed, mailed, and postmarked on or before the due date. If the regular due date falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. A business day is any day that is not a Saturday, Sunday, or legal holiday.

Extension.—You may request an extension of time to provide the statements to recipients by sending a letter to IRS-Martinsburg Computing Center, P.O. Box 1359, Martinsburg, WV

25401-1359 or to your district director. The letter must include (a) your name, (b) your TIN, (c) your address, (d) type of return, (e) reason for delay, and (f) the signature of the payer or authorized agent. Your request must be postmarked by the date on which the statements are due to be furnished to recipients. If your request for an extension is approved, you will be granted an extra 15 days to furnish the recipient statements.

I. Corrected Returns.—If you filed a return with the IRS and later discover you made an error on it, you must correct it as soon as possible. For some corrections, you must file two returns (Form 1099, 1098, 5498, or W-2G) with Form 1096 and for some only one return with Form 1096. See the chart that follows for step-by-step instructions for correcting three common errors on paper forms.

To determine whether you are required to submit corrections on magnetic media, see **Magnetic Media/Electronic Reporting** earlier and Pub. 1220.

Follow the step-by-step instructions below for the type of error you need to correct. Be sure you complete all appropriate information on the returns as stated in those instructions. Then file Copy A of the form and Form 1096 with your Internal Revenue Service Center. Please remember not to cut or separate the forms that are two or three to a page. Submit the entire page even if only one of the forms on the page is completed. And do not staple the forms to Form 1096. You must use a separate Form 1096 for each type of return you are correcting, but you may use one Form 1096 for both originals and corrections of the same type of return.

In addition, you must provide statements to recipients showing the corrections as soon as possible.

Note: *If you fail to file correct information returns or furnish a correct payee statement, you may be subject to a penalty. See **Failure To File Correct Information Returns by the Due Date (Section 6721)** on page 2 and **Failure To Furnish Correct Payee Statements (Section 6722)** on page 3.*

On all Forms 1098, 1099, and 5498, a box is provided for the account number. If the account number was provided on the original return, use this number on the corrected return to help identify the appropriate incorrect return filed when more than one return was filed for a particular individual. The account number may be a checking account number, savings account number, serial number, or any other number assigned to the payee by the filer that is unique and will distinguish the specific account. This number must appear on both the original and corrected returns to properly identify and process the correction.

CORRECTED box.—Enter an "X" in the "CORRECTED" box on Copy A only when you are correcting a form you previously submitted to the IRS. Enter an "X" in the "CORRECTED" box on the copies you give to the recipient (generally, Copy B) only when you are correcting a form previously

furnished to the recipient. When the type of error requires two returns to make the correction, you will mark the "CORRECTED" box only on one of the returns. Refer to the step-by-step instructions chart that follows to determine when you should mark the "CORRECTED" box.

The following chart gives step-by-step instructions for filing corrected returns for three of the most frequently made errors. Correction of errors may require the submission of more than one return. Be sure to read each section thoroughly.

Note: *Regulations section 301.6724-1 (relating to information return penalties) does not require you to file corrected returns for missing or incorrect TINs if you meet the reasonable cause criteria. You are merely required to include the correct TIN on the next original return you are required to file. However, if you do not meet the reasonable cause criteria, you should file corrected returns by August 1 to be subject to a reduced penalty.*

In addition, even if you meet the reasonable cause criteria, the IRS encourages you to file corrections for incorrect or missing TINs so that the IRS can update the payees' records.

Step-by-Step Instructions for Filing Corrected Returns on Paper Forms

Error (on Original Return)	How To File the Corrected Return on Paper Forms
1. No payee TIN (SSN or EIN) or incorrect payee TIN, or incorrect name and address. This will require two separate returns to make the correction properly. Read and follow all instructions for both Steps 1 and 2.	<p>STEP 1: Identify incorrect return submitted.</p> <p>Form 1098, 1099, 5498, or W-2G:</p> <ol style="list-style-type: none"> 1. Prepare a new information return. 2. Enter an "X" in the "CORRECTED" box at the top of the form. 3. Enter the payer, recipient, and account number information exactly as it appeared on the original incorrect return; HOWEVER, enter "0" (zero) for all money amounts. <p>STEP 2: Report correct information.</p> <p>A. Form 1098, 1099, 5498, or W-2G:</p> <ol style="list-style-type: none"> 1. Prepare a new information return. 2. Do NOT enter an "X" in the "CORRECTED" box at the top of the form. Submit the new return as though it was an original. 3. Include all the correct information on the form including the correct TIN and name and address. <p>B. Form 1096:</p> <ol style="list-style-type: none"> 1. Prepare a new transmittal Form 1096. 2. Enter the words "Filed To Correct TIN, Name, and/or Address" in the bottom margin of the form.

Error (on Original Return)	How To File the Corrected Return on Paper Forms
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- Provide all requested information on the form as it applies to the returns prepared in Steps 1 and 2.
- File Form 1096 and Copies A of the returns with the appropriate service center.
- Do NOT include copies of the original return that was filed incorrectly.

2. Incorrect money amount(s) or incorrect address. Follow these instructions if you filed a return when one should not have been filed. This error requires only one return to make the correction. (Follow the instructions under Error 1, instead of these instructions, if you must correct an address **AND** a name or TIN.)

A. Form 1098, 1099, 5498, or W-2G:

- Prepare a new information return.
- Enter an "X" in the "CORRECTED" box at the top of the form.
- Enter the payer, recipient, and account number information exactly as it appeared on the original incorrect return; HOWEVER, enter all correct money amounts in the correct boxes as they should have appeared on the original return, and enter the recipient's correct address.

B. Form 1096:

- Follow the instructions under Error 1, Step 2-B, but ignore item B-2.
- File Form 1096 and Copy A of the return with the appropriate service center.
- Do NOT include a copy of the original return that was filed incorrectly.

3. Original return was filed using the WRONG type of return. For example, a Form 1099-DIV was filed when a Form 1099-INT should have been filed. This will require two separate returns to make the correction properly. Read and follow all instructions for both Steps 1 and 2.

STEP 1: Identify incorrect return submitted.

Form 1098, 1099, 5498, or W-2G:

Follow the instructions under Error 1, Step 1, using the same type of form that was used initially.

STEP 2: Report correct information on the correct type of return.

A. Form 1098, 1099, 5498, or W-2G:

Follow the instructions under Error 1, Step 2-A, using the proper type of form.

B. Form 1096:

Follow the instructions under Error 1, Step 2-B, except enter the words "Filed To Correct Document Type" in the bottom margin of Form 1096.

J. Void Returns.—An "X" in the "VOID" box will not correct a previously filed return. See part I above for instructions for making corrections.

VOID box.—If a completed or partially completed Form 1098, 1099, or 5498 is incorrect and you want to void it before submission to the IRS, enter an "X" in the "VOID" box at the top of the form. For example, if you make an error while typing or printing a form, you should void it. The return will then be disregarded during processing by the IRS. Go to the next form on the page, or to another page, and enter the correct information; but **do not** mark the "CORRECTED" box. Please remember not to cut or separate the forms that are two or three to a page. Submit the entire page even if only one of the forms on the page is a good return.

K. Other Information Returns.—The income information you report on the following returns must not be repeated on the returns discussed in the **Specific Instructions** in this publication:

- Form W-2 reporting wages and other employee compensation.
- Forms 1042-S and 1000 reporting income.
- Form 2439 reporting undistributed long-term capital gains of a regulated investment company.
- Schedule K-1 of Form 1065 reporting distributive shares to members of a partnership.
- Schedule K-1 of Form 1041 reporting distributions to beneficiaries of trusts or estates.
- Schedule K-1 of Form 1120S reporting distributive shares to shareholders of S corporations.
- Schedule K of Form 1120-IC-DISC reporting actual and constructive distributions to shareholders and deferred DISC income.
- Schedule Q of Form 1066 reporting income from a REMIC to a residual interest holder.

L. Payments to Corporations and Partnerships.—Reporting generally is not required for payments to corporations

except in the case of (1) medical payments (Form 1099-MISC), (2) withheld Federal income tax or foreign tax, (3) barter exchange transactions (Form 1099-B), (4) substitute payments in lieu of dividends and tax-exempt interest (Form 1099-MISC), (5) interest or original issue discount paid or accrued to a regular interest holder of a REMIC (Form 1099-INT or 1099-OID), (6) acquisitions or abandonments of secured property (Form 1099-A), and (7) cancellation of debt (Form 1099-C). For example, reporting is not required for payments of architectural fees to corporations.

However, reporting generally is required for payments to partnerships. For example, payments of \$600 or more made in the course of your trade or business to a law firm that is a partnership are reportable on Form 1099-MISC.

M. Earnings on an IRA or SEP.—

Generally, any income with respect to an IRA or SEP, such as interest or dividends, is not reported on Forms 1099. But

distributions should be reported on Form 1099-R.

Specific Instructions

If a distribution includes noncash property, show the fair market value of the property at the time of payment.

Although, generally, you are not required to report payments smaller than the minimum described for each form, you may prefer, for economy and your own convenience, to file Copies A for all payments. The IRS encourages this.

Form 1098

Use Form 1098, **Mortgage Interest Statement**, to report mortgage interest (including points, defined later) of \$600 or more received by you during the year in the course of your trade or business from an individual, including a sole proprietor. The \$600 threshold applies separately to each mortgage; thus, file a separate Form 1098 for each mortgage. You may, at your option, file Form 1098 to report mortgage interest of less than \$600, but you are subject to the rules in these instructions.

If an overpayment of interest on an adjustable rate mortgage (ARM) or other mortgage was made in a prior year and you refund (or credit) such overpayment, you may have to file Form 1098 to report the refund (or credit) of the overpayment. See **Reimbursement of Overpaid Interest** later.

Exceptions.—You need not file Form 1098 for interest received from a corporation, partnership, trust, estate, association, or company (other than a sole proprietor) even though an individual is a coborrower and all the trustees, beneficiaries, partners, members, or shareholders of the payer of record are individuals.

Mortgage Defined.—An obligation incurred after 1987 is a mortgage if real property that is located inside or outside the United States secures all or part of the obligation, even though the interest recipient classifies the obligation as other than a mortgage, for example, as a commercial loan.

An obligation incurred after 1984 but before 1988 is a mortgage only if secured primarily by real property.

An obligation in existence on December 31, 1984, is not a mortgage if, at the time the obligation was incurred, the interest recipient reasonably classified the obligation as other than a mortgage, real property loan, real estate loan, or other similar type of obligation. For example, if an obligation incurred in 1983 was secured by real property, but the interest recipient reasonably classified the obligation as a commercial loan because the proceeds were used to finance the borrower's business, the obligation is not considered a mortgage for purposes of this reporting requirement. However, if over half of the obligations in a class established by the interest recipient are primarily secured by

real property, it is not reasonable to classify those obligations as other than mortgages for purposes of this reporting requirement.

Real property includes a manufactured home with a minimum living space of 400 square feet and a minimum width of more than 102 inches of a kind customarily used at a fixed location, including certain mobile homes. See section 25(e)(10).

Lines of credit and credit card obligations.—Interest (other than points) received on any mortgage that is in the form of a line of credit or credit card obligation is reportable regardless of how you classified the obligation. A borrower incurs a line of credit or credit card obligation when the borrower first has the right to borrow against the line of credit or credit card, whether or not the borrower actually borrows an amount at that time.

Who Must File.—File this form if you are engaged in a trade or business and, in the course of such trade or business, you receive from an individual \$600 or more of mortgage interest on any one mortgage during the calendar year. You are not required to file this form if the interest is not received in the course of your trade or business. For example, you hold the mortgage on your former personal residence. The buyer makes mortgage payments to you. You are not required to file Form 1098.

If you receive \$600 or more of mortgage interest in the course of your trade or business, you are subject to the requirement to file Form 1098, even if you are not in the business of lending money. For example, if you are a real estate developer and you provide financing to an individual to buy a home in your subdivision, and that home is security for the financing, you are subject to this reporting requirement. However, if you are a physician not engaged in any other business and you lend money to an individual to buy your home, you are not subject to this reporting requirement because you did not receive the interest in the course of your trade or business as a physician.

A **governmental unit** (or any subsidiary agency) receiving mortgage interest from an individual of \$600 or more must file this form.

For information about who must file to report points, see **Points** later. For information about who must file to report reimbursements of overpaid interest, see **Reimbursement of Overpaid Interest** later.

Cooperative housing corporation.—A cooperative housing corporation is an interest recipient and must file Form 1098 to report an amount received from its tenant-stockholders that represents the tenant-stockholders' proportionate share of interest described in section 216(a)(2). This rule applies only to tenant-stockholders who are individuals and from whom the cooperative has received at least \$600 of interest during the year. (See the **Note** under **Box 1**.)

Collection agents.—Generally, if you receive reportable interest payments (other than points) on behalf of someone else and you are the first person to receive the interest, for example, if you are a servicing bank collecting payments for a lender, you must file this form and enter your name, address, and TIN in the recipient entity area. You must file this form even though you do not include the interest received in your income but you merely transfer it to another person. If you wish, you may enter the name of the person for whom you collected the interest in box 4. The person for whom you collected the interest need not file Form 1098.

However, there is an exception to this rule for any period that (1) the first person to receive or collect the interest does not have the information needed to report on Form 1098 and (2) the person for whom the interest is received or collected would receive the interest in its trade or business if the interest were paid directly to such person. If (1) and (2) apply, the person on whose behalf the interest is received or collected is required to report on Form 1098. If interest is received or collected on behalf of another person other than an individual, such person is presumed to receive the interest in a trade or business.

Foreign interest recipient.—If you are not a U.S. person, you must file Form 1098 if the interest is received in the United States. A U.S. person is a citizen or resident of the United States, a domestic partnership or corporation, or a nonforeign estate or trust. If the interest is received outside the United States, you must file Form 1098 if (1) you are a controlled foreign corporation or (2) at least 50% of your gross income from all sources for the 3-year period ending with the close of the tax year preceding the receipt of interest (or for such part of the period as you were in existence) was effectively connected with the conduct of a trade or business in the United States.

Designation agreement.—An interest recipient, including a recipient of points, can designate a qualified person to file Form 1098, to provide a statement to the payer of record, and to provide the Rule of 78s notice. A **qualified person** is either (1) a trade or business in which the interest recipient is under common control as specified in Regulations section 1.414(c)-2 or (2) a designee, named by the lender of record or by a qualified person, who either was involved in the original loan transaction or is a subsequent purchaser of the loan. A **lender of record** is the person who, at the time the loan is made, is named as the lender on the loan documents and whose right to receive payment from the payer of record is secured by the payer of record's principal residence. Even if the lender of record intends to sell or otherwise transfer the loan to a third party after the close of the transaction, such intention does not change who is the lender of record.

The agreement must be in writing, identify the mortgage(s) and calendar years for which the qualified person is to report, and be signed by the designator and the

designee. A designee may report points on Form 1098 (as having been paid directly by the payer of record) only if the designation agreement contains the designator's representation that it did not lend such amount to the payer of record as part of the overall transaction. The agreement need not be filed with the IRS, but the designator must keep a copy of it for 4 years after the close of the year in which the loan is made.

A designated qualified person is subject to any applicable penalties as if it were the interest recipient. Thus, a designator is relieved from liability for any applicable penalties.

Reimbursement of Overpaid Interest.—You are required to report reimbursements of overpaid interest aggregating \$600 or more to a payer of record on Form 1098. You are not required to report reimbursements of overpaid interest aggregating less than \$600 unless you are otherwise required to file Form 1098. That is, if you did not receive at least \$600 of mortgage interest during the year of reimbursement from the person to whom you made the reimbursement, you are not required to file Form 1098 merely to report the reimbursement. However, you may report any reimbursement of overpaid interest that you are not otherwise required to report, but you are subject to the rules in these instructions.

The reimbursement must be reported on Form 1098 for the year in which the reimbursement is made. No change should be made to the prior year Form 1098 because of this reimbursement. Report the total reimbursement even if it is for overpayments made in more than 1 year.

To be reportable, the reimbursement must be a refund or credit of mortgage interest received in a prior year that was required to be reported for that prior year by any interest recipient on Form 1098. Only the person who makes the reimbursement is required to report it on Form 1098. For example, if you bought a mortgage on which interest was overpaid in a prior year, you made a reimbursement of the overpaid interest, and the previous mortgage holder was required to report mortgage interest on Form 1098 in the prior year, you must file Form 1098 to report the reimbursement because you are the one making the reimbursement.

If you reimburse interest in the **same year it is overpaid**, do not report the overpayment on Form 1098 as interest received during the year or as a reimbursement of overpaid interest. For example, if the borrower paid \$5,000 and you reimbursed \$500 of that amount in 1995, \$4,500 should appear in box 1 as interest paid by the borrower. The \$500 reimbursement must not appear in box 3.

Example.—In 1993, you received \$5,000 of mortgage interest from the payer/borrower and reported that amount on Form 1098 for 1993. In 1995, you determined that interest due on the mortgage for 1993 was \$4,500, and the payer/borrower had overpaid \$500. You refunded the \$500 overpayment to the

payer/borrower in 1995. If you received \$600 or more of interest on the mortgage from the payer/borrower in 1995, you must report the \$500 refund in box 3 of the 1995 Form 1098. No change to the 1993 Form 1098 is required. If, instead of refunding the \$500 overpayment, you credited the payer/borrower's 1995 mortgage interest payments due, \$500 is still shown in box 3, and the interest received from the payer/borrower in 1995 shown in box 1 must include the \$500 credit.

Interest on reimbursement.—A financial institution (or its middleman) that pays interest of \$10 or more on the reimbursement must report that interest (under section 6049) on **Form 1099-INT**, Interest Income. Others that pay interest of \$600 or more on the reimbursement must report that interest (under section 6041) on Form 1099-INT. Do not include such interest on Form 1098.

Nonresident Alien Interest Payer.—You must file Form 1098 to report interest paid by a nonresident alien only if all or part of the security for the mortgage is real property located in the United States.

Payer of Record.—The payer of record is the individual carried on your books and records as the principal borrower. If your books and records do not indicate which borrower is the principal borrower, you must designate one.

If you permit a subsequent purchaser of the property to assume the loan without releasing the first purchaser from personal liability, the subsequent purchaser is the payer of record. Such subsequent purchaser's name, address, and TIN must appear on Form 1098.

Multiple Borrowers.—Even though there may be more than one borrower on the mortgage, you are required to prepare Form 1098 only for the **payer of record**, and only if such payer of record is an individual, showing the total interest received on the mortgage. Even if an individual is a coborrower, no Form 1098 is required unless the payer of record is also an individual.

Payments by Third Party.—Report all interest received on the mortgage as received from the borrower, except as explained under **Seller Payments** below. For example, if the borrower's mother makes payments on the mortgage, the interest received from the mother is reportable on Form 1098 as received from the borrower.

However, do not report mortgage interest received from any governmental unit (or any subsidiary agency). For example, do not report any interest received as housing assistance payments from the Department of Housing and Urban Development (HUD) on mortgages insured under section 235 of the National Housing Act.

Seller Payments.—Do not report in box 1 of Form 1098 any interest paid by a seller on a purchaser's-borrower's mortgage, such as on a "buy-down" mortgage. For example, if a real estate developer deposits an amount in escrow and tells

you to draw on that escrow account to pay interest on the borrower's mortgage, do not report in box 1 the interest received from that escrow account. As another example, do not report in box 1 any lump sum paid by a real estate developer to pay interest on a purchaser's-borrower's mortgage. However, if you wish, you may use box 4 to report to the payer of record any interest paid by the seller. See **Points** later for information about reporting seller-paid points in box 2.

Rule of 78s Method of Accounting.—If you are permitted by Rev. Proc. 83-40, 1983-1 C.B. 774, or any other revenue procedure, to use the Rule of 78s method to calculate interest earned with respect to a transaction, you may report interest earned under the Rule of 78s method on that transaction as interest received from the borrower in a calendar year. In this case, you must notify borrowers that the Rule of 78s method was used to calculate interest received and that the borrowers may not deduct the amount reported unless the borrowers are also properly using the Rule of 78s method to determine interest deductions. The notification must also state that the Rule of 78s method may be used only in the case of a self-amortizing consumer loan that requires level payments, at regular intervals (at least annually), over a period not in excess of 5 years (with no balloon payment at the end of the loan term), and only when the loan agreement provides for use of the Rule of 78s method to determine interest earned (see Rev. Proc. 83-40 and Rev. Rul. 83-84, 1983-1 C.B. 97). The notice must be furnished to the payer of record on or with the statement of the interest received.

Points.—You must report certain points paid for the purchase of the payer of record's principal residence on Form 1098. You must report points if the points, plus other interest on the mortgage, are \$600 or more. For example, if a borrower pays points of \$300 and other mortgage interest of \$300, the lender has received \$600 of mortgage interest and must file Form 1098.

Who must report points.—The lender of record or a qualified person must file Form 1098 to report all points paid by the payer of record in connection with the purchase of the principal residence. If a designation agreement is in effect for a mortgage, only the person designated in the agreement must file Form 1098 to report all points on that mortgage. See **Designation agreement** earlier.

