



# Instructions for Form 1099-DIV

**(Revised February 2004)**

Section references are to the Internal Revenue Code.

## What's New for 2003

Under the Jobs and Growth Tax Relief Reconciliation Act (JGTRRA) of 2003 (Public Law 108-27), the general rate of tax applicable to net capital gain for individuals is reduced from 20% to 15% and 10% to 5% for certain individuals on or after May 6, 2003. These new capital gains rates also apply to qualified dividend income under new section 1(h)(11). The new rates apply to capital gains (including installment payments) occurring on or after May 6, 2003, and to all qualified dividends paid in 2003. For Post-May 5 capital gains, the 8% rate for 5-year gain is replaced by the new 5% rate, which applies to all property held for more than 1 year.

For 2003, Form 1099-DIV was reformatted to two forms per page to allow reporting of qualified dividends and capital gain distributions at the new rates. You are required to report the dividends that qualify for the 5% and 15% capital gains rates in new **Box 1b**, Qualified dividends. Capital gain distributions that qualify for the 5% and 15% capital gains rates are reported in new **Box 2b**, Post-May 5 capital gain distr.

Application of the new law to dividends of foreign corporations, regulated investment companies, and real estate investment trusts is discussed in the instructions below.

**CAUTION** Pending legislation (H.R. 3654; S. 1984) would retroactively amend the holding period rules by changing the 120-day period to a 121-day period and the 180-day period to a 181-day period. To avoid the unnecessary administrative burden of requiring amended Forms 1099-DIV after this bill is enacted, the Commissioner of Internal Revenue has agreed to allow taxpayers to apply the new period as if the Act were presently enacted. See **Qualified Dividends** below.

## An Item To Note

In addition to these specific instructions, you should also use the **2003 General Instructions for Forms 1099, 1098, 5498, and W-2G**. Those general instructions include information about:

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

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

## Specific Instructions for Form 1099-DIV

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

- To whom you have paid dividends (including capital gains dividends) and other distributions on stock of \$10 or more,

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

## Dividends

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

## Exceptions

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

1. **Taxable dividend distributions from life insurance contracts.** Taxable dividend distributions from life insurance contracts are reported on **Form 1099-R**, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
2. **Exempt-interest dividends from regulated investment companies.** Exempt-interest dividends from regulated investment companies retain their tax-exempt status and are not reported on Form 1099-DIV or **Form 1099-INT**, Interest Income (see section 852(b)(5)).
3. **Substitute payments in lieu of dividends.** For payments received by a broker on behalf of a customer in lieu of dividends as a result of a loan of a customer's securities, see **Box 8 in the 2003 Instructions for Form 1099-MISC**.
4. **Payments made to certain payees.** Payments made to certain payees including a corporation, tax-exempt organization, any IRA, U.S. agency, state, the District of Columbia, U.S. possession, or registered securities or commodities dealer are not reported on Form 1099-DIV.

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

## Qualified Dividends

Except as provided below, qualified dividends are dividends paid during the tax year from domestic corporations and qualified foreign corporations. For individuals, estates, and trusts, qualified dividends are taxed at a maximum rate of 15% (generally, 5% for individuals whose other income is taxed at the 10% or 15% rate).

**Exceptions.** The following dividends are not qualified dividends.

- Dividends the recipient received on any share of stock held for less than 61 days during the 121-day period that began 60 days before the ex-dividend date (but see the instructions for box 1b on page DIV-3). When determining the number of days the recipient held the stock, you cannot count certain days during which the recipient's risk of loss was diminished. See **Pub. 550**, Investment Income and Expenses, for more details.

The ex-dividend date is the first date following the declaration of a dividend on which the purchaser of a stock is not entitled to receive the next dividend payment. When counting the number of days the recipient held the stock, include the day the recipient disposed of the stock but not the day the recipient acquired it.

- Dividends attributable to periods totaling more than 366 days that the recipient received on any share of preferred stock held for less than 91 days during the 181-day period that began 90 days before the ex-dividend date (but see the instructions for box 1b on page DIV-3). When determining the number of days the recipient held the stock, you cannot count certain days during which the recipient's risk of loss was diminished. See Pub. 550 for more details. Preferred dividends attributable to periods totaling less than 367 days are subject to the 61-day holding period rule on page DIV-1.
- Dividends that relate to payments that the recipient is obligated to make with respect to short sales or positions in substantially similar or related property.
- Dividends paid by a regulated investment company that are not treated as qualified dividend income under section 854.
- Dividends paid by a real estate investment trust that are not treated as qualified dividend income under section 857(c).
- Deductible dividends paid on employer securities. See **Section 404(k) Dividends** below.

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

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

**TIP** For a list of income tax treaties of the United States that (a) are comprehensive, (b) include an information exchange program, and (c) have been determined by the Treasury Department to be satisfactory for this purpose, see Notice 2003-69, 2003-42 I.R.B. 851.

