Instructions for Form 1099-DIV

2004

Section references are to the Internal Revenue Code.

What's New for 2004

The following changes have been made to the 2004 Form 1099-DIV and these instructions:

- The boxes for post-May 5 capital gain distributions and qualified 5-year gain have been eliminated based on section 301 of the Jobs and Growth Tax Relief and Reconciliation Act of 2003.
- 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 2004 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 or by calling 1-800-TAX-FORM (1-800-829-3676).

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 paid on any 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-2). 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.

- Dividends attributable to periods totaling more than 366 days that the recipient received on any share of stock held for less than 367 days are subject to the 61-day holding period rule above.

- Dividends paid by a regulated investment company that are not reported on Form 1099-DIV or Form 1099-INT. Interest Income (see section 852(b)(5)).

- Dividends attributable to periods totaling less than 367 days are subject to the 61-day holding period rule above.

- Dividends that relate to payments that the recipient is obligated to make with respect to short sales or positions in substantially similar or related property.

- Dividends paid by a regulated investment company that are not treated as qualified dividend income under section 854.
• Dividends paid by a real estate investment trust that are not treated as qualified dividend income under section 857(c).

• Deductible dividends paid on employer securities. See Section 404(k) Dividends 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 Puerto Rico.
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.

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 1244(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) 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.

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

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

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

**Restricted Stock**


**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 2004 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 a 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.

For more information on the TIN Matching System offered by the IRS, see the 2004 General Instructions for Forms 1099, 1098, 5498, and W-2G.

**Box 1a. Total Ordinary Dividends**

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

An S corporation reports as dividends on Form 1099-DIV only distributions made during 2004 out of its 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, and 2d.

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

**Box 2b. Unrecap. Sec. 1250 Gain**

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

**Box 2c. Section 1202 Gain**

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

**Box 2d. Collectibles (28%) Gain**

Enter any amount included in box 2a that is a 28% rate gain from sales or exchanges of collectibles.
Box 3. 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 2004 General Instructions for Forms 1099, 1098, 5498, and W-2G.

Box 5. Investment Expenses
Enter the recipient’s pro rata share of certain amounts deductible by a nonpublicly offered RIC in computing its taxable income. This amount is includible in the recipient’s gross income under section 67(c) and must also be included in box 1a. Do not include any investment expenses in box 1b.

Box 6. Foreign Tax Paid
Enter 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 recipient. Report this amount in U.S. dollars.

Box 7. Foreign Country or U.S. Possession
Enter the name of the foreign country or U.S. possession to which the withheld tax applies.

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.

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