Amounts received directly or indirectly by a mortgage broker are treated as points to the same extent they would be treated as points if paid to and retained by the lender of record. The lender of record must report those points paid to a mortgage broker.

Report the total points on Form 1098 for the year of closing regardless of the accounting method you use to report the points as income for Federal income tax purposes.

Reportable points.—Report on Form 1098 points that meet all the following conditions:

1. They are clearly **designated on the Uniform Settlement Statement** (Form HUD-1) as points; for example, "loan origination fee" (including amounts for VA and FHA loans), "loan discount," "discount points," or "points."

2. They are **computed as a percentage of the stated principal loan amount**.

3. They are **charged under an established business practice** of charging points in the area where the loan was issued and do not exceed the amount generally charged in that area.

4. They are **paid for the acquisition of the payer of record's principal residence**, and the loan is secured by that residence. You may rely on a signed written statement from the payer of record that states whether the proceeds of the loan are for the purchase of the payer of record's principal residence.

5. They are **paid directly by the payer of record**.

Points are paid directly if:

(a) The **payer** of record provides funds that were not borrowed from the lender of record for this purpose as part of the overall transaction. The funds may include down payments, escrow deposits, earnest money applied at closing, and other funds actually paid over by the payer of record at or before closing. OR

(b) The **seller** pays points on behalf of the payer of record. Points paid by the seller to the interest recipient on behalf of the payer of record are treated as paid to the payer of record and then paid directly by the payer of record to the interest recipient.

Report points paid under (a) and (b) above on the payer of record's Form 1098 in box 2.

Do not report on Form 1098 points paid (1) for loans to improve a principal residence, (2) for loans to purchase or improve a residence that is not the payer of record's principal residence, such as a second home, vacation, investment, or trade or business property, (3) for a home equity or line of credit loan, even if secured by the principal residence, (4) for a refinancing (but see **Construction loans** below), including a loan to refinance a debt owed by the borrower under a land contract, a contract for deed, or similar forms of seller financing, (5) in lieu of items ordinarily stated separately on the Form HUD-1, such as appraisal fees, inspection fees, title fees, attorney fees, and property taxes, and (6) to acquire a principal residence to the extent the points are allocable to an amount of principal in excess of \$1 million.

Construction loans.—Points paid on a loan to construct a residence (construction loan) or to refinance a loan incurred to construct a residence are reportable on Form 1098 if they:

1. Are clearly designated on the loan documents as points incurred in connection with the loan, such as loan origination fees, loan discount, discount points, or points,

2. Are computed as a percentage of the stated principal loan amount,

3. Conform to an established business practice of charging points in the area where the loan is issued and do not exceed the amount generally charged in the area,

4. Are paid in connection with a loan incurred by the payer of record to construct (or refinance construction of) a residence that is to be used, when completed, as the principal residence of the payer of record,

5. Are paid directly by the payer of record, and

6. Are not allocable to an amount of principal in excess of \$1 million.

Amounts paid to refinance a loan to construct a residence are not points to the extent they are allocable to debt that exceeds the debt incurred to construct the residence.

Prepaid Interest.—Report prepaid interest (other than points) only in the year in which it properly accrues. For example, interest received on December 20, 1995, that accrues by December 31 but is not due until February 1, 1996, is reportable on the 1995 Form 1098.

Exception.—Interest received during the current year that will properly accrue in full by January 15 of the following year may be considered received in the current year, at your option, and is reportable on Form 1098 for the current year. However, if any part of an interest payment accrues after January 15, then only the amount that properly accrues by December 31 of the current year is reportable on Form 1098 for the current year. For example, if you receive a payment of interest that accrues for the period December 20 through January 20, you cannot report any of the interest that accrues after December 31 for the current year. You must report the interest that accrues after December 31 on Form 1098 for the following year.

Statements to Payers of Record.—For information about the requirement to furnish a statement to the payer of record, see part **H** under **General Instructions** earlier.

Recipient's/Lender's Name and Address Box.—Enter the name and address of the filer of Form 1098. Use this same name and address on Form 1096.

Payer's/Borrower's Name and Address Box.—Enter the name and address of the person who paid the interest (payer of record).

Note: *Be careful to enter the recipient's and payer's information in the proper boxes.*

Box 1.—Enter the **interest** (not including points) received on the mortgage from borrowers during the calendar year. Include interest on a mortgage, a home equity loan, or a line of credit or credit card loan secured by real property. Do not include government subsidy payments, seller payments, or prepaid interest that does not meet the exception explained earlier under **Prepaid Interest**. Interest

includes prepayment penalties and late charges unless the late charges are for a specific mortgage service.

Note: *A cooperative housing corporation that receives any cash part of a patronage dividend from the National Consumer Cooperative Bank must reduce the interest to be reported on each tenant-stockholder's Form 1098 by a proportionate amount of the cash payment in the year the cooperative receives the cash payment. See Rev. Proc. 94-40, 1994-1 C.B. 711.*

Box 2.—Enter **points** paid on the purchase of the payer of record's principal residence. For an explanation of reportable points, see **Points** earlier.

Box 3.—Enter the total refund or credit of a prior year(s) overpayment of interest. See **Reimbursement of Overpaid Interest** earlier.

Box 4.—Enter any other item you wish to report to the payer, such as real estate taxes, insurance, or if you are a collection agent, the name of the person for whom you collected the interest. This box is optional and is provided only for your convenience. You do not have to report to the IRS any information provided in this box. You are not required to report the average balance of the mortgage.

Form 1099-A

File Form 1099-A, **Acquisition or Abandonment of Secured Property**, for each borrower if you lend money in connection with your trade or business and, in full or partial satisfaction of the debt, you acquire an interest in property that is security for the debt, or you have reason to know that the property has been abandoned. You need not be in the business of lending money to be subject to this reporting requirement.

Coordination With Form 1099-C.—If, in the same calendar year, a debt is canceled in connection with the acquisition or abandonment of secured property and you would be required to file both Form 1099-A and **Form 1099-C**, Cancellation of Debt, you are required to file Form 1099-C only. You will meet your Form 1099-A filing requirement by making appropriate entries in boxes 5 and 7 on Form 1099-C. You may file both Forms 1099-A and 1099-C, but make no Form 1099-A entries in boxes 5 and 7 on Form 1099-C.

Property.—Property means real property (such as a personal residence), intangible property, or tangible personal property held for investment or used in a trade or business. No reporting is required for a loan made to an individual and secured by an interest in tangible personal property that is neither held for investment nor used in a trade or business. However, you must file Form 1099-A if the personal property is held for both personal use and either for use in a trade or business or for investment.

No reporting is required if the property securing the loan is located outside the United States and the borrower has

furnished the lender a statement, under penalties of perjury, that the borrower is an exempt foreign person (unless the lender knows that the statement is false).

Who Must File.—In addition to the general rule specified above, the following rules apply.

If there are **multiple owners** of undivided interests in a single loan, such as is the case in pools, fixed investment trusts, or other similar arrangements, the trustee, record owner, or person acting in a similar capacity must file Form 1099-A on behalf of all the owners of beneficial interests or participations. In this case, only one form for each borrower must be filed on behalf of all owners with respect to the loan. Similarly, in the case of bond issues, only the trustee or similar person is required to report.

A **governmental unit**, or any of its subsidiary agencies, that lends money secured by property must file Form 1099-A.

A **subsequent holder** of a loan is treated as the lender for purposes of the reporting requirement for events occurring after the loan is transferred to the new holder.

If **more than one person lends** money secured by property and one lender forecloses or otherwise acquires an interest in the property and the sale or other acquisition terminates, reduces, or otherwise impairs the other lenders' security interests in the property, the other lenders must file Form 1099-A for each of their loans. For example, if a first trust holder forecloses on a building, and the second trust holder knows or has reason to know of such foreclosure, the second trust holder must file Form 1099-A for the second trust even though no part of the second trust was satisfied by the proceeds of the foreclosure sale.

Abandonment.—An abandonment occurs when the objective facts and circumstances indicate that the borrower intended to and has permanently discarded the property from use. You have "reason to know" of an abandonment based on all the facts and circumstances concerning the status of the property. You will be deemed to know all the information that would have been discovered through a reasonable inquiry when, in the ordinary course of business, the lender becomes aware or should become aware of circumstances indicating that the property has been abandoned. If you expect to commence a foreclosure, execution, or similar sale within 3 months of the date you had reason to know that the property was abandoned, reporting is required as of the date you acquire an interest in the property or a third party purchases the property at such sale. If you expect to but do not commence such action within 3 months, the reporting requirement arises at the end of the 3-month period.

Statements to Borrowers.—For information about the requirement of furnishing a statement to the borrower, see part **H** under **General Instructions** earlier.

Box 1.—Enter the date of your acquisition of the secured property or the date you first knew or had reason to know that the property was abandoned. An interest in the property generally is acquired on the earlier of the date title is transferred to the lender or the date possession and the burdens and benefits of ownership are transferred to the lender. If an objection period is provided by law, use the date the objection period expires. If you purchase the property at a sale held to satisfy the debt, such as at a foreclosure or execution sale, use the later of the date of sale or the date the borrower's right of redemption expires. Please use the following format to indicate the date: MMDDYY. For example, for January 7, 1995, enter 010795.

For an abandonment, enter the date you knew or had reason to know that the property was abandoned unless you expect to commence a foreclosure, execution, or similar action within 3 months, as explained earlier. If a third party purchases the property at a foreclosure, execution, or similar sale, the property is treated as abandoned, and you have reason to know of its abandonment on the date of sale.

Box 2.—Enter the balance of the debt outstanding at the time the interest in the property was acquired or on the date you first knew or had reason to know that the property was abandoned. Include only unpaid principal on the original debt. Do not include accrued interest or foreclosure costs.

Box 3.—Make no entry in this box.

Box 4.—For a foreclosure, execution, or similar sale, enter the fair market value of the property. Generally, the gross foreclosure bid price is considered to be the fair market value. If an abandonment or voluntary conveyance to the lender in lieu of foreclosure occurred and you checked "Yes" in box 5, enter the appraised value of the property. Otherwise, make no entry in this box.

Box 5.—Enter an "X" in the applicable box to indicate whether the borrower was personally liable for repayment of the debt at the time the debt was created or, if modified, at the time of the last modification.

Box 6.—Enter a general description of the property. For real property, generally you must enter the address of the property, or, if the address does not sufficiently identify the property, enter the section, lot, and block. For personal property, enter the applicable type, make, and model. For example, describe a car as "Car—1995 Buick Regal." Use a category such as "Office Equipment" to describe more than one piece of personal property, such as six desks and seven typewriters. Enter "CCC" for crops forfeited on Commodity Credit Corporation loans.

Form 1099-B

Any person, including a governmental unit and any subsidiary agency, doing business as a broker or barter exchange must file

Form 1099-B, **Proceeds From Broker and Barter Exchange Transactions**, for each person (a) for whom the broker has sold (including short sales) stocks, bonds, commodities, regulated futures contracts, foreign currency contracts, forward contracts, debt instruments, etc., or (b) who exchanged property or services through the barter exchange.

Note: Report real estate transactions on Form 1099-S discussed later.

Brokers

The term **broker** means a person who, in the ordinary course of a trade or business, stands ready to effect sales to be made by others. A corporation is a broker if it regularly stands ready to redeem its stock or retire its debt. However, if there are no facts that indicate otherwise, a corporation that purchases odd-lot shares from its stockholders is not a broker. If you manage a farm for someone else, you are not considered a broker.

For a sale of securities through a "cash on delivery" or similar account, only the broker that receives the gross proceeds from the sale against delivery of the securities sold is required to report the sale. However, if such broker's customer is a "second-party broker" that is an exempt recipient, only the second-party broker is required to report the sale.

If the proceeds of a sale are paid in convertible foreign currency, the amount to be reported must be converted into U.S. dollars. You may use the exchange rate on the sales date or the exchange rate on the last business day of the reporting period in which the sale occurs.

Brokers must report each transaction (other than regulated futures or foreign currency contracts) on a separate Form 1099-B. Transactions involving regulated futures or foreign currency contracts are to be reported on an aggregate basis.

To report substitute payments in lieu of dividends and tax-exempt interest, as required by section 6045(d), do not use Form 1099-B. See **Box 8** under **Form 1099-MISC** later.

Form 8308, Report of a Sale or Exchange of Certain Partnership Interests, does not have to be filed if Form 1099-B is required for the transfer of the partnership interest.

No return is required by brokers for:

1. Sales by exempt recipients, including corporations, charitable organizations, individual retirement plans, the United States, a state and political subdivisions.
2. Sales initiated by dealers in securities and financial institutions.
3. Sales by certain custodians and trustees.
4. Sales at issue price of interests in certain regulated investment companies.

5. Obligor payments on:

- a. Nontransferable obligations, such as savings bonds or CDs.
- b. Obligations for which gross proceeds are reported on other Forms 1099, such as

stripped coupons issued prior to July 1, 1982.

c. Retirement of short-term obligations with original issue discount (reported on Form 1099-INT). However, Form 1099-B is required for the retirement of short-term state obligations having no original issue discount.

d. Callable demand obligations that have no premium or discount.

6. Sales of foreign currency unless under a forward or regulated futures contract that requires delivery of foreign currency.

7. Sales of fractional shares of stock if gross proceeds are less than \$20.

8. Retirements of book-entry or registered form obligations if no interim transfers have occurred.

9. Exempt foreign persons.

10. Sales of Commodity Credit Corporation certificates.

11. Spot or forward sales of **agricultural commodities**. Agricultural commodities include grain, feed, livestock, meat, oil seed, timber, or fiber. A spot sale is a sale that results in almost immediate delivery of a commodity. A forward sale is a sale under a forward contract.

However, sales of agricultural commodities under a regulated futures contract, sales of derivative interests in agricultural commodities, and sales of receipts for agricultural commodities issued by a designated warehouse are reportable. A designated warehouse is a warehouse, depository, or other similar entity designated by a commodity exchange in which or out of which a particular type of agricultural commodity is deliverable to satisfy a regulated futures contract. Sales of warehouse receipts issued by any other warehouse are not reportable.

12. Excepted sales designated in a revenue ruling or revenue procedure. The sale of a **precious metal** (gold, silver, platinum, or palladium) in any form that may be used to satisfy a Commodity Futures Trading Commission (CFTC)-approved regulated futures contract (RFC) is an excepted sale if the quantity, by weight or by number of items, is less than the minimum required to satisfy a CFTC-approved RFC. A sale of a precious metal in any form that cannot be used to satisfy a CFTC-approved RFC is an excepted sale.

For example, Form 1099-B is not required to be filed for the sale of a single gold coin in the form and quality deliverable in satisfaction of a CFTC-approved contract since all CFTC contracts for gold coins currently call for delivery of at least 25 coins.

Sales of precious metals for a single customer during a 24-hour period must be aggregated and treated as a single sale to determine if this exception applies. This exception does not apply if the broker knows or has reason to know that a customer, either alone or with a related person, is engaging in sales to avoid information reporting.

Barter Exchanges

A **barter exchange** is any person with members or clients who contract either with each other or with such person to trade or barter property or services either directly or through such person. The term does not include arrangements that provide solely for the informal exchange of similar services on a noncommercial basis. Persons who are not a barter exchange but who trade services do not file Form 1099-B. However, they may be required to file Form 1099-MISC.

Barter exchanges must report each transaction involving noncorporate members or clients of a barter exchange on a separate Form 1099-B. Transactions involving corporate members or clients of a barter exchange may be reported on an aggregate basis.

In the recipient area of the forms, enter information about the member or client that provided the property or services in the exchange.

No return is required by barter exchanges for:

1. Exchanges through a barter exchange having fewer than 100 transactions during the calendar year.
2. Exempt foreign persons.

Brokers and Barter Exchanges

Statements to Recipients.—For information about the requirement to furnish a statement to the proceeds recipient, see part **H** under **General Instructions** earlier.

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, you will comply with a safe harbor due diligence requirement of Temporary Regulations section 35a.9999-3, Q/A-89, and the IRS will not send you any further notices about this account. Also see Regulations section 301.6724-1(g).

Box 1a.—For broker transactions, enter the trade date of the sale or exchange. For barter exchanges, enter the date that cash, property, a credit, or scrip is actually or constructively received. Please use the following format to indicate the date: MMDDYY. For example, for January 7, 1995, enter 010795. For aggregate reporting, no entry is required.

Box 1b.—For transactional reporting by brokers, enter the CUSIP (Committee on Uniform Security Identification Procedures) number of the obligation.

Box 2.—Enter the gross proceeds from any disposition of securities (including short sales), commodities, or forward contracts. To determine gross proceeds, you may take into account commissions and option premiums if this treatment is consistent with your books. You may not take into account state and local transfer taxes. Check the applicable box to indicate which amount has been reported to the IRS. Do not include amounts shown in boxes 6 through 9. Any accrued interest

on bonds sold between payment dates (or on a payment date) should not be included in this box. Instead, report this accrued interest on Form 1099-INT. A loss from a closing transaction on a forward contract must be shown as a negative amount by enclosing it in parentheses.

Box 3.—Enter the gross amounts received by a member or client of a barter exchange for goods or services. This includes cash received, property or services received, a credit on your books, or scrip issued. **Do not report negative amounts.**

Box 4.—Enter backup withholding. For example, persons who have not furnished their TIN to you in the manner required are subject to withholding at a 31% rate on certain amounts required to be reported on this form.

Box 5.—For broker transactions, enter a brief description of the disposition item, e.g., 100 shares of XYZ Corp. stock. If necessary, abbreviate the description so that it fits within box 5. For regulated futures contracts and forward contracts, enter “RFC” or other appropriate description and **any amount subject to backup withholding**, under Temporary Regulations section 35a.9999-3, Q/A-23. **Note:** *The amount withheld in these situations is to be included in box 4.*

For bartering transactions, show the services or property provided.

Box 6.—Enter the profit or (loss) realized by the customer on closed regulated futures or foreign currency contracts in 1995. For more information on reporting foreign currency contracts, see Temporary Regulations section 35a.9999-3, Q/A-26.

Box 7.—Enter the unrealized profit or (loss) on open regulated futures or foreign currency contracts at the end of 1994.

Box 8.—Enter the unrealized profit or (loss) on open regulated futures or foreign currency contracts as of December 31, 1995.

Box 9.—Enter the aggregate profit or (loss) for the year from regulated futures or foreign currency contracts. Use boxes 6, 7, and 8 to figure the aggregate profit or (loss).

Form 1099-C

Caution: *The following instructions (except those under **Coordination With Form 1099-A** and related instructions under **Box 5** and **Box 7** later) are based on temporary regulations under section 6050P issued in December 1993. Final regulations under section 6050P are expected to be issued in early 1995. For debts discharged before the effective date of those final regulations, no penalties will be imposed if you do not report:*

1. A debt discharged in bankruptcy (under title 11 of the U.S. Code).
2. A debt discharged as the result of the expiration of the statute of limitations for collection of the debt.
3. Any amount other than principal for a debt that arose in connection with a

lending transaction. A lending transaction is a transaction in which a lender extends credit, including revolving credit, to a borrower.

4. A debt discharged for a person other than the primary (or first-named) debtor in the case of multiple debtors, for debts incurred before January 1, 1995.

File Form 1099-C, **Cancellation of Debt**, for each debtor for which you canceled (or discharged) a debt (or indebtedness) owed to you of \$600 or more and you are a financial institution, a credit union, or a Federal Government agency (including one of the three agencies listed under **Who Must File** below). You must file even though the debtor may not be subject to tax on the canceled debt. That is, you are not required to determine whether the debtor qualifies for exclusion under section 108. For example, debts discharged in bankruptcy are reportable.

You are not required to aggregate multiple discharges of debt of less than \$600 during a year unless the separate discharges are under a plan to evade the Form 1099-C reporting requirements.

File Form 1099-C if the debtor is an individual, corporation, partnership, trust, estate, association, or company. Backup withholding does not apply.

Coordination With Form 1099-A.—If, in the same calendar year, a debt is canceled in connection with the acquisition or abandonment of secured property and you would be required to file both Form 1099-C and **Form 1099-A**, Acquisition or Abandonment of Secured Property, you are required to file Form 1099-C only. You will meet your Form 1099-A filing requirement by making appropriate entries in boxes 5 and 7 on Form 1099-C. You may file both Forms 1099-A and 1099-C, but make no Form 1099-A entries in boxes 5 and 7 on Form 1099-C. See the instructions for Form 1099-A earlier and **Box 5** and **Box 7** later.

Who Must File.—File Form 1099-C if you are a financial institution described in section 581 or 591(a) (such as a domestic bank, trust company, building and loan or savings and loan association); a credit union; a Federal executive agency defined in section 6050M, the Federal Deposit Insurance Corporation (FDIC), the Resolution Trust Corporation (RTC), the National Credit Union Administration (NCUA), or any successor or subunit of a Federal executive agency, FDIC, RTC, or NCUA. Also file Form 1099-C if you are a corporation that is a subsidiary of a financial institution or credit union, but only if, because of your affiliation, you are subject to supervision and examination by a Federal or state regulatory agency.

Debt Defined.—A debt is any amount owed to you including principal, interest, penalties, administrative costs, and fines, to the extent they are indebtedness under section 61(a)(12). The amount of debt discharged or canceled may be all or only part of the total amount owed.