If the foreign corporation does not meet either 1 or 2 above, then it may be treated as a qualified foreign corporation for any dividend paid by the corporation if the stock associated with the dividend paid is readily tradable on an established securities market in the United States. See Notice 2003-71, 2003-43 I.R.B. 922 for more information on when a stock may be considered to be readily tradable.

However, qualified dividends **do not** include dividends paid by foreign entities that in either the taxable year of the distribution or the preceding taxable year were:

- A foreign investment company (section 1246(b)),
- A passive foreign investment company (section 1297), or
- A foreign personal holding company (section 552).

## Section 404(k) Dividends

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

**TIP** Section 404(k) dividends are not subject to backup withholding. Also, these dividends are not eligible for the 5% and 15% capital gains rates (see **Exceptions** on page DIV-1).

## RICs and REITs

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

**Dividend payment delayed until January.** If a regulated investment company (RIC) or a real estate investment trust (REIT) declares a dividend in October, November, or December payable to shareholders of record on a specified date in such a

month, the dividends are treated as paid by the RIC or REIT and received by the recipients on December 31 of such year as long as the dividends are actually paid by the RIC or REIT during January of the following year. Report the dividends on Form 1099-DIV for the year preceding the January they are actually paid. See sections 852(b)(7) and 857(b)(9) for RICs and REITs respectively.

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

**Qualified 5-year gain.** If any part of the capital gain distribution reported in box 2a is qualified 5-year gain, report the gain in box 2c. **Qualified 5-year gain.** Qualified 5-year gain is the aggregate long-term capital gain taken into account by the RIC or REIT before May 6, 2003, from property held for more than 5 years. The qualified 5-year gain is determined without regard to collectibles gain, unrecaptured section 1250 gain (described in section 1(h)(6)(A)(i)) from certain depreciable real property, and gain on qualified small business stock.

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

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

## Restricted Stock

For information about reporting dividends on restricted stock, see Rev. 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

If you are required to file Form 1099-DIV, you must provide a statement to the recipient. For information about the requirement to furnish an official or acceptable substitute Form 1099-DIV to recipients in person, by statement mailing, or electronically, see part H in the **2003 General Instructions for Forms 1099, 1098, 5498, and W-2G**.

## 2nd TIN Not.

You may enter an "X" in this box if you were notified by the IRS twice within 3 calendar years that the payee provided an incorrect taxpayer identification number (TIN). If you mark this box, the IRS will not send you any further notices about this account.

**TIP** For more information on the TIN Matching System offered by the IRS, see the **2003 General Instructions for Forms 1099, 1098, 5498, and W-2G**.

## Box 1a. Total Ordinary Dividends

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

**CAUTION** An S corporation reports as dividends on Form 1099-DIV **only** distributions made during 2003 out of accumulated earnings and profits. See section 1368 for more information.

## **Box 1b. Qualified Dividends**

Enter the portion of the dividends in box 1a that qualify for the 5% and 15% capital gains rates. Include dividends for which it is impractical to determine if the section 1(h)(11)(B)(iii) holding period requirement has been met. See **Qualified Dividends** on page DIV-1.

## **Box 2a. Total Capital Gain Distr.**

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



*For more information about reporting amounts in boxes 2a through 2f, see section 1(h). Also, Act section 301(c) of JGTRRA contains transition rules for 2003.*

## **Box 2b. Post-May 5 Capital Gain Distr.**

Enter the portion of the capital gain distribution that is taxed at the 5% and 15% capital gains rates.

## **Box 2c. Qualified 5-Year Gain**

Enter any amount included in box 2a that is a qualified 5-year gain. See **Qualified 5-year gain** on page DIV-2.

## **Box 2d. Unrecap. Sec. 1250 Gain**

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

## **Box 2e. Section 1202 Gain**

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

## **Box 2f. Collectibles (28%) Gain**

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

## **Box 3. Nontaxable Distributions**

Enter nontaxable distributions, if determinable.



*File Form 5452, Corporate Report of Nondividend Distributions, if you pay nontaxable distributions to shareholders.*

## **Box 4. Federal Income Tax Withheld**

Enter backup withholding. For example, if a recipient does not furnish its TIN to you in the manner required, you must backup withhold at a 28% rate on certain dividend payments reported on this form. Use **Form W-9, Request for Taxpayer Identification Number and Certification**, to request the TIN of the recipient. For foreign recipients, see Part F in the 2003 General Instructions for Forms 1099, 1098, 5498, and W-2G.

## **Box 5. Investment Expenses**

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

## **Box 6. Foreign Tax Paid**

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

## **Box 7. Foreign Country or U.S. Possession**

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



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

## **Box 8. Cash Liquidation Distr.**

Enter cash distributed as part of a liquidation.

## **Box 9. Noncash Liquidation Distr.**

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