When Is a Debt Canceled or Discharged?—A debt is canceled or discharged when an identifiable event

occurs that indicates the debt will never have to be paid by the debtor, taking into account all the facts and circumstances.

An **identifiable event** includes, but is not limited to:

1. A discharge of a debt under title 11 of the U.S. Code (bankruptcy),
2. An agreement between the creditor and the debtor to cancel all or part of a debt (including an agreement that results in an exchange under section 1001), if the last event necessary to cancel the debt has occurred, or
3. A cancellation or extinguishment of the debt by operation of law that makes the debt unenforceable (for example, the statute of limitations for collection of the debt expires).

A bookkeeping entry, such as a deduction for book or regulatory reporting purposes or a partial or full bad debt deduction for tax purposes, is not, alone, an identifiable event. However, such bookkeeping entry is one of the facts and circumstances to take into account to determine if a discharge or cancellation has occurred.

Collection activity by the creditor is another one of the facts and circumstances to take into account to determine if a discharge or cancellation has occurred. In determining that part of a debt is canceled, disregard collection activity on the remaining part of the debt.

Multiple Debtors.—If you cancel a debt with more than one debtor, you must file Form 1099-C for each debtor that had a debt of \$600 or more canceled. If the multiple debtors are jointly and severally liable on the debt, report the entire amount of the canceled debt on each debtor's Form 1099-C.

Recordkeeping.—If you are required to file Form 1099-C, you must retain a copy of that form or be able to reconstruct the data for at least 4 years from the due date of the return.

Requesting TINs.—You must make all reasonable efforts to obtain the taxpayer identification number (TIN) of the person whose debt was canceled. You may obtain the TIN when the debt is incurred. If you do not obtain the TIN before the debt is canceled, you must request the debtor's TIN. Your request must clearly notify the debtor that the Internal Revenue Service requires the debtor to furnish its TIN and that failure to furnish such TIN subjects the debtor to a \$50 penalty imposed by the IRS. No particular form is required to request the TIN, but if you use Form W-9, you will satisfy the reasonable efforts requirement. A debtor is not required to certify his or her TIN under penalties of perjury.

Statements to Debtors.—Furnish each debtor with Copy B of Form 1099-C or a substitute statement that complies with the requirements of Pub. 1179. See part **H** under **General Instructions** earlier. You have furnished a statement to the debtor if it is mailed to the debtor's last known address.

Box 1.—Enter the date the debt was canceled. See **When Is a Debt Canceled**

or Discharged? earlier. Use the format MMDDYY to indicate the date. For example, for January 7, 1995, enter 010795.

Box 2.—Enter the amount of the canceled debt. See **Debt Defined** earlier.

Box 3.—Enter any interest included in the canceled debt in box 2.

Box 4.—Enter any penalties, fines, or administrative costs included in the canceled debt in box 2.

Box 5.—Enter a description of the origin of the debt, such as student loan, mortgage, or credit card expenditure. Be as specific as possible. If you are filing a combined Form 1099-C and 1099-A, also enter a description of the property.

Box 6.—Enter an "X" in the checkbox if the debt was discharged in bankruptcy, if known.

Box 7.—Make an entry in this box only if you are filing a combined Form 1099-C and 1099-A. For a foreclosure, execution, or similar sale, enter the fair market value of the property. Generally, the gross foreclosure bid price is considered to be the fair market value. If an abandonment or voluntary conveyance to the lender in lieu of foreclosure occurred, enter the appraised value of the property.

Form 1099-DIV

File Form 1099-DIV, **Dividends and Distributions**, for each person (a) to whom you have paid gross dividends and other distributions on stock (box 1a) of \$10 or more, (b) for whom you have withheld and paid any foreign tax on dividends and other distributions on stock, (c) for whom you have withheld any Federal income tax under the backup withholding rules, or (d) to whom you paid \$600 or more as part of a liquidation.

Section 404(k) Dividend.—Report on Form 1099-DIV dividends distributed under section 404(k) on stock held by an employee stock ownership plan (ESOP) or a tax credit ESOP. However, if a section 404(k) distribution is made in the same year as a total distribution, the entire amount should be reported as an amount includable in income on Form 1099-R.

Exceptions.—You are not required to file Form 1099-DIV for payments made to certain payees including a corporation, a tax-exempt organization, an individual retirement arrangement (IRA), a U.S. agency, a state, the District of Columbia, a U.S. possession, or a registered securities or commodities dealer.

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.

Note: *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.

An exempt-interest dividend from a regulated investment company retains its tax-exempt status and is not reported on Form 1099-DIV or 1099-INT.

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 the transfer of a customer's securities for use in a short sale, see **Box 8** under **Form 1099-MISC** later.

RICs.—If a regulated investment company (RIC) 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 and received by the shareholders on December 31 of such year as long as the dividends are actually paid by the RIC during January of the following year. Such dividends should be reported on Form 1099-DIV for the year preceding the January they are actually paid. See section 852(b)(7).

If such a dividend paid in January is subject to backup withholding, it must be withheld when the dividend is actually paid. Therefore, backup withhold in January, deposit the withholding when appropriate, and reflect it on Form 945 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.

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

Statements to Recipients.—For an explanation of the requirement to furnish an official form to recipients in person or by statement mailing, see part **H** under **General Instructions** earlier. Also see Pub. 1179.

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, you will comply with a safe harbor due diligence requirement of Temporary Regulations section 35a.9999-3, Q/A-89, and the IRS will not send you any further notices about this account. Also see Regulations section 301.6724-1(g).

Box 1a.—Enter gross dividends, including those from money market funds, and other distributions on stock. Include reinvested dividends as gross dividends. Include all amounts shown in boxes 1b, 1c, 1d, and 1e. Do not include in box 1a amounts reported in boxes 5 and 6.

Box 1b.—Enter ordinary dividends. Also include this amount in box 1a.

Box 1c.—Enter capital gain distributions. Also include this amount in box 1a.

Box 1d.—Enter nontaxable distributions, if determinable. Also include this amount in box 1a. (File **Form 5452**, Corporate Report of Nondividend Distributions, if you pay nontaxable distributions to shareholders.)

Box 1e.—Enter the stockholder's pro rata share of certain amounts deductible by a nonpublicly offered regulated investment company in computing its taxable income. This amount is includible in the stockholder's gross income under section 67(c) and must also be included in box 1a.

Box 2.—Enter backup withholding. For example, persons who have not furnished their TIN to you in the manner required are subject to withholding at a 31% rate on certain dividend payments reported on this form.

Box 3.—Enter any foreign tax withheld and paid on dividends and other distributions on stock. A regulated investment company must report only the amount it elects to pass through to the shareholder. Report this amount in U.S. dollars.

Box 4.—Enter the name of the foreign country or U.S. possession to which the withheld tax applies.

Note: *Boxes 5 and 6 apply only to corporations in partial or complete liquidation.*

Box 5.—Enter cash distributed as part of a liquidation. Do not include this amount in box 1a.

Box 6.—Enter noncash distributions made as part of a liquidation. Show the fair market value as of the date of distribution. Do not include this amount in box 1a.

S Corporations

Box 1a.—Report as dividends on Form 1099-DIV only distributions made during 1995 out of accumulated earnings and profits. See section 1368 for more information.

Form 1099-G

File Form 1099-G, **Certain Government Payments**, if you have made certain payments as a unit of a Federal, state, or local government.

Statements to Recipients.—Furnish a copy of Form 1099-G or a substitute statement to each recipient, except as explained below under **Box 2**. Also see part **H** under **General Instructions** earlier.

Box 1.—Enter payments of \$10 or more in **unemployment compensation** including Railroad Retirement Board payments for unemployment.

Box 2.—Enter **refunds, credits, or offsets of state or local income tax** of \$10 or more you made to recipients. If recipients deducted the tax paid to a state or local government on their Federal income tax returns, any refunds, credits, or offsets may be taxable to them. If you can determine that the recipient did not claim itemized deductions on the recipient's Federal income tax return for the tax year giving rise to the refund, credit, or offset you are not required to furnish a copy of Form 1099-G or a statement to the

recipient. However, you must file Form 1099-G with the IRS in all cases.

A tax on dividends, a tax on net gains from the sale or exchange of a capital asset, and a tax on the net taxable income of an unincorporated business are taxes on gain or profit rather than on gross receipts. Therefore, they are income taxes, and any refund, credit, or offset of \$10 or more of these taxes is reportable on Form 1099-G. In the case of the dividends tax and the capital gains tax, if you determine that the recipient did not itemize deductions, as explained above, you are not required to furnish a statement to the recipient. However, in the case of the tax on unincorporated businesses, you must furnish a statement to the recipient in all cases, as this is a tax that applies exclusively to income from a trade or business. See the instructions for box 8 and Rev. Rul. 86-140, 1986-2 C.B. 195.

If you pay interest of \$600 or more on the refund, you must file Form 1099-INT and furnish a statement to the recipient. For interest payments of less than \$600, if you wish you may enter the amount with an appropriate designation such as "Interest Income" in the blank box on the statement to the recipient.

Box 3.—No entry is required in box 3 if the refund, credit, or offset is for the 1994 tax year. If it is for any other tax year, enter the **year** for which the refund, credit, or offset was made in this box. Also, if the refunds, credits, or offsets are for more than 1 tax year, report the amount for each year on a separate Form 1099-G. Use the format "YYYY" to make the entry in this box. For example, enter 1993, not '93.

Box 4.—Enter **backup withholding**. For example, persons who have not furnished their TIN to you become subject to withholding at a 31% rate on payments required to be reported in box 6 or 7 on this form.

Box 5.—Make no entries in this box.

Box 6.—Enter any amount of a **taxable grant** administered by a Federal, state, or local program to provide subsidized energy financing or grants for projects designed to conserve or produce energy, but only with respect to section 38 property or a dwelling unit located in the United States. Also report amounts of other taxable grants of \$600 or more. A Federal grant is ordinarily taxable unless stated otherwise in the legislation authorizing the grant. Do not report scholarship or fellowship grants. See **Scholarships** under **Form 1099-MISC** later.

Box 7.—Enter U.S.D.A. **agricultural subsidy** payments made to recipients during the year. If you are a nominee that received subsidy payments for another person, file Form 1099-G to report the actual owner of the payments, and report the amount of the payments in box 7.

Box 8.—If the amount in box 2 is a refund, credit, or offset attributable to an income tax that applies exclusively to income from a trade or business and is not a tax of general application, enter an "X" in this box.

Form 1099-INT

File Form 1099-INT, **Interest Income**, for each person (1) to whom you paid amounts reportable in boxes 1 and 3 of at least \$10 (except for the \$600 limit for interest paid in the course of your trade or business described in the instructions below in **Box 1**), (2) for whom you withheld and paid any foreign tax on interest, or (3) from whom you withheld any Federal income tax under the backup withholding rules regardless of the amount of the payment.

Only report interest payments made in the course of your trade or business including Federal, state, and local government agencies and activities deemed nonprofit, or for which you were a nominee/middleman.

Exceptions.—You are not required to file Form 1099-INT for payments made to certain payees including a corporation, a tax-exempt organization, an individual retirement arrangement (IRA), a U.S. agency, a state, the District of Columbia, a U.S. possession, or a registered securities or commodities dealer.

Note: *Do not report tax-exempt or tax-deferred interest, such as interest on municipal bonds or interest that is earned but not distributed from an IRA.*

An exempt-interest dividend from a regulated investment company retains its tax-exempt status and is not reported on Form 1099-INT or 1099-DIV.

When Payment Made.—Generally, interest is paid when it is credited or set apart for a person without any substantial limitation or restriction as to time, manner, or condition of payment. The interest must be made available so that it may be drawn on at any time and its receipt brought within the control and disposition of the person.

For payments made on obligations subject to transactional reporting (e.g., savings bonds, interest coupons, and other demand obligations), interest is paid at the time the obligation is presented for payment. For example, interest on a coupon detached from a bond is paid when it is presented for payment.

Successor/Predecessor Corporation.—A successor corporation and a predecessor corporation may agree that the successor corporation will file one Form 1099-INT for each payee combining the reportable interest paid by both corporations (under section 6049). If the two corporations do not agree, or if other requirements described below are not met, the predecessor must file Forms 1099-INT to report the interest payments it made during the year, and the successor must file Forms 1099-INT to report its own payments.

The combined reporting procedure is available only when all the following conditions are met:

1. The successor corporation acquires substantially all the assets and assumes substantially all the liabilities of the predecessor corporation.

2. During the year of acquisition, but before the acquisition, the predecessor made reportable interest payments to payees.

3. During the year of acquisition, but after the acquisition, the predecessor did not make any reportable interest payments.

Agreement.—The predecessor and successor must agree that the successor assumes the predecessor's entire obligation to file Forms 1099-INT for reportable interest payments made in the year of acquisition. If they so agree and if the successor satisfies the predecessor's obligation, the predecessor is relieved of the obligation to file Forms 1099-INT.

Combined Form 1099-INT.—The Form 1099-INT filed by the successor for each payee must include the reportable interest payments made by the predecessor in the acquisition year and the reportable interest payments made by the successor in that year. Any backup withholding also must be combined on the form. When providing Form 1099-INT, or an acceptable substitute form, to the interest recipient, the successor may include additional information explaining the aggregate reporting of the interest.

Statement required.—By the due date of the Forms 1099-INT, the successor must file a statement containing (1) an indication that Forms 1099-INT are being filed on a combined basis under Rev. Proc. 90-57 and (2) the name, address, and taxpayer identification numbers (TINs) of both the successor and predecessor corporations. This statement must be sent separately from the Forms 1099-INT to: IRS-Martinsburg Computing Center, P.O. Box 1359, Attn: Chief, Magnetic Media 2, Martinsburg, WV 25401-1359.

For more information, see Rev. Proc. 90-57, 1990-2 C.B. 641.

Statements to Recipients.—For an explanation of the requirement to furnish an official form to recipients in person or by statement mailing, see part **H** under **General Instructions** earlier. Also see Pub. 1179. If you have furnished Forms 1099-INT to a recipient for amounts received during the year at the time of the transaction, such as you might have done for window transactions, do not include these same amounts in a Form 1099-INT furnished to the same recipient for other payments during the year.

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 TIN. If you mark this box, you will comply with a safe harbor due diligence requirement of Temporary Regulations section 35a.9999-3, Q/A-89, and the IRS will not send you any further notices about this account. Also see Regulations section 301.6724-1(g).

Payer's RTN (optional).—If you are a financial institution that wishes to participate in the program for direct deposit of refunds of electronic filers, you may enter your routing and transit number (RTN).

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Box 1.—Enter interest not included in box 3. Include amounts, whether or not designated as interest, that are paid or credited to any person's account by savings and loan associations, mutual savings banks not having capital stock represented by shares, building and loan associations, cooperative banks, homestead associations, credit unions, or similar organizations. Include interest on bank deposits, accumulated dividends paid by a life insurance company, indebtedness (including bonds, debentures, notes and certificates other than those of the U.S. Treasury) issued in registered form or of a type offered to the public, or from which you withheld Federal income tax or foreign tax. **Also include interest paid in the course of your trade or business** not meeting these criteria, such as interest on delayed death benefits paid by a life insurance company, or interest on a state or Federal income tax refund, if the interest totals \$600 or more for any person. In addition, report interest accrued to a REMIC regular interest holder or paid to a CDO holder, as explained below.

Include in box 1 any accrued interest on bonds sold between interest dates (or on a payment date).

Also show original issue discount on short-term obligations of 1 year or less and interest on all bearer certificates of deposit.

Do not include in box 1 interest on tax-free covenant bonds, which is reportable on **Form 1042-S**, Foreign Person's U.S. Source Income Subject to Withholding, or dividends from money market funds, which are reportable on Form 1099-DIV. Also, do not include any description in box 1. If you wish to show a description, use the blank box above box 1.

Box 2.—Enter interest or principal forfeited because of an early withdrawal of time deposits, such as an early withdrawal from a CD, that is deductible from gross income by the recipient. Do not reduce the amount reported in box 1 by the amount of the forfeiture. For detailed instructions for determining the amount of forfeiture deductible by the depositor, see Rev. Ruls. 75-20, 1975-1 C.B. 29, and 75-21, 1975-1 C.B. 367.

Box 3.—Enter interest on U.S. Savings Bonds, Treasury bills, Treasury notes, and Treasury bonds. Do not include this amount in box 1.

If you make payment on a U.S. Savings Bond or other U.S. obligation on which interest is reportable, enter **your** name, address, and Federal identification number on Forms 1099-INT and 1096, not those of the U.S. Treasury Department or the Bureau of Public Debt.

Box 4.—Enter backup withholding. For example, persons who have not furnished their TIN to you in the manner required become subject to withholding at a 31% rate on payments required to be reported in box 1 (which may be reduced by the amount reported in box 2) and box 3 on this form.

Box 5.—Enter any foreign tax withheld and paid on interest. Report this amount in U.S. dollars.

Box 6.—Enter the name of the foreign country or U.S. possession to which the withheld tax applies.

REMICs and Issuers of Collateralized Debt Obligations

Real estate mortgage investment conduits (REMICs), issuers of collateralized debt obligations (CDOs), and any broker or middleman who holds as a nominee a REMIC regular interest or CDO must file Form 1099-INT to report interest of \$10 or more, other than original issue discount (OID), accrued to a REMIC regular interest holder during the year or paid to the holder of a CDO. If you are also reporting OID, this interest and the OID can be reported on Form 1099-OID. It is not necessary to file both Forms 1099-INT and 1099-OID. See **Form 1099-OID** later.

You are not required to file or issue Form 1099-INT for exempt recipients including the following holders of a REMIC regular interest or a CDO:

1. A corporation.
2. A broker.
3. A middleman/nominee.
4. A financial institution.
5. An IRA.
6. A tax-exempt organization.

For additional exempt recipients, see Regulations section 1.6049-7(c).

Box 1.—Report in box 1 the amount of interest, other than OID, accrued to each REMIC regular interest holder or paid to a CDO holder for the period during the year for which the return is made. If you are a single-class REMIC (as defined in Temporary Regulations section 1.67-3T(a)(2)(ii)), include in box 1 the regular interest holder's share of investment expenses of the REMIC for the year.

Statements to Holders.—For each Form 1099-INT you are required to file, you must furnish a statement to the REMIC regular interest or CDO holder identified on the form. The statement must contain the information shown on Form 1099-INT, including the legend shown on Copy B of the official Form 1099-INT, and an indication that these items are being furnished to the IRS. The statement must also show the information specified in Regulations section 1.6049-7(f)(2)(i). In addition, the statement furnished by a REMIC must show, for each calendar quarter, the information specified in Regulations section 1.6049-7(f)(3). Also see Regulations section 1.6049-7(f)(3)(ii) for information that may be required to be reported to a real estate investment trust (REIT) that holds a regular interest.

A single-class REMIC (as defined in Temporary Regulations section 1.67-3T(a)(2)(ii)) must include in the statement the investment expenses paid or accrued during each calendar quarter by the REMIC for which the REMIC is allowed

a deduction under section 212 and the proportionate share of those investment expenses allocated to the regular interest holder.

The statement must be furnished to holders by **March 15**. To meet the statement requirement, you may furnish a copy of Form 1099-INT and a separate statement containing the additional information to the REMIC regular interest or CDO holder.

For information about reporting income to REMIC residual interest holders, see the instructions on **Schedule Q (Form 1066)**, Quarterly Notice to Residual Interest Holder of REMIC Taxable Income or Net Loss Allocation.

Form 8811 and Reporting by Brokers or Middlemen.—REMICs and issuers of CDOs must also file **Form 8811**, Information Return for Real Estate Mortgage Investment Conduits (REMICs) and Issuers of Collateralized Debt Obligations, within 30 days after the startup day of the REMIC or issue date of a CDO. The IRS will use the information on Forms 8811 to publish **Pub. 938**, Real Estate Mortgage Investment Conduits (REMICs) Reporting Information, for use by certain brokers, middlemen, corporations, and others specified in Regulations section 1.6049-7(e)(4).

For the requirements that a REMIC or CDO issuer or a broker or middleman who holds a REMIC regular interest or a CDO furnish certain information on request, see Regulations sections 1.6049-7(e) and 1.6049-7(f)(7).

Form 1099-MISC

File Form 1099-MISC, **Miscellaneous Income**, for each person to whom you have paid (1) at least \$10 in royalties or broker payments in lieu of dividends or tax-exempt interest (see **Box 8**), (2) at least \$600 in rents, services (including parts and materials), prizes and awards, other income payments, and medical and health care payments, or (3) any fishing boat proceeds. In addition, use Form 1099-MISC to report that you made direct sales of at least \$5,000 of consumer products to a buyer for resale. You must also file Form 1099-MISC for each person from whom you have withheld any Federal income tax under the backup withholding rules regardless of the amount of the payment. Report only payments made in the course of your trade or business, including those made by Federal, state, or local government agencies and nonprofit organizations.

Caution: Be sure to report payments in the proper box because the IRS uses this information to determine whether the recipient has properly reported the payment. Generally, amounts reportable in box 7 are subject to self-employment tax. If payments are not subject to this tax and they are not reportable elsewhere on Form 1099-MISC, report the payments in box 3.

Trade or Business.—Report payments only if you are engaged in a trade or

business when payments are made in the course of such trade or business. Thus, personal payments are not reportable. You are engaged in a trade or business if you operate for gain or profit. However, nonprofit organizations are considered to be engaged in a trade or business and are subject to the reporting requirement. Nonprofit organizations subject to the reporting requirements include trusts of qualified pension or profit-sharing plans of employers, certain organizations exempt from tax under section 501(c) or (d), and farmers' cooperatives that are exempt from tax under section 521. Payments by Federal, state, or local government agencies are also reportable.

Exceptions.—Some payments are not required to be reported on Form 1099-MISC, although they may be taxable to the recipient. Payments for which a **Form 1099-MISC is not required** include: (1) payments to a corporation, except those required to be reported in boxes 6 and 8, (2) payments for merchandise, (3) payments of rent to real estate agents, (4) wages paid to employees (report on Form W-2), (5) business travel allowances paid to employees (may be reportable on Form W-2), and (6) PS 58 costs (report on Form 1099-R). See below for additional payments not reportable on Form 1099-MISC.

Fees paid to informants.—A payment to an informant as an award, fee, or reward for information about criminal activity is not required to be reported if the payment is made by a Federal, state, or local government agency, or by a nonprofit organization exempt from tax under section 501(c)(3) that makes the payment to further the charitable purpose of lessening the burdens of government. For more information, see Regulations section 1.6041-3(n).

Scholarships.—Do not use Form 1099-MISC to report scholarship or fellowship grants. Scholarship or fellowship grants that are taxable to the recipient because they are paid for teaching, research, or other services as a condition for receiving the grant are considered wages and must be reported on Form W-2. Other taxable scholarship or fellowship payments (to a degree or nondegree candidate) are not required to be reported by you to the IRS on any form. See Notice 87-31, 1987-1 C.B. 475, for more information.

Deceased Employee's Wages Paid to Estate or Beneficiary.—If an employee dies during the year, you must report on Form 1099-MISC the accrued wages, vacation pay, and other compensation paid after the date of death. If you made the payment in the same year the employee died, you must withhold social security and Medicare taxes on the payment and report them only as social security and Medicare wages on the employee's Form W-2 to ensure proper social security and Medicare credit is received. On the Form W-2, show the payment as social security wages (box 3) and Medicare wages and tips (box 5) and the social security and Medicare taxes withheld in boxes 4 and 6; **do not show**

the payment in box 1 of Form W-2. If you made the payment after the year of death, do not report it on Form W-2, and do not withhold social security and Medicare taxes.

Whether the payment is made in the year of death or after the year of death, you also must report it on Form 1099-MISC for the payment to the estate or beneficiary. Report the payment in box 3 (rather than in box 7 as specified in Rev. Rul. 86-109, 1986-2 C.B. 196). Enter the name and TIN of the payment recipient on Form 1099-MISC. For example, if the recipient is an individual beneficiary, enter the name and SSN of the individual; if the recipient is the estate, enter the name and EIN of the estate. The general backup withholding rules apply to this payment.

However, death benefits from qualified and nonqualified deferred compensation plans paid to the estate or beneficiary of a deceased employee are not reportable on Form 1099-MISC but are reportable on Form 1099-R. See the instructions for **Form 1099-R** later in this publication.

Example.—Before Employee A's death on June 15, 1995, A was employed by Employer X and received \$10,000 in wages on which Federal income tax of \$1,500 was withheld. When A died, X owed A \$2,000 in wages and \$1,000 in accrued vacation pay. The total of \$3,000 was paid to A's estate on July 20, 1995. Because X made the payment during the year of death, X must withhold social security and Medicare taxes on the \$3,000 payment and must complete Form W-2 as follows:

- **Box 1**—10000.00 (does not include the \$3,000 accrued wages and vacation pay)
- **Box 2**—1500.00
- **Box 3**—13000.00 (includes the \$3,000 accrued wages and vacation pay)
- **Box 4**—806.00 (includes 6.2% of the \$3,000 accrued wages and vacation pay)
- **Box 5**—13000.00 (includes the \$3,000 accrued wages and vacation pay)
- **Box 6**—188.50 (includes 1.45% of the \$3,000 accrued wages and vacation pay)

Employer X also must complete Form 1099-MISC as follows:

- **Box 3**—3000.00 (Even though amounts were withheld for social security and Medicare taxes, the gross amount is reported here.)

If Employer X made the payment after the year of death, the \$3,000 would not be subject to social security and Medicare taxes and would not be shown on Form W-2. However, the employer would still file Form 1099-MISC.

Employee Business Expense Reimbursements.—Do not use Form 1099-MISC to report employee business expense reimbursements. Payments made to employees under a nonaccountable plan are reportable as wages on Form W-2. Generally, payments made to employees under an accountable plan are not reportable on Form W-2, except in certain cases when you pay per diem or mileage allowance. For more information, see the **Instructions for Form W-2 and Pub. 463**,

Travel, Entertainment, and Gift Expenses. For information on reporting employee moving expense reimbursements on Form W-2, see the Instructions for Form W-2.

Transit Passes and Parking for Independent Contractors.—Although qualified transportation fringes cannot be provided to independent contractors, the de minimis fringe rules for transit passes and parking apply to independent contractors. Tokens or farecards that enable an independent contractor to commute on a public transit system (not including privately-operated van pools) are excludable from the independent contractor's gross income, and therefore not reportable on Form 1099-MISC, if the value of those tokens and farecards in any month is \$21 or less. If the value of a pass provided in a month is greater than \$21, the full value is includible in gross income and therefore reportable on Form 1099-MISC. The value of parking may be excludable from the gross income of an independent contractor, and therefore not reportable on Form 1099-MISC, if certain requirements are met. See Notice 94-3, 1994-1 C.B. 327, and Regulations sections 1.132-1(b)(2), and 1.132-6(a), (b), and (d)(1).

Independent Contractor or Employee.—Generally, payments to independent contractors are reportable on Form 1099-MISC in box 7. To help you determine whether someone is an independent contractor or an employee, see **Pub. 937**, Employment Taxes.

Note: *To qualify for relief under section 530 of the Revenue Act of 1978 as extended by section 269(c) of P.L. 97-248, about the employment tax status of independent contractors and employees, employers must file Form 1099-MISC. Additional requirements for relief are discussed in Rev. Proc. 85-18, 1985-1 C.B. 518. Also see Notice 87-19, 1987-1 C.B. 455, for special rules that may apply to certain skilled workers, such as engineers, designers, drafters, computer programmers, and systems analysts, and Rev. Rul. 87-41, 1987-1 C.B. 296.*

Directors' Fees.—Directors' fees and other remuneration, including payments made after retirement, are reportable on Form 1099-MISC and must be reported in the year paid. Report them in box 7.

Commissions Paid to Lottery Ticket Sales Agents.—A state that has control over and responsibility for on-line and instant lottery games must file Form 1099-MISC to report commissions, whether paid directly or indirectly, to licensed sales agents. For example, State X retains control over and liability for on-line and instant lottery games. For on-line ticket sales, State X pays commissions by allowing an agent to retain 5% of the ticket proceeds the agent remits to State X. For instant ticket sales, State X pays commissions by providing tickets to the agent for 5% less than the proceeds to be obtained by the agent from the sale of those tickets. If the commissions for the year total \$600 or more, they must be reported in box 7 on Form 1099-MISC. The commissions are paid by State X to the agent on the date payment is due from the

agent on the statement of account for lottery tickets covered by that statement. See Rev. Rul. 92-96, 1992-2 C.B. 281.

Escrow Agent; Construction Project.—When an escrow agent maintains owner-provided funds in an escrow account for a construction project, performs an oversight function for the construction project, and makes payments for the owner and the general contractor, the escrow agent must file Form 1099-MISC for reportable payments of \$600 or more. This requirement applies whether or not the escrow agent is a bank. For more information, see Rev. Rul. 93-70, 1993-2 C.B. 294.

Indian Gaming Profits, Payments to Tribal Members.—If you make payments to members of Indian tribes from the net revenues of class II or class III gaming activities conducted or licensed by the tribes, you must withhold Federal income tax on such payments and file Form 1099-MISC.

File Form 1099-MISC to report the distributions to tribal members. Report the payments in box 3, Other income, and the Federal income tax withheld in box 4. For 1995, when you provide a statement to the tribal member, please also provide an explanation of the income and withholding.

Statements to Recipients.—For information about the requirement of furnishing a statement to each recipient, see part **H** under **General Instructions** earlier.

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, you will comply with a safe harbor due diligence requirement of Temporary Regulations section 35a.9999-3, Q/A-89, and the IRS will not send you any further notices about this account. Also see Regulations section 301.6724-1(g).

Box 1.—Enter amounts paid to recipients for all types of **rents**, such as real estate rentals paid for office space (unless paid to a real estate agent), machine rentals (for example, hiring a bulldozer to level your parking lot), and pasture rentals (for example, farmers paying for the use of grazing land). If the machine rental is part of a contract that includes both the use of the machine and the operator, the rental should be prorated between the rent of the machine (reported in box 1) and the operator's charge (reported as nonemployee compensation in box 7). Public housing agencies must report in box 1 rental assistance payments made to owners of housing projects. See Rev. Rul. 88-53, 1988-1 C.B. 384.

Coin-operated amusements.—If an arrangement between an owner of coin-operated amusements and an owner of a business establishment where the amusements are placed is a lease of the amusements or the amusement space, the owner of the amusements or the owner of the space, whoever makes the payments, must report the lease payments in box 1 of Form 1099-MISC if the payments total at

least \$600. However, if the arrangement is a joint venture, the joint venture must file a Form 1065 and provide each partner with information necessary to report the partner's share of the taxable income. Coin-operated amusements include video games, pinball machines, jukeboxes, pool tables, slot machines, and other machines and gaming devices operated by coins or tokens inserted into the machines by individual users. For more information, see Rev. Rul. 92-49, 1992-1 C.B. 433.

Box 2.—Enter gross **royalty payments** of \$10 or more before reduction for severance and other taxes that may have been withheld and paid. Include in this box gross royalties (before reduction for fees, commissions, or expenses) paid by a publisher directly to an author or literary agent or paid by a literary agent to an author. Do not include surface royalties. They should be reported in box 1. Do not report oil or gas payments for a working interest in box 2; report payments for working interests in box 7. Do not report timber royalties made under a pay-as-cut contract; report such timber royalties on Form 1099-S.

Box 3.—Enter **other income** required to be reported on Form 1099-MISC that should not be reported in one of the other boxes on the form.

Enter in box 3 **prizes and awards** that are not for services performed. Include the fair market value of merchandise won on game shows. You must report prizes and awards for employees on Form W-2. (See the Instructions for Form W-2.) Report prizes and awards for services performed by nonemployees, such as an award for the top commission salesperson, in box 7.

Prizes and awards received in recognition of past accomplishments in religious, charitable, scientific, artistic, educational, literary, or civic fields are not reportable if (1) the winners are chosen without action on their part, (2) the winners are not expected to perform future services, **AND** (3) the payer transfers the prize or award to a charitable organization or governmental unit under a designation made by the recipient. See Rev. Proc. 87-54, 1987-2 C.B. 669.

Other items required to be reported in box 3 include the following:

1. Punitive damages paid in cases that do not involve physical injury or sickness and any other taxable damages.

2. Payments to nonemployees specified in, and payments similar to those specified in, Rev. Rul. 65-18, 1965-1 C.B. 32, about payments to patients and members in Department of Veterans Affairs (VA) hospitals and domiciliaries under the VA therapeutic or rehabilitative program.

3. Payments as explained earlier under **Deceased Employee's Wages Paid to Estate or Beneficiary**.

4. Payments as explained earlier under **Indian Gaming Profits, Payments to Tribal Members**.

Box 4.—Enter backup withholding. For example, persons who have not furnished their TIN to you become subject to

withholding at a 31% rate on payments required to be reported in boxes 1, 2 (net of severance taxes), 3, 5 (to the extent paid in cash), 6, 7, 8, and 10 on this form.

Also enter any income tax withheld from payments to members of Indian tribes from the net revenues of class II or class III gaming activities conducted or licensed by the tribes.

Box 5.—Enter the share of all proceeds from the sale of a catch or the fair market value of a distribution in kind to each crew member of **fishing boats** with normally fewer than 10 crewmembers.

Box 6.—Enter payments made in the course of your trade or business to each physician or other supplier or provider of **medical or health care services**, including payments made by medical and health care insurers under health, accident, and sickness insurance programs. In the case of a corporation, list the corporation as the recipient rather than the individual providing the services. See Rev. Ruls. 69-595, 1969-2 C.B. 242, and 70-608, 1970-2 C.B. 286.

The exemption from issuing Form 1099-MISC to a corporation does not apply to payments for medical or health care services provided by corporations, including professional corporations.

Box 7.—Enter **nonemployee compensation**. Include fees, commissions, prizes and awards for services performed, or other forms of compensation for services performed for your trade or business by an individual who is not your employee. Include oil and gas payments for a working interest, whether or not services are performed. Also include expenses incurred for the use of an entertainment facility that you treat as compensation to a nonemployee. Do not report in box 7, nor elsewhere on Form 1099-MISC, PS 58 costs (reported on Form 1099-R); an employee's wages, travel or auto allowance, or bonuses (reported on Form W-2); or the cost of group-term life

insurance paid on behalf of a former employee (reported on Form W-2).

Generally, amounts reportable in box 7 are subject to self-employment tax. If payments are not subject to this tax and they are not reportable elsewhere on Form 1099-MISC, report the payments in box 3.

If the following four conditions are met, a payment generally is reportable as nonemployee compensation: (1) you made the payment to someone who is not your employee; (2) you made the payment for services in the course of your trade or business (including government agencies and nonprofit organizations); (3) you made the payment to someone other than a corporation, e.g., an individual or a partnership; and (4) you made payments to the payee of at least \$600 during the year.

Examples of payments to be reported in box 7 are:

1. Professional service fees, such as fees to attorneys, accountants, and architects.

2. Fees paid by one professional to another, such as fee-splitting or referral fees.

3. Payments by attorneys to witnesses or experts in legal adjudication.

4. Payment for services, including payment for parts or materials used to perform the services as long as supplying the parts or materials was incidental to providing the service. For example, report the total insurance company payments to an auto repair shop under a repair contract showing an amount for labor and another amount for parts, since furnishing parts was incidental to repairing the auto.

5. Commissions paid to nonemployee salespersons, subject to repayment but not repaid during the calendar year.

6. A fee paid to a nonemployee and travel reimbursement for which the nonemployee did not account to the payer if the fee and reimbursement total at least \$600.

7. Payments to nonemployee entertainers for services.

8. Exchanges of services between individuals in the course of their trades or businesses. For example, an attorney represents a painter for nonpayment of business debts in exchange for the painting of the attorney's law offices. The amount reportable by each on Form 1099-MISC is the fair market value of his or her own services performed. However, if the attorney represents the painter in a divorce proceeding, the attorney must report on Form 1099-MISC the value of his or her services, but the painter need not report. The payment by the painter is not made in the course of the painter's trade or business, even though the painting services are of the type normally performed in the course of the painter's trade or business.

9. Taxable fringe benefits for nonemployees. For information on valuation of fringe benefits, see **Pub. 535, Business Expenses**.

10. Gross oil and gas payments for a working interest.

11. Payments to current and former self-employed insurance salespersons and agents for (a) amounts paid after retirement, but calculated as a percentage of commissions received by the individual from the paying company before retirement; (b) renewal commissions; and (c) deferred commissions paid after retirement but for sales made before retirement.

12. Directors' fees as explained earlier under **Directors' Fees**.

13. Commissions paid to licensed lottery ticket sales agents as explained earlier under **Commissions Paid to Lottery Ticket Sales Agents**.

Example.—Ronald Barr is a building contractor. He subcontracts the drywall work to Daniel Joseph, a sole proprietor who does business as ABC Drywall. During the year, Mr. Barr pays Mr. Joseph

9595 VOID CORRECTED

PAYER'S name, street address, city, state, and ZIP code Ronald Barr XYZ Builders 123 Maple Ave. Oaktown, VA 22000		1 Rents \$	OMB No. 1545-0115 1995 Form 1099-MISC	Miscellaneous Income
		2 Royalties \$		
		3 Other income \$		
PAYER'S Federal identification number 10-9999999	RECIPIENT'S identification number 123-45-6789	4 Federal income tax withheld \$	5 Fishing boat proceeds \$	Copy A For Internal Revenue Service Center File with Form 1096. For Paperwork Reduction Act Notice and instructions for completing this form, see Instructions for Forms 1099, 1098, 5498, and W-2G.
RECIPIENT'S name Daniel Joseph ABC Drywall		6 Medical and health care payments \$	7 Nonemployee compensation \$ 5500.00	
Street address (including apt. no.) 456 Flower Ln.		8 Substitute payments in lieu of dividends or interest \$	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	
City, state, and ZIP code Oaktown, VA 22000		10 Crop insurance proceeds \$	11 State income tax withheld \$	
Account number (optional)	2nd TIN Not. <input type="checkbox"/>	12 State/Payer's state number		

Form 1099-MISC

Cat. No. 14425J

Department of the Treasury - Internal Revenue Service

Do NOT Cut or Separate Forms on This Page

\$5,500.00. Mr. Barr must file Form 1099-MISC because he paid Mr. Joseph \$600 or more in the course of his trade or business, and Mr. Joseph is not a corporation. Form 1099-MISC is completed as shown above.

Golden Parachute Payments.—A typical golden parachute payment is one made by a corporation to a certain officer, shareholder, or highly paid individual when a change in the ownership or control of the corporation occurs or when a change in the ownership of a substantial part of the corporate assets occurs. See section 280G for more information.

In box 7, report any excess golden parachute payments to a nonemployee. Enter the letters "EPP" next to this amount. Also enter the total compensation, including any golden parachute payments. Your entry should be in the following format:

300000EPP
400000

Box 8.—Enter aggregate payments of at least \$10 received by a broker for a customer in lieu of **dividends or tax-exempt interest** as a result of the transfer of a customer's securities for use in a short sale. File Form 1099-MISC with the IRS and furnish a copy to the customer for whom you received the payment. However, for substitute payments in lieu of dividends, do not file Form 1099-MISC nor furnish it to your customer if your customer is an **individual**, unless you have reason to know on the record date of the dividend payment that such substitute dividend payment is in lieu of (1) an exempt-interest dividend, (2) a capital gain dividend, (3) a return of capital, or (4) a dividend subject to a foreign tax credit. File Form 1099-MISC for and furnish a copy to an individual for whom you received a payment in lieu of tax-exempt interest. If you are not required to make a report on Form 1099-MISC for substitute dividends of at least \$10, you must report the substitute dividends on Form 1099-DIV.

Substitute payment means a payment in lieu of (1) tax-exempt interest to the extent that interest (including OID) has accrued while the short sale was open and (2) a dividend if the ex-dividend date is after the transfer of stock for use in a short sale and before the closing of the short sale.

For more information about reporting substitute payments, see Regulations section 1.6045-2.

Box 9.—Sales by you of \$5,000 or more of **consumer products** to a person on a buy-sell, deposit-commission, or other commission basis for resale (by the buyer or any other person) anywhere other than in a permanent retail establishment. Enter an "X" in the checkbox in box 9. Do not enter a dollar amount here.

If you are reporting an amount in box 7, you may also check box 9 on the same Form 1099-MISC.

The report you must give to the recipient for these direct sales need not be made on the official form. It may be in the form of a

letter showing this information along with commissions, prizes, awards, etc.

Box 10.—Enter **crop insurance proceeds** paid to farmers by insurance companies, unless the farmer has informed the insurance company that expenses have been capitalized under section 278, 263A, or 447.

Boxes 11 and 12.—These boxes, and Copies 1 and 2, are provided for your convenience only and need not be completed for the IRS. If you withhold state income tax, you may enter it in box 11. In box 12, enter the abbreviated name of the state and the payer's state identification number, assigned by the state. Use Copy 1 to provide information to the state, and Copy 2 as the recipient's copy for use in filing the state income tax return.

Form 1099-OID

File Form 1099-OID, **Original Issue Discount**, if the original issue discount (OID) includible in gross income is at least \$10 and you are any of the following: (1) an issuer with any bond outstanding or other evidence of indebtedness in registered or bearer form issued with OID; (2) an issuer of certificates of deposit (CDs) made, purchased, or renewed after 1970 if the term of the obligation or deposit is more than 1 year; (3) a financial institution having other deposit arrangements, such as time deposits or bonus-savings plans having a term in excess of 1 year provided the payment of interest is deferred until maturity; (4) a broker or other middleman holding an OID obligation, including CDs, as nominee for the actual owner; or (5) a real estate mortgage investment conduit (REMIC) or issuer of a collateralized debt obligation (CDO). Also, file Form 1099-OID in any case in which you are required to deduct and withhold taxes even if the amount of the OID is less than \$10.

Original Issue Discount.—Original issue discount means the difference between the stated redemption price at maturity and the issue price of a debt instrument. In the case of a stripped bond or coupon, OID is the difference between the stated redemption price at maturity and the acquisition price. A discount of less than $\frac{1}{4}$ of 1% of the stated redemption price at maturity, multiplied by the number of full years from the date of issue to maturity, is considered to be zero.

Reporting OID.—You must prepare a Form 1099-OID for each person who is a holder of record of the obligation if the OID includible in the holder's gross income is at least \$10.

For REMICs and CDOs, see the discussion about REMICs and CDOs later.

Ordinarily, you will file only one Form 1099-OID for the depositor or holder of a particular obligation for the calendar year. If a person holds more than one discount obligation, issue separate Forms 1099-OID for each obligation. However, if a person holds more than one certificate of the same issue for the same period of time

during the calendar year, and if Form 1099-OID amounts are proportional, you may treat all such certificates as one discount obligation and file a single Form 1099-OID.

For time deposits and face-amount certificates, use the actual date of deposit and compute OID on a straight-line, monthly prorated basis for obligations issued before July 2, 1982, and on a daily economic accrual basis for obligations issued after July 1, 1982.

If you are a broker or middleman who holds a bank CD as nominee, whether or not you sold the CD to the owner, you must determine the amount of OID includible in the income of the owner, if any, and report it on Form 1099-OID.

Pub. 1212. List of Original Issue Discount Instruments, contains information on certain outstanding publicly offered discount obligations.

Issuers of certain publicly offered debt instruments having OID must file **Form 8281**, Information Return for Publicly Offered Original Issue Discount Instruments, within 30 days after the date of issuance. The information provided on that form will enable the IRS to update Pub. 1212. See Form 8281 for details.

Exceptions.—You are not required to file Form 1099-OID for payments made to certain payees including a corporation, a tax-exempt organization, an individual retirement arrangement (IRA), a U.S. agency, a state, the District of Columbia, a U.S. possession, or a registered securities or commodities dealer.

Do not report interest on U.S. Savings Bonds on this form. Report it on Form 1099-INT. Also report OID on obligations with a term of 1 year or less on Form 1099-INT.

Statements to Recipients.—For an explanation of the requirement to furnish an official form to recipients in person or by statement mailing, see part **H** under **General Instructions** earlier. Also see Pub. 1179.

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, you will comply with a safe harbor due diligence requirement of Temporary Regulations section 35a.9999-3, Q/A-89, and the IRS will not send you any further notices about this account. Also see Regulations section 301.6724-1(g).

Box 1.—Report the OID on the obligation for the part of the year it was owned by the record holder. For REMICs and CDOs, see the discussion about REMICs and CDOs later.

Box 2.—Enter any interest other than OID paid or credited on this obligation during the year. Some OID instruments pay regular interest, in addition to the OID, at certain intervals during the life of the instrument. However, if OID is the only interest on this obligation, leave this box blank. Interest reported here must not be reported on Form 1099-INT. For REMICs

and CDOs, see the discussion about REMICs and CDOs later.

Box 3.—Enter amounts of interest or principal forfeited because of an early withdrawal, such as an early withdrawal from a CD, that are deductible from gross income by the recipient. Do not reduce the amounts in boxes 1 and 2 by the amount of the forfeiture. For detailed instructions for determining the amount of forfeiture deductible by the holder, see Rev. Ruls. 75-20, 1975-1 C.B. 29, and 75-21, 1975-1 C.B. 367.

Box 4.—Enter backup withholding. For example, persons who have not furnished their TIN to you in the manner required become subject to withholding at a 31% rate on amounts required to be reported in boxes 1 and 2 (which may be reduced by the amount reported in box 3) limited to the cash paid on these obligations.

Box 5.—Enter the CUSIP number, if any; if there is no CUSIP number, the abbreviation for the stock exchange, the abbreviation for the issuer used by the stock exchange, the coupon rate, and the year of maturity (e.g., NYSE XYZ 12½ 98). If the issuer of the obligation is other than the payer, show the name of the issuer.

REMICs and Issuers of Collateralized Debt Obligations

Real estate mortgage investment conduits (REMICs), issuers of collateralized debt obligations (CDOs), and any broker or middleman who holds as a nominee a REMIC regular interest or CDO must file Form 1099-OID to report OID of \$10 or more accrued to a REMIC regular interest holder or a holder of a CDO. Also use Form 1099-OID to report other interest accrued to a REMIC regular interest holder during the year or paid to a holder of a CDO. Use Form 1099-INT to report interest if no OID is includible in the regular interest holder's or CDO holder's income for the year.

You are not required to file or issue Form 1099-OID for exempt recipients including the following holders of a REMIC regular interest or a CDO:

1. A corporation.
2. A broker.
3. A middleman/nominee.
4. A financial institution.
5. An IRA.
6. A tax-exempt organization.

For additional exempt recipients, see Regulations section 1.6049-7(c).

Box 1.—Report in box 1 the aggregate amount of OID includible in the gross income of each REMIC regular interest or CDO holder for the period during the year for which the return is made.

Box 2.—Report in box 2 any amount of interest, other than OID, accrued to each REMIC regular interest holder or paid to each CDO holder. If you are a single-class REMIC (as defined in Temporary Regulations section 1.67-3T(a)(2)(ii)), include in box 2 the regular interest holder's share of investment expenses of the REMIC for the year.

Statements to Holders.—For each Form 1099-OID you are required to file, you must furnish a statement to the REMIC regular interest or CDO holder identified on the form. The statement must contain the information shown on Form 1099-OID, including the legend shown on Copy B of the official Form 1099-OID, and an indication that these items are being furnished to the IRS. The statement must also show the information specified in Regulations section 1.6049-7(f)(2)(ii). In addition, the statement furnished by a REMIC must show, for each calendar quarter, the information specified in Regulations section 1.6049-7(f)(3). Also see Regulations section 1.6049-7(f)(3)(ii) for information that may be required to be reported to a real estate investment trust (REIT) that holds a regular interest.

A single-class REMIC (as defined in Temporary Regulations section 1.67-3T(a)(2)(ii)) must include in the statement the investment expenses paid or accrued during each calendar quarter by the REMIC for which the REMIC is allowed a deduction under section 212 and the proportionate share of those investment expenses allocated to the regular interest holder.

The statement must be furnished to holders by **March 15**. To meet the statement requirement, you may furnish a copy of Form 1099-OID and a separate statement containing the additional information to the REMIC regular interest or CDO holder.

For information about reporting income to REMIC residual interest holders, see the instructions on **Schedule Q (Form 1066)**, Quarterly Notice to Residual Interest Holder of REMIC Taxable Income or Net Loss Allocation.

Form 8811 and Reporting by Brokers or Middlemen.—REMICs and issuers of CDOs must also file **Form 8811**, Information Return for Real Estate Mortgage Investment Conduits (REMICs) and Issuers of Collateralized Debt Obligations, within 30 days after the startup day of the REMIC or issue date of a CDO. The IRS will use the information on Forms 8811 to publish **Pub. 938**, Real Estate Mortgage Investment Conduits (REMICs) Reporting Information, for use by certain brokers, middlemen, corporations, and others specified in Regulations section 1.6049-7(e)(4).

For the requirements that a REMIC or CDO issuer or a broker or middleman who holds a REMIC regular interest or a CDO furnish certain information on request, see Regulations sections 1.6049-7(e) and 1.6049-7(f)(7).

Form 1099-PATR

File Form 1099-PATR, **Taxable Distributions Received From Cooperatives**, for each person to whom the cooperative has paid at least \$10 in patronage dividends and other distributions described in section 6044(b) or from whom you withheld any Federal income tax under

the backup withholding rules regardless of the amount of the payment. A cooperative determined to be primarily engaged in the retail sale of goods or services that are generally for personal, living, or family use of the members may ask for and receive exemption from filing Form 1099-PATR. See **Form 3491**, Consumer Cooperative Exemption Application, for information about how to apply for this exemption.

Report dividends paid on cooperatives' capital stock on Form 1099-DIV.

Statements to Recipients.—For an explanation of the requirement to furnish an official form to recipients in person or by statement mailing, see part **H** under **General Instructions** earlier. Also see Pub. 1179.

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, you will comply with a safe harbor due diligence requirement of Temporary Regulations section 35a.9999-3, Q/A-89, and the IRS will not send you any further notices about this account. Also see Regulations section 301.6724-1(g).

Box 1.—Enter the total patronage dividends paid in cash (qualified or "consent" checks), qualified written notices of allocation (face amount), and other property (except nonqualified written notices of allocation).

Box 2.—Enter the total nonpatronage distributions paid in cash (qualified or "consent" checks), qualified written notices of allocation (face amount), and other property (not including nonqualified written notices of allocation). This box applies only to farmers' cooperatives exempt from tax under section 521.

Box 3.—Enter the total per-unit retain allocations paid in cash, qualified per-unit retain certificates (face amount), and other property.

Box 4.—Enter backup withholding. For example, persons who have not furnished their TIN to you in the manner required become subject to withholding at a 31% rate on payments required to be reported in boxes 1, 2, 3, and 5 to the extent such payments are in cash or qualified check. See Temporary Regulations section 35a.9999-3, Q/A-10 for more information on backup withholding by cooperatives.

Box 5.—Enter all redemptions of nonqualified written notices of allocation issued as patronage dividends, nonqualified written notices of allocation issued as nonpatronage allocations (applicable only to farmers' cooperatives qualifying under section 521), and nonqualified per-unit retain certificates, issued with respect to marketing.

Pass-Through Credits.—Report in the appropriate boxes the patron's share of unused credits that the cooperative is passing through to this patron:

Box 6.—See the **Note** below.

Box 7.—Energy investment credit.

Box 8.—Jobs credit.

Box 9.—Patron's Alternative Minimum Tax Adjustments.—Enter the total alternative minimum tax (AMT) patronage dividend adjustment for the patron and/or the total AMT per-unit retain allocation adjustment for the patron.

Note: *If you are passing through other credits, such as the Indian employment credit, use box 6 or the blank box under boxes 8 and 9. Label the credit.*

Form 1099-R

File Form 1099-R, **Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.**, for each person to whom you have made any designated distribution from profit-sharing or retirement plans, IRAs, annuities, pensions, insurance contracts, survivor income benefit plans, permanent and total disability payments under life insurance contracts, charitable gift annuities, etc., whether or not you withheld Federal income tax.

If part of the distribution is taxable and part is nontaxable, file a Form 1099-R reporting the entire distribution. However, if the total amount of the gross distribution paid to someone for the year is less than \$1, a Form 1099-R need not be filed for that person.

Also report death benefit payments made by employers that are **not** made as part of a pension, profit-sharing, or retirement plan. (See the instructions for box 1 later.)

For loans from qualified plans, section 403(a) annuity plans, section 403(b) contracts, or modified endowment contracts treated as distributions, see sections 72(p) and 72(e)(4)(A). A deemed distribution under section 72(p) or 72(e)(4) could be an early distribution under section 72(t) or 72(v), respectively.

Generally, do not report payments subject to withholding of social security and Medicare taxes on this form. Report such payments on Form W-2.

Reportable disability payments made from a retirement plan should be reported on Form 1099-R.

Do not report amounts totally exempt from tax such as workmen's compensation and Department of Veterans Affairs (VA) payments.

Military Retirement Pay.—Payments to military retirees are reportable on Form 1099-R. Military retirement pay awarded as a property settlement to a former spouse is reportable on Form 1099-R under the name and taxpayer identification number of the recipient, not those of the military retiree.

Payments of survivor benefit annuities are also reportable on Form 1099-R.

Nonqualified Plans.—Report any reportable distributions from commercial annuities on Form 1099-R. Report distributions to plan participants from nonqualified deferred compensation plans, including section 457 plans, on Form W-2, not on Form 1099-R. However, report

distributions to beneficiaries of deceased employees on Form 1099-R. Report distributions to beneficiaries in boxes 1 and 2a and use Code 4 in box 7.

Charitable Gift Annuities.—If cash or capital gain property is donated in exchange for a charitable gift annuity, distributions from the annuity are reportable on Form 1099-R. Report in box 1 the total amount distributed during the year. Report in box 2a the taxable amount. If any amount is taxable as a capital gain, report it in box 3. Report in box 5 any nontaxable amount. Enter Code F in box 7. See Regulations section 1.1011-2(c) Example 8.

Life Insurance, Annuity, and Endowment Contracts.—Report on Form 1099-R payments of matured or redeemed annuity, endowment, and life insurance contracts. However, you need not file Form 1099-R to report the surrender of a life insurance contract if it is reasonable to believe that none of the payment is includible in the income of the recipient. If you are reporting the surrender of a life insurance contract on Form 1099-R, enter Code 7 in box 7.

Also report premiums paid by a trustee or custodian for current life or other insurance protection (PS 58 costs). PS 58 costs are not subject to the 10% early distribution tax under section 72(t).

Section 1035 exchange.—A tax-free section 1035 exchange is the exchange of (1) a life insurance contract for another life insurance, endowment, or annuity contract, (2) an endowment contract for an annuity contract or for another endowment contract that provides for regular payments to begin no later than they would have begun under the old contract, and (3) an annuity contract for another annuity contract. However, the distribution of other property or the cancellation of a contract loan at the time of the exchange may be taxable and reportable on a separate Form 1099-R.

These exchanges of contracts are generally reportable on Form 1099-R. However, if (1) the exchange occurs within the same company, (2) the exchange is solely a contract for contract exchange, as defined above, that does not result in a designated distribution, and (3) the company maintains adequate records of the policyholder's basis in the contracts, reporting on Form 1099-R is not required. For example, a life insurance contract issued by Company X received in exchange solely for another life insurance contract previously issued by Company X is not reportable on Form 1099-R as long as the company maintains the required records. (See Rev. Proc. 92-26, 1992-1 C.B. 744.)

For those section 1035 exchanges that are reportable on Form 1099-R, enter the total value of the contract in box 1, 0 (zero) in box 2a, the total premiums paid in box 5, and Code 6 in box 7.

IRA and SEP Distributions.—Distributions from an individual retirement arrangement (IRA) or simplified employee pension (SEP) must be reported in boxes 1 and 2a regardless of the amount. You may mark

the "Taxable amount not determined" box in box 2b. But see the instructions for box 2a for how to report the withdrawal of contributions under section 408(d)(4). Also see **Direct Rollovers and Transfers** below for information on trustee-to-trustee transfers. The direct rollover provisions do not apply to distributions from IRAs and SEPs.

IRA Revocation.—If an IRA is revoked during its first 7 days (under Regulations section 1.408-6(d)(4)(ii)), the distribution from the IRA must be reported. In addition, Form 5498 must be filed to report any regular or rollover contribution to an IRA that is revoked. Trustee-to-trustee transfers from one IRA to another are not reportable on either Form 5498 or Form 1099-R.

If a regular contribution is made to an IRA that later is revoked, and distribution is made to the taxpayer, enter the gross distribution in box 1 of Form 1099-R. If no earnings are distributed, enter 0 (zero) in box 2a and Code 8 in box 7. If earnings are distributed, enter the amount of earnings in box 2a. Such earnings could be subject to the early distribution tax under section 72(t). If they are subject to that tax, enter Code 1 in box 7; if the earnings are not subject to that tax, enter Code 8.

Note: *If you know that the taxpayer deducted the contribution, report the total amount distributed in box 2a and use the appropriate code in box 7.*

If a rollover contribution is made to an IRA that later is revoked, and distribution is made to the taxpayer, enter in boxes 1 and 2a of Form 1099-R the gross distribution and the appropriate code in box 7. Follow this same procedure for a transfer from one IRA to another IRA that later is revoked. The distribution could be subject to the early distribution tax under section 72(t).

If an employer SEP contribution is made and the SEP is revoked by the employee, report the distribution as fully taxable.

For more information, see Rev. Proc. 91-70, 1991-2 C.B. 899.

DECs.—If you are reporting a total distribution from a plan that includes a distribution of deductible voluntary employee contributions (DECs), file two Forms 1099-R—one to report the distribution of DECs, the other to report the distribution from the other part of the plan. Report the distribution of DECs in boxes 1 and 2a on the separate Form 1099-R. However, for the direct rollover (explained below) of funds that include DECs, file only one Form 1099-R to report the direct rollover of the entire amount. In this case, it is not necessary to report the direct rollover of DECs on a separate Form 1099-R.

Direct Rollovers and Transfers.—You must report a direct rollover of an eligible rollover distribution. A direct rollover is the direct payment of the distribution to an eligible retirement plan, including an IRA. An **eligible rollover distribution** is the taxable part of any distribution (including net unrealized appreciation) from a qualified plan (or tax-sheltered annuity but

not an IRA) except (1) one of a series of substantially equal periodic payments (at least annually) made for the life (or life expectancy) of the employee or for the joint lives (or life expectancies) of the employee and the employee's beneficiary or for a specified period of 10 years or more, and (2) any part of a distribution that is a minimum distribution required by section 401(a)(9). Other exceptions may apply. See Codes G and H under **Box 7** later.

Amounts paid under an annuity contract purchased for and distributed to a participant under a qualified plan can qualify as eligible rollover distributions. (See Notice 93-26, 1993-1 C.B. 308.) An offset amount to repay a plan loan can be an eligible rollover distribution. An amount equal to the offset can be rolled over, but the plan is not required to permit a participant a direct rollover of an offset amount. A deemed distribution of a plan loan under section 72(p) cannot be an eligible rollover distribution. (See Notice 93-3, 1993-1 C.B. 293.)

For information on withholding on eligible rollover distributions that are not direct rollovers, see **Box 4** later. For more information on direct rollovers, see Temporary Regulations sections 1.401(a)(31)-1T, 1.402(c)-2T, 1.402(f)-2T, 1.403(b)-2T, and 31.3405(c)-1T.

Report a direct rollover in box 1 and 0 (zero) in box 2a. You do not have to report capital gain in box 3 or net unrealized appreciation in box 6. Prepare the form using the name and social security number of the person for whose benefit the funds were rolled over (generally the participant), not those of the trustee of the IRA or other plan to which the funds were rolled.

If part of the distribution is a direct rollover and part is distributed to the recipient, prepare two Forms 1099-R.

Do not report **transfers** between trustees or issuers (unless they are direct rollovers from qualified plans) that involve no payment or distribution of funds to the participant including a trustee-to-trustee transfer from one IRA to another or one tax-sheltered (section 403(b)) arrangement to another. However, a trustee-to-trustee transfer from a conduit IRA to a qualified plan is considered a distribution and subsequent rollover and must be reported.

You may have to report exchanges of insurance contracts, including an exchange under section 1035, under which any designated distribution may be made. For a section 1035 exchange that is in part taxable, file a separate Form 1099-R to report the taxable amount. See **Section 1035 exchange** earlier.

Explanation to Recipients Before Eligible Rollover Distributions (Section 402(f) Notice).—No more than 90 days and no fewer than 30 days before making an eligible rollover distribution, the plan administrator must provide a written explanation to the recipient. The plan administrator must explain the rollover rules, the special tax treatment for lump-sum distributions, the direct rollover option, and the mandatory 20%

withholding rules. Notice 92-48, 1992-2 C.B. 377, contains a model notice the plan administrator can use to satisfy this requirement. Notice 93-26 explains an exception to the 30-day rule and special rules for tax-sheltered (section 403(b)) annuities.

Beneficiaries.—Prepare Form 1099-R using the name and taxpayer identification number (TIN) of the beneficiary or estate, not those of the decedent. If there are multiple beneficiaries, report on each Form 1099-R only the amount paid to the beneficiary whose name appears on the Form 1099-R, and enter the percentage in box 9a, if applicable.

Nonresident Aliens.—If income tax is withheld under section 3405 on a distribution to a nonresident alien, report the distribution and withholding on Form 1099-R. Also file **Form 945**, Annual Return of Withheld Federal Income Tax, to report the withholding. If income tax is withheld under section 1441, report the distribution and withholding on Forms 1042 and 1042-S.

Corrective Distributions.—For reporting the distribution of excess deferrals, excess contributions, and excess aggregate contributions, see **Code 8** under **Box 7** later.

Excess Annual Additions Under Section 415.—You must report on Form 1099-R distributions made under Regulations section 1.415-6(b)(6)(iv) of elective deferrals or a return of employee contributions (and gains attributable to such employee contributions) to reduce excess annual additions arising from the allocation of forfeitures, a reasonable error in estimating a participant's compensation, or a reasonable error in determining the amount of elective deferrals that may be made for an individual under the limits of section 415.

Such distributions are not eligible rollover distributions although they are subject to income tax withholding under section 3405. They are not subject to social security, Medicare, or Federal Unemployment Tax Act (FUTA) taxes. In addition, such distributions are not subject to the early distributions tax under section 72(t) nor the excess distributions tax under section 4980A.

You may report the distribution of elective deferrals and employee contributions (and gains attributable to such employee contributions) on the same Form 1099-R. However, if other distributions are made during the year, they must be reported on a separate Form 1099-R. Because the distribution of elective deferrals is fully taxable (no part of the distribution is a return of the investment in the contract), report the total amount of the distribution in boxes 1 and 2a. Leave box 5 blank, and enter Code E in box 7. For a return of employee contributions plus gains, enter the gross distribution in box 1, the gains attributable to the employee contributions being returned in box 2a, and the employee contributions being returned in box 5. Enter Code E in box 7.

For more information, see Rev. Proc. 92-93, 1992-2 C.B. 505.

Failing the ADP or ACP Test After a Total Distribution.—If you make a total distribution in 1995 and file a Form 1099-R with the IRS and then discover in 1996 that the plan failed either the section 401(k)(3) ADP (actual deferral percentage) test for 1995 and you compute excess contributions or the section 401(m)(2) ACP (actual contribution percentage) test and you compute excess aggregate contributions, you must recharacterize part of the total distribution as excess contributions or excess aggregate contributions. First, file a CORRECTED Form 1099-R for 1995 for the correct amount of the total distribution (not including the amount recharacterized as excess contributions or excess aggregate contributions). Second, file a NEW Form 1099-R for 1995 for the excess contributions or excess aggregate contributions.

To avoid a late filing penalty if the new Form 1099-R is filed after the due date, enter in the bottom margin of Form 1096 the words "Filed To Correct Excess Contributions."

You should also issue copies of the Forms 1099-R to the plan participant with an explanation of why these new forms are being issued.

Missing Participants.—The IRS administers a letter-forwarding program that could help plan administrators contact missing retirement plan participants (or possibly their beneficiaries). To inform individuals of their rights to benefits under a retirement plan, the IRS will forward letters from plan administrators to the missing individuals if the administrators provide the names and social security numbers of the missing individuals. However, the IRS cannot disclose individuals' addresses or give confirmation of letter delivery. All undelivered letters will be destroyed.

For further information, see Rev. Proc. 94-22, 1994-1 C.B. 608, or contact the Disclosure Officer at your IRS district office.

Filer.—The payer or plan administrator must file Form 1099-R using the same name and employer identification number used to deposit any tax withheld and to file the annual withholding tax return (Form 945).

Statements to Recipients.—For information about the requirement to furnish a statement to each recipient, see part **H** under **General Instructions** earlier.

Box 1.—Enter the **total amount of the distribution** before income tax or other deductions were withheld. Include direct rollovers, premiums paid by a trustee or custodian for current life or other insurance protection (PS 58 costs), and the gross amount of IRA or SEP distributions in this box. However, in the case of a distribution by a trust representing CDs redeemed early, report the net amount distributed. Also, see **Box 6**.

Example for Computing Amount Eligible for Capital Gain Election (See Box 3.)

Step I: Total Taxable Amount

Total distribution				XXXXX
Less: 1. Current actuarial value of any annuity			XXXXX	
2. Employee contributions (minus any amounts previously distributed that were not includible in the employee's gross income)			XXXXX	
3. Net unrealized appreciation in the value of any employer securities that were a part of the lump-sum distribution		XXXXX		XXXXX
Total taxable amount				XXXXX

Step II: Capital Gain

Total taxable amount (from Step I)	×	$\frac{\text{Months of active participation before 1974}}{\text{Total months of active participation}}$	=	Capital gain
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Include in this box the value of U.S. Savings Bonds distributed from the plan. Enter the appropriate taxable amount in box 2a. Please furnish a statement to the plan participant showing the value of each bond at the time of distribution. This will provide him or her with the information necessary to figure the interest income on each bond when it is redeemed.

In addition to reporting death benefit payments made from a plan, report here any **death benefit payments** made by employers that are not made as part of a pension, profit-sharing, or retirement plan. Also enter this amount in box 2a. Enter Code 4 in box 7. For example, the board of directors of XYZ Corporation votes to pay the widow of one of its employees a lump-sum "death benefit." This amount must be reported in boxes 1 and 2a, and Code 4 must be shown in box 7.

For a section 1035 exchange, see **Section 1035 exchange under Life Insurance, Annuity, and Endowment Contracts** earlier.

Box 2a.—Generally, you must enter the amount includible as income. However, if you are unable to reasonably obtain the data needed to compute the **taxable amount**, leave this box blank. Do not include excludable or tax-deferred amounts reportable in boxes 5, 6, and 8.

For a direct rollover from a qualified plan or tax-sheltered annuity or for a nontaxable section 1035 exchange of life insurance, annuity, or endowment contracts, enter 0 (zero) in box 2a.

Include PS 58 costs that were reported in box 1. However, do not report PS 58 costs and a distribution on the same Form 1099-R. Use a separate Form 1099-R for each. Enter Code 9 in box 7 for PS 58 costs. See Regulations section 1.72-16(b) and Rev. Ruls. 55-747, 1955-2 C.B. 228, and 66-110, 1966-1 C.B. 12, for information on the cost of premiums paid by an employees' trust under a qualified plan for current life insurance protection taxable to plan participants or their beneficiaries.

If you made periodic life annuity distributions from a qualified employee plan under section 401(a), from an employee annuity under section 403(a), or from an annuity contract under section

403(b), and the annuity starting date is after July 1, 1986, you may elect to use a simplified safe harbor method to compute the taxable amount. However, for purposes of computing the taxable amount to enter in box 2a, assume the distribution is **not** eligible for the death benefit exclusion. See Notice 88-118, 1988-2 C.B. 450.

Generally, you are not required to compute the taxable amount of an **IRA or SEP** nor designate whether any part of a distribution is a return of basis attributable to nondeductible contributions. Therefore, report the total amount distributed from an IRA or SEP in box 2a. This will be the same amount reported in box 1. You may mark the "Taxable amount not determined" box in box 2b. However, in the case of a distribution by a trust representing CDs redeemed early, report the net amount distributed. Do not include any amount paid for IRA insurance protection in this box. For a distribution of contributions plus earnings from an IRA under section 408(d)(4) (previously excess contributions), report the gross distribution in box 1 and only the earnings in box 2a, and enter Code 8 or P, whichever is applicable, in box 7. For a distribution of contributions without earnings after the due date of the individual's return, under section 408(d)(5), enter 0 (zero). Include DEC distributions in this box.

Losses.—If a distribution is a loss, do not enter a negative amount in this box. For example, if stock is distributed but the value is less than the employee's aftertax contributions, enter the value of the stock in box 1, leave box 2a blank, and enter the employee's contributions in box 5.

Box 2b—Taxable amount not determined.—Enter an "X" in this box only if you are unable to reasonably obtain the data needed to compute the taxable amount. If you mark this box, leave box 2a blank unless you are reporting an IRA distribution. Please make every effort to compute the taxable amount. See Notice 88-118 for the simplified safe harbor method of computing certain taxable amounts for certain life annuity distributions from qualified plans and tax-sheltered (section 403(b)) annuities.

Box 2b—Total distribution.—Enter an "X" in this box only if the payment shown in

box 1 is a total distribution. A total distribution is one or more distributions within 1 tax year in which the entire balance of the account is distributed. Any distribution that does not meet this definition is not a total distribution. If periodic or installment payments are made, mark this box in the year the final payment is made.

Box 3.—For lump-sum distributions from qualified plans only, enter the amount in box 2a eligible for the **capital gain** election under section 1122(h)(3) of the Tax Reform Act of 1986 for participants born before 1936 (or their beneficiaries). Enter the full amount eligible for the capital gain election. You should not complete this box for a direct rollover.

To compute the months of an employee's active participation before 1974, count as 12 months any part of a calendar year in which an employee actively participated under the plan; for active participation after 1973, count as 1 month any part of a month in which the employee actively participated under the plan. See the example at the top of this page.

Active participation begins with the first month in which an employee became a participant under the plan and ends with the earliest of:

1. The month in which the employee received a lump-sum distribution under the plan;
2. In the case of an employee, other than a self-employed person or owner-employee, the month in which the employee separates from service;
3. The month in which the employee dies; or
4. For a self-employed person or owner-employee, the first month in which the employee becomes disabled (within the meaning of section 72(m)(7)).

For a charitable gift annuity, see **Charitable Gift Annuities** earlier.

Box 4.—Enter any **Federal income tax withheld**. This withholding is subject to deposit rules, and the withholding tax return is **Form 945**, Annual Return of Withheld Federal Income Tax.

Note: *The amount withheld cannot be more than the sum of the cash and the fair market value of property (excluding employer securities) received in the distribution.*

For **periodic payments** that are not eligible rollover distributions, withhold on the taxable part as though the periodic payments were wages, based on the recipient's **Form W-4P**, Withholding Certificate for Pension or Annuity Payments. The recipient may request additional withholding on Form W-4P or claim exemption from withholding. If a recipient does not submit a Form W-4P, withhold by treating the recipient as married with three withholding allowances. See **Circular E**, Employer's Tax Guide, for wage withholding tables.

Note: *Rather than Form W-4P, military retirees should give you Form W-4,*

Employee's Withholding Allowance Certificate.

Withhold 10% of the taxable part of a **nonperiodic distribution** that is not an eligible rollover distribution. The recipient may request additional withholding on Form W-4P or claim exemption from withholding.

If a payee fails to furnish his or her correct TIN to you in the manner required, or if the IRS notifies you before any distribution that the TIN furnished is incorrect, a payee cannot claim exemption from withholding. Backup withholding does not apply.

Withhold 20% of an **eligible rollover distribution** from a qualified plan that is not a direct rollover. A recipient cannot claim exemption from withholding for such a distribution; however, no withholding is required for a direct rollover. Although the same rules generally apply to an eligible rollover distribution from a tax-sheltered annuity, a special effective date may apply. Any net unrealized appreciation excludable from gross income under section 402(e)(4) is not included in the amount of any eligible rollover distribution that is subject to 20% withholding. (See Notice 93-3.) You are not required to withhold 20% of an eligible rollover distribution that, when aggregated with other eligible rollover distributions made to one person during the year, is less than \$200. Form W-4P is not required for an eligible rollover distribution since 20% withholding is mandatory.

The 20% withholding does not apply to distributions from IRAs. For purposes of withholding, assume that the entire amount of an IRA distribution is taxable (except for the distribution of contributions under sections 408(d)(4), in which only the earnings are taxable, and 408(d)(5)).

Even though you may be using Code 1 in box 7 to designate an early distribution subject to the 10% tax specified in sections 72(q), (t), or (v), you are not required to withhold that tax.

See Cir. E and the **Instructions for Form 945** for more withholding information.

Box 5.—Enter the **employee's contributions** to a profit-sharing or retirement plan, or **insurance premiums**. The entry in box 5 can include the tax-free part of any of the following: (a) contributions actually made by the employee over the years under the retirement or profit-sharing plan that were required to be included in the income of the employee when contributed ("aftertax contributions"), (b) contributions made by the employer but considered to have been contributed by the employee under section 72(f), (c) the accumulated cost of premiums paid for life insurance protection, taxable to the employee in previous years and in the current year under Regulations section 1.72-16 (PS 58 costs) (only if the life insurance contract itself is distributed), and (d) premiums paid on commercial annuities. Do not include contributions to IRAs, SEPs, DECS, 401(k) plans, or any

contribution to a retirement plan that was not an aftertax contribution.

Generally, for qualified plans, tax-sheltered annuities, and nonqualified commercial annuities, enter in box 5 the employee contributions or insurance premiums recovered tax free during the year based on the method you used to determine the taxable amount to be entered in box 2a. If periodic payments began before 1993, you are not required to, but you are encouraged to, report in box 5. Also, you may have to report the total employee contributions in box 9b. See **Box 9b** later.

If a total distribution is made, the total employee contributions or insurance premiums available to be recovered tax free must be shown only in box 5. If any previous distributions were made, any amount recovered tax free in prior years must not appear in box 5. See **Box 9b** later for more information about reporting total employee contributions.

If you are unable to reasonably obtain the data necessary to compute the taxable amount, leave boxes 2a and 5 blank, and mark the box in box 2b.

For more information, see Rev. Proc. 92-86, 1992-2 C.B. 495.

For charitable gift annuities, see **Charitable Gift Annuities** earlier.

Box 6.—Use this box if a distribution includes securities of the employer corporation (or a subsidiary or parent corporation) and you can compute the **net unrealized appreciation (NUA)** in the employer's securities. Enter all the NUA in employer securities if this is a lump-sum distribution. If this is not a lump-sum distribution, enter only the NUA in employer securities attributable to employee contributions. See Regulations section 1.402(a)-1(b) for the determination of the NUA. Also see Notice 89-25 (Q/A-1), 1989-1 C.B. 662. Include the NUA in box 1 but not in box 2a. You do not have to complete this box for a direct rollover.

Box 7.—Enter the appropriate **code(s)** from the list below that shows the type of distribution being made. Also, enter an "X" in the IRA/SEP checkbox if the distribution is from an IRA or SEP.

Read the codes carefully and enter the appropriate codes accurately because the IRS uses the codes to help determine whether the recipient has properly reported the distribution. If the codes you enter are incorrect, the IRS may improperly propose changes to the recipient's taxes.

Use the codes below for distributions from IRAs, SEPs, Keoghs, qualified plans, commercial annuities, insurance contracts, etc.

A numeric code must be entered, except when Code P, D, E, F, G, or H is used. When applicable, you may enter a numeric and an alpha code. For example, when using a Code P for an IRA distribution under section 408(d)(4), you may also enter Code 1, if it applies. Or for a normal distribution from a qualified plan that qualifies for 5- or 10-year averaging, enter Codes 7 and A. For a direct rollover

to an IRA for the surviving spouse of a deceased participant, enter Codes 4 and G. Do not use Code 4 with Code H.

Only two numeric combinations are permitted: Codes 8 and 1, or 8 and 2. If two other numeric codes are applicable, you must file more than one Form 1099-R. For example, if part of a distribution is premature (Code 1) and part is not, one Form 1099-R must be filed for the part to which Code 1 applies and another Form 1099-R for the part that is a normal distribution, Code 7. In addition, for the distribution of excess deferrals, excess contributions, or excess aggregate contributions, parts of the distribution may be taxable in two or three different years. Thus, separate Forms 1099-R must be filed using Code 8, P, or D to indicate the year the amount is taxable.

If part of an eligible rollover distribution is paid in a direct rollover and part is not, you must file a separate Form 1099-R for each part showing the appropriate code on each form. If part of a distribution is an eligible rollover distribution and part is not (e.g., a minimum distribution required by section 401(a)(9)) and the part that is an eligible rollover distribution is directly rolled over, you must file a separate Form 1099-R to report each part.

Codes.—

1—Early (premature) distribution, no known exception. Use Code 1 only if the employee/taxpayer has not reached age 59½, and only if none of the exceptions under section 72(q), (t), or (v) are known to apply. For example, if a hardship distribution is made for medical expenses, you probably will not know if the medical expense exception under section 72(t) applies. Therefore, use Code 1.

2—Early (premature) distribution, exception applies (as defined in section 72(q), (t), or (v)). Use Code 2 only if the employee/taxpayer has not reached age 59½ to indicate that an exception under 72(q), (t), or (v) applies. However, instead of Code 2, use Code 3 or 4, whichever applies, for an early distribution due to disability or death.

3—Disability.

4—Death. Use Code 4 regardless of the age of the employee/taxpayer to indicate payment to a decedent's beneficiary, including an estate or trust. Also use it for death benefit payments made by an employer but not made as part of a pension, profit-sharing, or retirement plan.

5—Prohibited transaction.

6—Section 1035 exchange. Use Code 6 to indicate the tax-free exchange of life insurance, annuity, or endowment contracts under section 1035.

7—Normal distribution. Use Code 7 for a normal distribution from any plan, including an IRA or SEP, if the employee/taxpayer is at least 59½. Also use Code 7 to report a distribution from a life insurance, annuity, or endowment contract and for reporting income from a failed life insurance contract under section 7702(g) and (h). (See Rev. Rul. 91-17, 1991-1 C.B. 190.) Generally, use Code 7 if no other code applies.

8—Excess contributions plus earnings/excess deferrals (and/or earnings) taxable in 1995. Use Code 8 for an IRA distribution under section 408(d)(4), unless Code P applies. Also use this code for corrective distributions of excess deferrals, excess contributions, and excess aggregate contributions, unless Code P or D applies. For information about reporting corrective distributions, see Notice 89-32, 1989-1 C.B. 671; Notice 88-33, 1988-1 C.B. 513; and Notice 87-77, 1987-2 C.B. 385. (Notice 88-33 was modified by Rev. Proc. 91-44, 1991-2 C.B. 733, to provide that the income allocable to an excess contribution to a SARSEP (salary reduction simplified employee pension) is includable in gross income in the year withdrawn from the IRA.) Also see **IRA Revocation** earlier.

9—PS 58 costs. Use Code 9 to report premiums paid by a trustee or custodian for current life or other insurance protection (PS 58 costs). See **Box 2a** for more information.

P—Excess contributions plus earnings/excess deferrals taxable in 1994. See the explanation for Code 8. The IRS suggests that anyone using Code P for the refund of an IRA contribution under section 408(d)(4) advise payees, at the time the distribution is made, that the earnings are taxable in the year in which the contribution was made.

A—May be eligible for 5- or 10-year averaging. Use Code A to indicate that the distribution is eligible for the averaging method of computing the tax on lump-sum distributions under section 402(d). To determine whether the distribution may be eligible for averaging, you need not consider whether the recipient used averaging (or capital gain treatment) in the past.

B—May be eligible for death benefit exclusion. Use Code B to indicate that the distribution is eligible for the death benefit exclusion under section 101(b).

C—May be eligible for both A and B.

D—Excess contributions plus earnings/excess deferrals taxable in 1993. See the explanation for Code 8.

E—Excess annual additions under section 415. Use Code E alone. Do not use Code 1 or 2 with Code E.

F—Charitable gift annuity.

G—Direct rollover to IRA. Do not use this code for a distribution from an IRA. Do not use this code with any other code except Code 4, when applicable.

H—Direct rollover to qualified plan or tax-sheltered annuity. Do not use this code with any other code.

Box 8.—Enter the current actuarial value of an annuity contract that is a part of a lump-sum distribution. Do not include this item in boxes 1 and 2a.

To determine the value of an annuity contract, show the value as an amount equal to the current actuarial value of the annuity contract, reduced by an amount equal to the excess of the employee's contributions over the cash and other

property (not including the annuity contract) distributed.

If an annuity contract is part of a multiple recipient lump-sum distribution, enter in box 8, along with the current actuarial value, the percentage of the total annuity contract each Form 1099-R represents.

Box 9a.—If this is a total distribution and it is made to **more than one person**, enter the **percentage** received by the person whose name appears on Form 1099-R. You need not complete this box for IRA or SEP distributions or for a direct rollover.

Box 9b.—If a distribution is payable in the form of a life annuity eligible for the simplified safe harbor method under Notice 88-118 (qualified plans and tax-sheltered (section 403(b)) annuities), you must also report the **total employee contributions** remaining to be recovered tax free. Report the total employee contributions only in the year periodic payments begin.

If any previous distributions were made, any amount recovered tax free in prior years must not appear in this box. In addition, you need not report the total employee contributions if the distribution is not eligible for the simplified safe harbor method under Notice 88-118.

For a total distribution, the total employee contributions must be shown only in box 5. See **Box 5** earlier.

Boxes 10–15.—These boxes and Copies 1 and 2 are provided for your convenience only and need not be completed for the IRS. Use the **state and local information** boxes to report distributions and taxes for two states or localities. Keep the information for each state or locality separated by the broken line. If state or local income tax has been withheld on this distribution, you may enter it in boxes 10 and 13, as appropriate. In box 11, enter the abbreviated name of the state and the payer's state identification number. The state number is the payer's identification number assigned by the individual state. In box 14, enter the name of the locality. In boxes 12 and 15 you may enter the amount of the state or local distribution. Copy 1 may be used to provide information to the state or local tax department, and Copy 2 may be used as the recipient's copy for use in filing a state or local income tax return.

Form 1099-S

File Form 1099-S, **Proceeds From Real Estate Transactions**, to report the sale or exchange of real estate.

Note: *You are not required to indicate on Form 1099-S that the transferor's (seller's) financing was Federally subsidized. Also, you are not required to enter (1) both total gross proceeds and the allocated gross proceeds for a multiple transferor transaction (enter either one or the other); (2) an indication that the transferor may receive property or services for an obligation having a stated principal amount; or (3) an indication that, in connection with a contingent payment transaction, the*

transferor may receive gross proceeds that cannot be determined with certainty under the regulations and is not included in gross proceeds.

Reportable Real Estate.—Generally, reporting is required if the transaction consists in whole or in part of the sale or exchange for money, indebtedness, property, or services, of any present or future ownership interest in any of the following:

1. Improved or unimproved land, including air space.
2. Inherently permanent structures, including any residential, commercial, or industrial building.
3. A condominium unit and its appurtenant fixtures and common elements, including land.
4. Stock in a cooperative housing corporation (as defined in section 216).

Sale or exchange.—A sale or exchange includes any transaction properly treated as a sale or exchange for Federal income tax purposes, even if the transaction is not currently taxable. For example, a sale of a principal residence is a reportable sale even though the transferor may be entitled to defer recognition of the gain on the sale because of the purchase of a new residence under section 1034 or because the transferor is entitled to exclude the gain under section 121 because of being age 55. Likewise, a transfer to a corporation that qualifies for nonrecognition of gain under section 351 is a reportable exchange. In addition, a transfer under a land contract is reportable in the year in which the parties enter into the contract.

Ownership interest.—An ownership interest includes fee simple interests, life estates, reversions, remainders, and perpetual easements. It also includes any previously created rights to possession or use for all or part of any particular year, e.g., a leasehold, easement, or timeshare, if such rights have a remaining term of at least 30 years, including any period for which the holder may renew such rights, determined on the date of closing. For example, a preexisting leasehold on a building with an original term of 99 years and a remaining term of 35 years on the closing date is an ownership interest; however, if the remaining term is 10 years, it is not an ownership interest. An ownership interest does not include any option to acquire real estate.

Involuntary conversion.—A sale of real estate under threat or imminence of seizure, requisition, or condemnation is generally a reportable transaction.

Exceptions.—The following is a list of transactions that are **not reportable**. However, you may choose to report them; but if you do, the return filed and the statement furnished to the transferor must comply with the reporting rules.

1. Any transaction in which the transferor is a corporation (or is considered to be a corporation under Regulations section 1.6045-4(d)(2)), a governmental unit, including a foreign government or an

international organization, or an exempt volume transferor. Under this rule, if there are exempt and nonexempt transferors, you must file Form 1099-S only for the nonexempt transferors.

Exempt volume transferor.—An exempt volume transferor is someone who sold or exchanged during the year, who expects to sell or exchange during the year, or who did sell or exchange in either of the 2 previous years, at least 25 separate items of reportable real estate to at least 25 separate transferees. In addition, each item of reportable real estate must have been held, at the date of closing, or will be held, primarily for sale or resale to customers in the ordinary course of a trade or business. You are not required to report an exempt volume transferor's transactions if you receive the penalties of perjury certification required by Regulations section 1.6045-4(d)(3).

2. Any transaction that is not a sale or exchange, including a bequest, a gift (including a transaction treated as a gift under section 1041), and a financing or refinancing that is not related to the acquisition of real estate.

3. A transfer in full or partial satisfaction of a debt secured by the property. This includes a foreclosure, a transfer in lieu of foreclosure, or an abandonment.

4. A de minimis transfer for less than \$600. A transaction is de minimis if it can be determined with certainty that the total money, services, and property received or to be received is less than \$600, as measured on the closing date. For example, if a contract for sale provides for total consideration of "\$1.00 plus other valuable consideration," the transfer is not a de minimis transfer unless you can determine that the "other valuable consideration" is less than \$599, as measured on the closing date. The \$600 rule applies to the transaction as a whole, not separately to each transferor.

The following are also not reportable if the transaction is not related to the sale or exchange of reportable real estate:

1. An interest in crops or surface or subsurface natural resources, i.e., timber, water, ores, and other natural deposits, whether or not such crops or natural resources are severed from the land.

2. A burial plot or vault.

3. A manufactured structure used as a dwelling that is manufactured and assembled at a location different from that where it is used, but only if such structure is not affixed, on the closing date, to a foundation. This exception applies to an unaffixed mobile home.

Timber Royalties.—Report on Form 1099-S payments of timber royalties made under a pay-as-cut contract, reportable under section 6050N. For more information, see Announcement 90-129, 1990-48 I.R.B. 10.

Gross Proceeds.—See **Box 2** later.

Who Must File.—Generally, the person responsible for closing, as explained in **1** below, is required to file Form 1099-S. If no one is responsible for closing, the

person required to file Form 1099-S is explained in **2** below. However, you may designate the person required to file Form 1099-S in a written agreement, as explained under **3** below.

Note: For each transaction, please be sure that only one person is responsible for filing and that only one Form 1099-S is filed for each transferor.

1. If you are the **person responsible for closing the transaction**, you must file Form 1099-S. If a Uniform Settlement Statement, prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA), is used, the person responsible for closing is the person listed as the settlement agent on that statement. A Uniform Settlement Statement includes any amendments, variations, or substitutions that may be prescribed under RESPA if any such form requires disclosure of the transferor and transferee, the application of the proceeds, and the name of the settlement agent or other person responsible for preparing the settlement statement.

If a Uniform Settlement Statement is not used, or no settlement agent is listed, the person responsible for closing is the person who prepares the closing statement, including a settlement statement or other written document that identifies the transferor, transferee, and real estate transferred, and that describes how the proceeds are to be disbursed.

If no closing statement is used, or if two or more statements are used, the person responsible for closing is, in the following order: **(a)** the transferee's attorney if the attorney is present at the delivery of either the transferee's note or a significant part of the cash proceeds to the transferor or if the attorney prepares or reviews the preparation of the documents transferring legal or equitable ownership; **(b)** the transferor's attorney if the attorney is present at the delivery of either the transferee's note or a significant part of the cash proceeds to the transferor or if the attorney prepares or reviews the preparation of the documents transferring legal or equitable ownership; or **(c)** the disbursing title or escrow company that is most significant in disbursing gross proceeds. If there is more than one attorney described in **(a)** or **(b)**, the one whose involvement is most significant is the person responsible for filing.

2. If no one is responsible for closing the transaction as explained in **1** above, the person responsible for filing is, in the following order: **(a)** the mortgage lender, **(b)** the transferor's broker, **(c)** the transferee's broker, or **(d)** the transferee.

For purposes of **2** above, apply the following definitions:

a. Mortgage lender means a person who lends new funds in connection with the transaction, but only if the loan is at least partially secured by the real estate. If there is more than one lender, the one who lends the most new funds is the mortgage lender. If several lenders advance equal amounts of new funds, and no other person advances a greater amount of new

funds, the mortgage lender is the one who has the security interest that is most senior in priority. Amounts advanced by the transferor are not treated as new funds.

b. Transferor's broker means the broker who contracts with the transferor and who is compensated for the transaction.

c. Transferee's broker means the broker who significantly participates in the preparation of the offer to acquire the property or who presents such offer to the transferor. If there is more than one such person, the transferee's broker is the one who most significantly participates in the preparation of the acquisition offer. If there is no such person, the one who most significantly participates in the presentation of the offer is the transferee's broker.

d. Transferee means the person who acquires the greatest interest in the property. If no one acquires the greatest interest, the transferee is the person listed first on the ownership transfer documents.

3. Designation agreement.—You can enter into a designation agreement at or before closing to designate who must file Form 1099-S for the transaction. The agreement will identify the person responsible for filing if such designated person signs the agreement. It is not necessary that all parties to the transaction (or that more than one party) enter into the agreement.

You may be designated in the agreement as the person who must file if you are the person responsible for closing (as explained in **1** above), the transferee's or transferor's attorney (as explained in **1** above), a title or escrow company that is most significant in terms of the gross proceeds disbursed, or the mortgage lender (as explained in **2a** above).

The designation agreement may be in any form and may be included on the closing statement. It must identify by name and address the person designated as the person responsible for filing; it must include the names and addresses of each person entering into the agreement; it must be signed and dated by all persons entering into the agreement; it must include the names and addresses of the transferor and transferee; and it must include the address and any other information necessary to identify the property. Each person who signs the agreement must retain it for 4 years.

Employees, Agents, and Partners.—If an employee, agent, or partner, acting within the scope of such person's employment, agency, or partnership, participates in a real estate transaction, only the employer, principal, or partnership (not the employee, agent, or partner) may be the reporting person. However, the participation of a person listed on the Uniform Settlement Statement as the settlement agent acting as an agent of another is not attributed to the principal.

Foreign Transferors.—Sales or exchanges involving foreign transferors are reportable on Form 1099-S. For information on the transferee's responsibility to withhold income tax when a U.S. real property

interest is acquired from a foreign person, see **Pub. 515**, Withholding of Tax on Nonresident Aliens and Foreign Corporations, and **Form 8288**, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests.

Multiple Transferors.—For multiple transferors of the same real estate, you must file a separate Form 1099-S for each transferor. At or before closing, you must request from the transferors an allocation of the gross proceeds among the transferors. The request and the response are not required to be in writing. You must make a reasonable effort to contact all transferors of whom you have knowledge. However, you may rely on the unchallenged response of any transferor, and you need not make additional contacts with other transferors after at least one complete allocation is received (100% of gross proceeds, whether or not received in a single response). If you receive the allocation, report gross proceeds on each Form 1099-S accordingly.

You are not required to, but you may, report gross proceeds in accordance with an allocation received after the closing date but before the due date of Form 1099-S (without extensions). However, you cannot report gross proceeds in accordance with an allocation received on or after the due date of Form 1099-S (without extensions).

If no gross proceeds are allocated to a transferor because no allocation or an incomplete allocation is received, you must report the total unallocated gross proceeds on the Form 1099-S made for that transferor. If you do not receive any allocation or you receive conflicting allocations, report on each transferor's Form 1099-S the total unallocated gross proceeds.

Husband and wife.—If the transferors were husband and wife, at the time of closing, who held the property as joint tenants, tenants by the entirety, tenants in common, or as community property, treat them as a single transferor. Only one Form 1099-S showing either of them as the transferor is required. You need not request an allocation of gross proceeds if husband and wife are the only transferors. But if you receive an uncontested allocation of gross proceeds from them, file Form 1099-S for each spouse according to the allocation. If there are other transferors, you must make a reasonable effort to contact either the husband or wife to request an allocation.

Partnerships.—If the property is transferred by a partnership, file only one Form 1099-S for the partnership, not separate Forms 1099-S for each partner.

Multiple Assets Sold.—If real estate is sold or exchanged and other assets are sold or exchanged in the same transaction, report the total gross proceeds from the entire transaction on Form 1099-S.

Taxpayer Identification Numbers (TINs).—You must request the transferor's TIN no later than the time of closing. The TIN request need not be made in a

separate mailing. Rather, it may be made in person or in a mailing that includes other items. The transferor is required to furnish his or her TIN and to certify that the TIN is correct.

You may request a TIN on **Form W-9**, Request for Taxpayer Identification Number and Certification. Alternatively, you may provide a written statement to the transferor similar to the following: "You are required by law to provide [insert name of person responsible for filing] with your correct taxpayer identification number. If you do not provide [insert name of person responsible for filing] with your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law." The solicitation must contain space for the name, address, and TIN of the transferor, and a place to certify under penalties of perjury that the TIN furnished is the correct TIN of the transferor. The certification must read similar to: "Under penalties of perjury, I certify that the number shown on this statement is my correct taxpayer identification number." If you use a Uniform Settlement Statement (under RESPA), you may provide a copy of such statement, appropriately modified to solicit the TIN, to the transferor. Keep the Form W-9 or substitute form in your records for 4 years.

Separate Charge Prohibited.—The law prohibits any person required to file Form 1099-S from separately charging any customer a fee for complying with the requirements to file Form 1099-S.

Statements to Transferors.—For information about the requirement to furnish a statement to the transferor, see part **H** under **General Instructions** earlier.

Filer's Name and Address Box.—Enter the name and address of the person who is filing Form 1099-S. This information must be the same as the filer information reported on Form 1096.

Transferor's Name and Address Box.—Enter the name and address of the seller or other transferor of the real estate. If a husband and wife are joint sellers, it is only necessary to enter one name and the TIN for that person on the form.

Box 1.—Enter the **closing date**. If a Uniform Settlement Statement (under RESPA) is used, the closing date is the date shown as the settlement date on such statement. If a Uniform Settlement Statement is not used, the closing date is the earlier of the date title transfers or the date the economic burdens and benefits of ownership shift to the transferee. Please use the following format to indicate the date: MMDDYY. For example, for January 7, 1995, enter 010795.

Box 2.—Enter the **gross proceeds** from the sale or exchange of real estate. Gross proceeds means any cash received or to be received for the real property by or on behalf of the transferor, including the stated principal amount of a note payable to or for the benefit of the transferor and including a note or mortgage paid off at settlement. If the transferee assumes a liability of the transferor or takes the

property subject to a liability, such liability is treated as cash and is includible as part of gross proceeds. For a contingent payment transaction, include the maximum determinable proceeds. Also see **Multiple Assets Sold** earlier.

If you are reporting a like-kind exchange of property for which no gross proceeds are reportable, enter 0 (zero) in box 2 and mark the checkbox in box 4.

Gross proceeds do not include the value of property or services received or to be received by, or on behalf of, the transferor or separately stated cash received for personal property, such as draperies, carpeting, or a washer and dryer.

Do not reduce gross proceeds by any expenses paid by the transferor, such as sales commissions, deed preparation, advertising, and legal expenses. If a Uniform Settlement Statement (under RESPA) is used for a transfer of real estate for cash and notes only, gross proceeds generally will be the contract sales price shown on that statement. If other property or services were exchanged, see **Box 4** below.

Contingent payment transaction.—A contingent payment transaction is one in which the receipt, by or on behalf of the transferor, is subject to a contingency. The maximum determinable proceeds means the greatest amount of gross proceeds possible if all the contingencies are satisfied. If the maximum amount of gross proceeds cannot be determined with certainty, the maximum determinable proceeds are the greatest amount that can be determined with certainty.

Box 3.—Enter the **address** of the property, including the city, state, and ZIP code, and if the address does not sufficiently identify the property, also enter a legal description, such as section, lot, and block. For timber royalties, enter "Timber."

Box 4.—If the transferor received or will receive **property** (other than cash and consideration treated as cash in computing gross proceeds) or **services** as part of the consideration for the property, enter an "X" in the checkbox in box 4.

Box 5.—For a real estate transaction involving a residence, enter **real estate tax** paid in advance that is allocable to the purchaser. You do not have to report an amount as allocable to the purchaser for real estate taxes paid in arrears. You may use the appropriate information included on the HUD-1, or comparable form, provided at closing. For example, a residence is sold in a county where the real estate tax is paid annually in advance. The seller paid real estate taxes of \$1,200 for the year in which the sale took place. The sale occurred at the end of the ninth month of the real estate tax year. Therefore, \$300 of the tax paid in advance is allocated to the buyer, by reference to the amount of real estate tax shown on the HUD-1 as paid by the seller in advance, and is reported in box 5.

Caution: *The information about reporting real estate taxes in box 5 is based on Notice 93-4, 1993-1 C.B. 295. If the reporting requirement is expanded, the IRS*

will announce the new requirements in the *Internal Revenue Bulletin*.

Form 5498

File Form 5498, **Individual Retirement Arrangement Information**, with the IRS on or before May 31, 1996, for each person for whom you maintained an individual retirement arrangement (IRA) or simplified employee pension (SEP) during 1995. For all SEPs, complete only box 4 for the value of the account; do not report employer SEP contributions in box 1, including those made under section 408(k)(6), relating to a salary reduction SEP (SARSEP), on Form 5498. For an IRA, complete all applicable boxes. If no IRA contributions were made for 1995, complete only box 4.

For contributions made between January 1 and April 15, 1996, trustees and issuers should obtain the participant's designation of the year for which the contributions are made.

Direct Rollovers and Transfers.—You must report the receipt of a direct rollover from a qualified plan or tax-sheltered annuity. Report a direct rollover in box 2. For information on direct rollovers of eligible rollover distributions, see **Form 1099-R** earlier.

However, do not report a direct trustee-to-trustee transfer from one IRA to another. For reporting purposes, contributions and rollovers do not include these transfers.

Statements to Participants.—Trustees or issuers of IRAs or SEPs must provide participants with a statement of the December 31, 1995, value of the participant's account by January 31, 1996, in any written format. Trustees or issuers of IRAs must provide participants with contribution information by May 31. You are not required to provide information to the IRS or to participants as to whether a contribution is deductible or nondeductible. In addition, the participant is not required to tell you whether a contribution is deductible or nondeductible.

If the trustee or issuer furnished a statement of the fair market value of the IRA to the participant by January 31, 1996, and no contributions were made to the IRA by the participant for 1995, the trustee or issuer need not furnish another statement (or Form 5498) to the participant to report zero contributions. However, Form 5498 must be filed with the IRS by May 31, 1996, to report the December 31, 1995, fair market value of the IRA. This rule also applies to beneficiary accounts under the inherited IRA rules below.

Note: *If the trustee or issuer does not furnish another statement to the participant because no contributions were made for the year, the statement of the fair market value of the account must contain a legend designating which information is being furnished to the Internal Revenue Service.*

Total Distribution, No Contributions.—Generally, if a total distribution was made from an IRA during the year and no contributions were made for that year, you

need not file Form 5498 nor furnish the annual statement to reflect that the fair market value on December 31 was zero.

Distributions.—Report distributions from IRAs and SEPs on Form 1099-R. For a distribution of contributions plus earnings, report the distribution on Form 1099-R using the applicable code.

Inherited IRAs.—In the year an IRA owner dies, you, as an IRA trustee or issuer, generally must file a Form 5498 and furnish an annual statement for the decedent and a Form 5498 and an annual statement for each nonspouse beneficiary. An IRA holder must be able to identify the source of each IRA he or she holds for purposes of figuring the taxation of a distribution from an IRA. Thus, the decedent's name must be shown on the beneficiary's Form 5498 and annual statement. For example, you may enter "Brian Young as beneficiary of Joan Smith" or something similar that signifies that the IRA was once owned by Joan Smith. You may abbreviate the word "beneficiary" as, for example, "benef."

For a spouse beneficiary, unless the spouse makes the IRA his or her own by making contributions to the account, including a rollover contribution, or by not taking distributions required by section 401(a)(9)(B), treat the spouse as a nonspouse beneficiary for reporting purposes. If the spouse makes the IRA his or her own, report on Form 5498 and the annual statement without the beneficiary designation.

Fair market value.—On the decedent's Form 5498 and annual statement, you must enter the fair market value of the IRA on the date of death in box 4. Or you may choose the alternate reporting method and report the fair market value as of the end of the year in which the decedent died. This alternate value will usually be zero because you will be reporting the end-of-year valuation on the beneficiary's Form 5498 and annual statement, and the same figure should not be shown on both the beneficiary's and decedent's forms. If you choose to report using the alternate method, you must inform the executor or administrator of the decedent's estate of his or her right to request a date-of-death valuation. If you use the language for box 4 on the back of Copy B of the official 1995 Form 5498, or you use the official Copy B, you will have met this notice requirement.

On the beneficiary's Form 5498 and annual statement, the fair market value of that beneficiary's share of the IRA as of the end of the year must be shown in box 4. Every year thereafter that the IRA exists, you must file Form 5498 and furnish an annual statement for each beneficiary who has not received a total distribution of his or her share of the IRA showing the fair market value at the end of the year and identifying the IRA as described above.

However, if a beneficiary takes a total distribution of his or her share of the IRA in the year of death, you need not file a Form 5498 nor furnish an annual statement for that beneficiary.

If you have no knowledge of the death of an IRA owner until after you are required to file Form 5498 (May 31), you are not required to file a corrected Form 5498 nor furnish a corrected annual statement. However, you must still provide the date-of-death valuation in a timely manner to the executor or administrator upon request.

For more information about the reporting requirements for inherited IRAs, see Rev. Proc. 89-52, 1989-2 C.B. 632.

Desert Storm Contributions.—For information about reporting contributions for a prior year made by a qualifying Desert Storm/Shield individual, see Notice 91-17, 1991-1 C.B. 319, and the 1994 Form 5498 instructions.

Box 1.—Enter **regular contributions** to an IRA made in 1995 and through April 15, 1996, designated for 1995. Also include employee contributions to an IRA under a SEP plan but only those that would be subject to the deduction limit under section 219. Report gross contributions, including the amount allocable to the cost of life insurance (see **Box 3**) and including any excess contributions, even if the excess contributions were withdrawn. If an excess contribution is treated as a contribution in a subsequent year, do not report it on Form 5498 for the subsequent year. It has already been reported as a contribution on Form 5498 for the year it was actually contributed.

Box 2.—Enter **rollover contributions**, including direct rollovers from a qualified plan or tax-sheltered annuity, made to an IRA received by you during 1995.

Box 3.—For endowment contracts only, enter the amount included in box 1 allocable to the **cost of life insurance**.

Box 4.—Enter the **fair market value** of the IRA or SEP account on December 31. For inherited IRAs, see **Inherited IRAs** earlier.

Form W-2G

The requirements for filing Form W-2G, **Certain Gambling Winnings**, and for withholding on certain gambling winnings depend on the type of gambling, the amount of the gambling winnings, and generally the ratio of the winnings to the wager.

The types of gambling are grouped as follows:

1—Horse Racing, Dog Racing, Jai Alai, and Other Wagering Transactions Not Discussed Later

2—Sweepstakes, Wagering Pools, and Lotteries (Including State-Conducted Lotteries)

3—Keno, Bingo, and Slot Machines

Reportable Gambling Winnings.—If you pay "reportable gambling winnings," you must file Form W-2G with the IRS and provide a statement to the winner. Generally, gambling winnings are reportable if the amount paid reduced, at the option of the payer, by the wager is (1) \$600 or more and (2) at least 300 times the amount of the wager. However, these

two requirements do not apply to winnings from keno, bingo, and slot machines. If the winnings from a keno game (reduced by the wager) are \$1,500 or more, they are reportable gambling winnings. If the winnings (not reduced by the wager) from a bingo game or slot machine play are \$1,200 or more, they are reportable gambling winnings.

Regular Gambling Withholding.—A payer of certain gambling winnings (not including winnings from keno, bingo, and slot machines) is required to withhold 28% from such winnings and report this amount as Federal income tax withheld in box 2 on Form W-2G. This is referred to as regular gambling withholding. It applies if gambling winnings are more than \$5,000 and are from (1) a sweepstakes, wagering pool, or nonstate-conducted lottery, or (2) other wagering transactions when the winnings are at least 300 times the amount wagered. Regular gambling withholding applies to the total amount of gross proceeds (the amount of winnings less the amount wagered) not merely to the amount in excess of \$5,000. Report regular gambling withholding on **Form 945**, Annual Return of Withheld Federal Income Tax.

Noncash payments.—Noncash payments, such as automobiles, must be taken into account at their fair market values for purposes of reporting and withholding. If the fair market value exceeds \$5,000, after deducting the price of the wager, it is subject to regular gambling withholding. In such a case, the tax that must be withheld is computed under either of two methods as follows: (1) if payment of the withholding tax is made by the winner to the payer of winnings, 28% of the noncash payment less the amount of the wager is the withholding; (2) if the payer of winnings also pays the withholding tax on behalf of the winner, 38.88% of the noncash payment (less the wager) is the withholding. If the method under (2) is used, the sum of the noncash payment and withholding tax is entered in box 1 of Form W-2G. See Notice 93-7, 1993-1 C.B. 297.

Backup Withholding.—If a winner fails to furnish a payer of reportable gambling winnings with a correct taxpayer identification number (TIN), the payer is required to withhold 31% of the proceeds and to report this amount as Federal income tax withheld in box 2 on Form W-2G unless the winnings are already subject to regular gambling withholding as explained above. This is referred to as backup withholding. Backup withholding applies to the amount of the winnings reduced, at the option of the payer, by the amount wagered and not merely to the amounts of such reportable payments in excess of \$600, \$1,200, or \$1,500 (the thresholds for information reporting). See the instructions for each type of gambling for detailed rules for backup withholding. Report backup withholding on **Form 945**, Annual Return of Withheld Federal Income Tax.

A payer may use **Form W-9**, Request for Taxpayer Identification Number and

Certification, to request the TIN of the recipient.

Foreign Persons.—Payments of certain gambling winnings to a nonresident alien individual or a foreign corporation are not subject to reporting or withholding on Form W-2G or **Form 5754**, Statement by Person(s) Receiving Gambling Winnings, since such payments are subject to withholding under sections 1441(a) and 1442(a) and are reportable on Forms 1042 and 1042-S.

State Tax Information.—If state income tax withholding is required on gambling winnings in your state, you may want to complete boxes 13 and 14 on Form W-2G. Copy 1 of the form may be used to provide information to the state, and Copy 2 may be used as the winner's copy for use in filing a state income tax return. The state identification number is assigned by the individual state.

Form 5754.—If the person receiving the winnings is not the actual winner, or is a member of a group of winners, see **Form 5754** later.

Statements to Winners.—For information about the requirement to furnish a statement to the winner, see part **H** under **General Instructions** earlier.

1—Horse Racing, Dog Racing, Jai Alai, and Other Wagering Transactions Not Discussed Later

File Form W-2G for every person to whom you pay \$600 or more in gambling winnings if such winnings are at least 300 times the amount of the wager. You must withhold Federal income tax, at the rate of 28%, from the amount of winnings less the amount wagered if such winnings less the amount wagered exceed \$5,000 and if the winnings are at least 300 times the amount of the wager. If the winner of reportable gambling winnings does not provide a TIN, you must backup withhold at the rate of 31% on any such winnings that are not subject to regular gambling withholding under the preceding sentence. That is, if the winnings are at least \$600 but not more than \$5,000 and are at least 300 times the wager, backup withholding applies to the amount of the winnings reduced, at the option of the payer, by the amount wagered.

In the case of multiple wagers sold on one ticket, such as the \$12 box bet on a Big Triple or Trifecta, the wager will be considered to be six \$2 bets and not one \$12 bet for purposes of computing the amount to be reported or withheld. Winnings on a \$12 box bet must be reported if they are \$600 or more, and Federal income tax must be withheld if the proceeds amount to more than \$5,000 or, in the event the proceeds do not exceed \$5,000, if the recipient fails to provide a TIN.

Identical wagers (for example, two \$2 bets on a particular horse to win the same race) are aggregated for purposes of the reporting and withholding requirements. Also, winnings from identical wagers that are not part of the payment for which the

Form W-2G is being prepared are aggregated for purposes of withholding to determine if the total amount of proceeds from identical wagers is more than \$5,000. If the person presenting the ticket for payment is the sole owner of the ticket, Form W-2G should be completed showing the name, address, and identification number of the winner. If regular gambling withholding is required, the winner must sign the Form W-2G, under penalties of perjury, stating that he or she is the sole owner and that the information listed on the form is correct. In this case, Form 5754 is not used.

Box 1.—Enter payments of \$600 or more if the payment is at least 300 times the amount of the wager.

Box 2.—Enter the amount of Federal income tax withheld, whether regular withholding or backup withholding.

Box 3.—Enter the type of wager if other than a regular race bet, for example, Daily Double or Big Triple.

Box 4.—Enter the date of the winning event. This is not the date the money was paid if paid after the date of the race (or game).

Box 5.—Not applicable.

Box 6.—Enter the race (or game) applicable to the winning ticket.

Box 7.—Enter the amount of additional winnings from identical wagers.

Box 8 or 10.—Enter the cashier and/or window number making the winning payment.

Boxes 11 and 12.—Enter the identification numbers of the person receiving the winnings.

Box 13.—(optional) Enter the abbreviated name of the state and your state identification number.

Box 14.—(optional) Enter the amount of state income tax withheld.

2—Sweepstakes, Wagering Pools, and Lotteries (Including State-Conducted Lotteries)

File Form W-2G for each person to whom you pay \$600 or more in gambling winnings from a sweepstakes, wagering pool, or lottery (including a state-conducted lottery) if such winnings are at least 300 times the amount of the wager. You must withhold Federal income tax, at the rate of 28%, from the amount of winnings less the amount wagered if such winnings less the amount wagered exceed \$5,000. If the recipient of such reportable gambling winnings does not provide a TIN, you must impose backup withholding at the rate of 31% on any such winnings that are not subject to regular gambling withholding under the terms of the preceding sentence. That is, if the winnings are at least \$600 but not more than \$5,000 and are at least 300 times the wager, backup withholding applies to the amount of the winnings reduced, at the option of the payer, by the amount wagered. These requirements apply to church raffles, charity drawings, etc.

Installment payments of \$5,000 or less are subject to regular 28% gambling withholding if the aggregate proceeds from such wager will exceed \$5,000.

If payments are to be made for the life of a person (or for the lives of more than one person), and it is actuarially determined that the aggregate proceeds from such wager are expected to exceed \$5,000, such payments are subject to regular 28% gambling withholding.

The price of the wager must be deducted from the total winnings to determine whether withholding is required and at the option of the payer to determine whether reporting is required. The deduction for the cost of the wager should be made at the time of the first payment.

A payment of winnings is considered made when it is paid, either actually or constructively, to the winner. Winnings are constructively paid when they are credited to, or set apart for, that person without any substantial limitation or restriction on the time, manner, or condition of payment.

When a third party makes the payments, as in the case of an insurance company handling the winnings as an annuity, that third party must deduct and withhold.

Box 1.—Enter payments of \$600 or more.

Box 2.—Enter the amount of Federal income tax withheld, whether regular gambling withholding or backup withholding.

Box 3.—Enter the type of wager (such as raffle or 50-50 drawing) or the name of the lottery (such as Instant, Big 50, or Baker's Dozen) and the price of the wager (50¢, \$1, etc.).

Box 4.—Enter the date of the winning transaction, such as the date of the drawing of the winning number. This might not be the date the winnings are paid.

Box 5.—For a state lottery, enter the ticket number or other identifying number.

Boxes 6 through 8 and 10.— Not applicable.

Boxes 11 and 12.—For other than state lotteries, enter the identification numbers of the person receiving the winnings.

Box 13.—(optional) Enter the abbreviated name of the state and your state identification number.

Box 14.—(optional) Enter the amount of state income tax withheld.

3—Keno, Bingo, and Slot Machines

File Form W-2G for every person to whom you pay \$1,200 or more in gambling winnings from bingo or slot machines, or \$1,500 or more from keno after the price of the wager for the winning keno game is deducted. If the winnings are of a noncash nature, the fair market value of the item won is to be considered the amount of the winnings. Total all winnings from each bingo or keno game. Winnings and losses from other wagering transactions are not to be taken into account in arriving at the \$1,200 or \$1,500 figure. If the recipient of reportable gambling winnings from bingo, keno, or slot machines does not provide a TIN, you must backup withhold at the rate of 31% on any such winnings. Backup withholding applies to the amount of the winnings reduced, at the option of the payer, by the amount wagered. Regular gambling withholding does not apply to winnings from keno, bingo, or slot machines.

Box 1.—Enter payments of \$1,200 or more from bingo or slot machines or payments of \$1,500 or more from keno.

Box 2.—Enter the amount of any backup withholding.

Box 3.—Enter the type of wager, such as keno, bingo, and slot machines, and the amount of the wager.

Box 4.—Enter the date of the winning transaction.

Box 5.—Enter the ticket number, card number (and color, if applicable), machine serial number, or any other information that will help identify the winning transaction.

Boxes 6 and 7.—Not applicable.

Box 8.—Enter the initials of the person paying the winnings.

Box 10.—Enter the location of the person paying the winnings, if applicable.

Boxes 11 and 12.—Enter the identification numbers of the person receiving the winnings.

Box 13.—(optional) Enter the abbreviated name of the state and your state identification number.

Box 14.—(optional) Enter the amount of state income tax withheld.

Form 5754

Form 5754, **Statement by Person(s) Receiving Gambling Winnings**, is used only in preparing Form W-2G when the person receiving gambling winnings subject to reporting or withholding is not the actual winner or is a member of a group of two or more winners on the same winning ticket. The payer is required to file Forms W-2G based on Form 5754.

The person receiving the winnings must furnish all the information required by Form 5754. However, a recipient of winnings from a state-conducted lottery need not provide identification other than his or her taxpayer identification number. Part I lists the identification of the person to whom the winnings are paid, and Part II lists the actual winners, their respective shares of the winnings, and any additional winnings from identical wagers.

In Part II, the person receiving the winnings must provide the name, address, identification number, respective share of the winnings, and additional winnings from identical wagers for each of the winners. In addition, if regular gambling withholding is required, the form must be signed, under penalties of perjury, and dated by the person receiving the winnings. The form must be returned to the payer for preparation of Form W-2G for each of the persons listed as winners. Forms W-2G may be issued immediately or by January 31 following the year of the payment. **Do not send Form 5754 to the IRS.** Keep it for your records.

Withholding and Forms W-2G for Multiple Winners.—If more than one person shares in the winnings from a single wager, the total amount of the winnings (less the amount wagered) will determine the amount of the proceeds for purposes of reporting and withholding. Do not allocate winnings to each winner before determining whether the withholding or reporting thresholds were reached.

For example, E purchases a sweepstakes ticket for \$1 on behalf of himself and S, who contributes an equal amount of the ticket price and who will share equally in any winnings. The ticket wins \$5,002. Since the winnings (\$5,002 - \$1 = \$5,001) are more than \$5,000, you must withhold 28% of \$5,001. You must prepare Form W-2G for E and for S, using the information furnished to you on Form 5754.

Guide to Information Returns (If any date shown falls on a Saturday, Sunday, or legal holiday, the due date is the next business day.)

Form	Title	What To Report	Amounts To Report	Due Date	
				To IRS	To Recipient (unless indicated otherwise)
1042-S	Foreign Person's U.S. Source Income Subject to Withholding	Payments subject to withholding under Chapter 3 of the Code, including interest, dividends, royalties, pensions and annuities, gambling winnings, and compensation for personal services.	All amounts	March 15	March 15
1098	Mortgage Interest Statement	Mortgage interest (including points) you received in the course of your trade or business from individuals and reimbursements of overpaid interest.	\$600 or more	February 28	(To Payer/Borrower) January 31
1099-A	Acquisition or Abandonment of Secured Property	Information about the acquisition or abandonment of property that is security for a debt for which you are the lender.	All amounts	February 28	(To Borrower) January 31
1099-B	Proceeds From Broker and Barter Exchange Transactions	Sales or redemptions of securities, futures transactions, commodities, and barter exchange transactions.	All amounts	February 28	January 31
1099-C	Cancellation of Debt	Cancellation of a debt owed to a financial institution, credit union, RTC, FDIC, NCUA, or Federal Government agency.	\$600 or more	February 28	January 31
1099-DIV	Dividends and Distributions	Distributions, such as dividends, capital gain distributions, or nontaxable distributions, that were paid on stock, and distributions in liquidation.	\$10 or more, except \$600 or more for liquidations	February 28	January 31
1099-G	Certain Government Payments	Unemployment compensation, state and local income tax refunds, agricultural payments, and taxable grants.	\$10 or more for unemployment and tax refunds; \$600 or more for all others	February 28	January 31
1099-INT	Interest Income	Interest income not including interest on an IRA.	\$10 or more (\$600 or more in some cases)	February 28	January 31
1099-MISC	Miscellaneous Income (Also, use this form to report the occurrence of direct sales of \$5,000 or more of consumer goods for resale.)	Rent or royalty payments; prizes and awards that are not for services, such as winnings on TV or radio shows. Payments to crew members by owners or operators of fishing boats. Report payments of proceeds from sale of catch. Payments to a physician, physicians' corporation, or other supplier of health and medical services. Issued mainly by medical assistance programs or health and accident insurance plans. Payments for services performed for a trade or business by people not treated as its employees. Examples: fees to subcontractors or directors, expenses incurred for use of an entertainment facility treated as compensation to a nonemployee, and golden parachute payments. Substitute dividend and tax-exempt interest payments reportable by brokers. Crop insurance proceeds.	\$600 or more, except \$10 or more for royalties All payments \$600 or more \$600 or more \$10 or more \$600 or more	February 28	January 31
1099-OID	Original Issue Discount	Original issue discount.	\$10 or more	February 28	January 31
1099-PATR	Taxable Distributions Received From Cooperatives	Distributions from cooperatives to their patrons.	\$10 or more	February 28	January 31
1099-R	Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.	Distributions from retirement or profit-sharing plans, IRAs, SEPs, or insurance contracts.	All amounts	February 28	January 31
1099-S	Proceeds From Real Estate Transactions	Gross proceeds from the sale or exchange of real estate.	Generally, \$600 or more	February 28	January 31
4789	Currency Transaction Report	Each deposit, withdrawal, exchange of currency, or other payment or transfer by, through, or to financial institutions (other than casinos) that involves a transaction in currency of more than \$10,000.	Over \$10,000	Within 15 days after the date of the transaction	Not required

Guide to Information Returns (Continued)

Form	Title	What To Report	Amounts To Report	Due Date	
				To IRS	To Recipient (unless indicated otherwise)
5471	Information Return of U.S. Persons With Respect To Certain Foreign Corporations	U.S. persons who are officers, directors, or shareholders in certain foreign corporations report information required by sections 6035, 6038, and 6046, and to compute income under sections 951-964.	See form instructions	Due date of income tax return	None
5472	Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business	Transactions between a 25% foreign-owned domestic corporation or a foreign corporation engaged in a trade or business in the United States and a related party as required by sections 6038A and 6038C.	See form instructions	Due date of income tax return	None
5498	Individual Retirement Arrangement Information	Contributions (including rollover contributions) to an individual retirement arrangement (IRA), and the value of an IRA or simplified employee pension (SEP) account.	All amounts	May 31	(To Participant) (for value of account) January 31 (for contributions) May 31
8027	Employer's Annual Information Return of Tip Income and Allocated Tips	Receipts from food or beverage operations, tips reported by employees, and allocated tips.	See separate instructions	Last day of February	Allocated tips are shown on Form W-2, due January 31
8300	Report of Cash Payments Over \$10,000 Received in a Trade or Business	Payments in cash (including certain monetary instruments) or foreign currency received in one transaction, or two or more related transactions, in the course of a trade or business. Does not apply to banks and financial institutions filing Form 4789 , Currency Transaction Report, and casinos that are required to report such transactions on Form 8362 , Currency Transaction Report by Casinos, or, generally, to transactions outside the United States.	Over \$10,000	Within 15 days after the date of the transaction	(To Payer) January 31
8308	Report of a Sale or Exchange of Certain Partnership Interests	Sales or exchanges of a partnership interest involving unrealized receivables or substantially appreciated inventory items.	(Transaction only)	Generally, attach to Form 1065	(To Transferor and Transferees) January 31
W-2G	Certain Gambling Winnings	Gambling winnings from horse racing, dog racing, jai alai, lotteries, keno, bingo, slot machines, sweepstakes, and wagering pools.	Generally, \$600 or more; \$1,200 or more from bingo or slot machines; \$1,500 or more from keno	February 28	January 31
926	Return by a U.S. Transferor of Property to a Foreign Corporation, Foreign Estate or Trust, or Foreign Partnership	Transfers of property to a foreign corporation, estate, trust, or partnership; also used to pay excise tax under section 1491 and to report information under section 6038B.	See form instructions	Day of transfer; for section 6038B, attach to tax return	None
W-2	Wage and Tax Statement	Wages, tips, other compensation, withheld income, social security, and Medicare taxes, and advance earned income credit (EIC) payments. Include bonuses, vacation allowances, severance pay, moving expense payments, some kinds of travel allowances, and third-party payments of sick pay.	See separate instructions	To SSA Last day of February	To Recipient January 31
TD F 90-22.1	Report of Foreign Bank and Financial Accounts	Financial interest in or signature or other authority over a foreign bank account, securities account, or other financial account.	Over \$10,000	To Treasury Dept. June 30	To Recipient None

Types of Payments

Below is an alphabetical list of some payments and the forms to file to report them. The list was developed to help you determine which form to file. However, it is not a complete list of all payments, and the absence of a payment from the list does not indicate that the payment is not reportable.

Type of Payment	Report on Form	Type of Payment	Report on Form	Type of Payment	Report on Form
Abandonment	1099-A	Discharge of indebtedness	1099-C	Mortgage interest	1098
Advance earned income credit	W-2	Dividends	1099-DIV	Moving expense	W-2
Agriculture payments	1099-G	Education expense reimbursement:		Nonemployee compensation	1099-MISC
Allocated tips	W-2	Employee	W-2	Nonqualified plan distribution	W-2
Annuities	1099-R	Nonemployee	1099-MISC	Beneficiaries	1099-R
Auto reimbursements:		Employee business expense reimbursement	W-2	Original issue discount (OID)	1099-OID
Employee	W-2	Employee compensation	W-2	Patronage dividends	1099-PATR
Nonemployee	1099-MISC	Excess deferrals, excess contributions, distributions of	1099-R	Pension	1099-R
Awards:		Fees:		Points	1098
Employee	W-2	Employee	W-2	Prizes:	
Nonemployee	1099-MISC	Nonemployee	1099-MISC	Employee	W-2
Barter exchange income	1099-B	Fishing boat crew members proceeds	1099-MISC	Nonemployee	1099-MISC
Bonuses:		Foreclosures	1099-A	Profit-sharing plan	1099-R
Employee	W-2	Foreign persons' income	1042-S	PS 58 costs	1099-R
Nonemployee	1099-MISC	401(k) contributions	W-2	Qualified plan distributions	1099-R
Broker transactions	1099-B	404(k) dividend	1099-DIV	Real estate transactions	1099-S
Cancellation of debt	1099-C	Gambling winnings	W-2G	Refunds, state and local tax	1099-G
Car expense:		Golden parachute:		Rents	1099-MISC
Employee	W-2	Employee	W-2	Retirement	1099-R
Nonemployee	1099-MISC	Nonemployee	1099-MISC	Royalties	1099-MISC
Charitable gift annuities	1099-R	Grants, taxable	1099-G	Timber, pay-as-cut contract	1099-S
Christmas bonuses:		Health care services	1099-MISC	Sales:	
Employee	W-2	Income tax refunds, state and local	1099-G	Real estate	1099-S
Nonemployee	1099-MISC	Indian gaming profits paid to tribal members	1099-MISC	Securities	1099-B
Commissions:		Interest income	1099-INT	Section 1035 exchange	1099-R
Employee	W-2	Interest, mortgage	1098	SEP contributions	W-2
Nonemployee	1099-MISC	IRA contributions	5498	SEP distributions	1099-R
Commodities transactions	1099-B	IRA/SEP distributions	1099-R	Severance pay	W-2
Compensation:		Life insurance contract distributions	1099-R	Sick pay	W-2
Employee	W-2	Liquidation, distributions in	1099-DIV	Substitute payments in lieu of dividends or tax-exempt interest	1099-MISC
Nonemployee	1099-MISC	Medical services	1099-MISC	Supplemental unemployment	W-2
Crop insurance proceeds	1099-MISC	Mileage:		Tips	W-2
Damages	1099-MISC	Employee	W-2	Unemployment benefits	1099-G
Debt cancellation	1099-C	Nonemployee	1099-MISC	Vacation allowance:	
Dependent care payments	W-2	Military retirement	1099-R	Employee	W-2
Direct rollovers	1099-R, 5498			Nonemployee	1099-MISC
Direct sales of consumer products for resale	1099-MISC			Wages	W-2
Directors' fees	1099-MISC				

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