



# Instructions for Form 1120-ND (Revised November 1988)

## Return for Nuclear Decommissioning Funds and Certain Related Persons

For tax years beginning after December 31, 1987

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

### Paperwork Reduction Act Notice

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

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

**Recordkeeping** . . . . . 23 hrs., 55 min.

**Learning about the law or the form** . . . . . 4 hrs., 2 min.

**Preparing the form** . . . . . 9 hrs., 14 min.

**Copying, assembling, and sending the form to IRS** . . . . . 1 hr., 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, TR:FP; or the **Office of Management and Budget**, Paperwork Reduction Project, Washington, DC 20503.

File this Form 1120-ND only for tax years beginning after December 31, 1987. Use the November 1986 version of Form 1120-ND for tax years beginning before January 1, 1988.

## General Instructions

### A. Purpose of Form

Form 1120-ND is used by nuclear decommissioning funds to report contributions received, income earned, the administrative expenses of operating the fund, and the tax on modified gross income. If there are initial taxes on self-dealers or trustees of the fund, the return is also used to report and pay the section 4951 taxes on self-dealing.

### B. Filing Form 1120-ND

**1. Who Must File.**—All section 468A nuclear decommissioning funds must file Form 1120-ND. A disqualified person engaging in self-dealing must file Form 1120-ND to report the initial tax under section 4951. A trustee who meets the conditions set out in section 4951(a)(2)

also must file Form 1120-ND to report the initial tax under that section.

Each person liable for filing a return to pay any tax reportable on this form must file a separate return.

A self-dealer or trustee filing this form to report and pay the tax under section 4951 should complete only the following parts of the form:

- The heading (omitting the check boxes for final return and change in address);
- The signature and, if applicable, the paid preparer's section;
- Items J(1)(a), (b), (c), and (e); and
- The appropriate lines in Part II, Sections A and B.

**2. When To File.**—The return of the fund must be filed by the 15th day of the third month following the close of the fund's tax year. The return of a trustee or self-dealer who owes tax under section 4951 must be filed by the 15th day of the third month after the close of the tax year of the trustee or self-dealer.

**Extension.**—Funds must file **Form 7004**, Application for Automatic Extension of Time To File Corporation Income Tax Return, to request an automatic 6-month extension of time to file Form 1120-ND. A self-dealer or trustee filing to report section 4951 taxes must file **Form 2758**, Application for Extension of Time To File, to request an extension of time to file Form 1120-ND. However, an extension of time to file does not extend the time for payment of tax.

**Period covered.**—Fill in the spaces at the top of the form to show the calendar year or fiscal year for which the return is being filed. The return of the fund must have the same tax year as that of the electing taxpayer. If the electing taxpayer changes its tax year, the fund is required to make the same change to its tax year. Acts of self-dealing must be reported based on the tax year of the self-dealer. See Rev. Rul. 75-391, 1975-2 C.B. 446, for details.

**Final return.**—If the fund is terminated, check the box for Final Return at the top of the form.

### 3. Where To File.—

If the fund's principal office is located in	Use the following Internal Revenue Service Center address
New Jersey, New York (New York City and counties of Nassau, Rockland, Suffolk, and Westchester)	Holtsville, NY 00501

New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Andover, MA 05501
Florida, Georgia, South Carolina	Atlanta, GA 39901
Indiana, Kentucky, Michigan, Ohio, West Virginia	Cincinnati, OH 45999
Kansas, New Mexico, Oklahoma, Texas	Austin, TX 73301
Alaska, Arizona, California (counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba), Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden, UT 84201
California (all other counties), Hawaii	Fresno, CA 93888
Illinois, Iowa, Minnesota, Missouri, Wisconsin	Kansas City, MO 64999
Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Tennessee	Memphis, TN 37501
Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, foreign countries and U.S. possessions	Philadelphia, PA 19255

### 4. Signature

The return of the fund must be signed and dated by an authorized trustee. The return of any person who engaged in any act of self-dealing must be signed and dated by that person or the individual authorized to sign on behalf of such person.

If a trustee fills in Form 1120-ND, the Paid Preparer's space under "Signature of person filing return" should remain blank. If someone prepares Form 1120-ND and does not charge the fund, that person should not sign the return. Certain others who prepare Form 1120-ND also should not sign; for example, a regular, full-time employee of the fund such as a clerk, secretary, etc., does not have to sign in the paid preparer's space.

Generally, anyone who is paid to prepare Form 1120-ND must sign the return and fill in the other blanks in the Paid Preparer's Use Only area of the return.

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

● Sign it, by hand, in the space provided for the preparer's signature. (Signature stamps are not acceptable.)

● Give a copy of Form 1120-ND to the taxpayer in addition to the copy filed with IRS.

Tax return preparers should be familiar with their responsibilities. See **Publication 1045**, Information for Tax Practitioners, for more details.

## C. Figuring and Paying the Tax

### 1. Accounting Method

The fund must use the same method of accounting as that of the electing taxpayer.

### 2. Rounding Off to Whole-Dollar Amounts

The fund may show the money items on the return and accompanying schedules as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 cents to 99 cents to the next higher dollar.

### 3. Depositary Method of Tax Payment

The fund must pay any income tax due in full when the return is filed but no later than 2½ months after the end of the tax year.

Deposit income tax payments (and estimated tax payments) with **Form 8109**, Federal Tax Deposit Coupon. Be sure to darken the "1120" box on the coupon. Make these tax deposits with either a financial institution qualified as a depositary for Federal taxes or the Federal Reserve bank or branch servicing the geographic area where the fund is located. Do not submit deposits directly to an IRS office; otherwise, the fund may be subject to a failure to deposit penalty. Records of deposits will be sent to IRS for crediting to the fund's account. See the instructions contained in the coupon book (Form 8109) for more information.

To help ensure proper crediting to your account, write your employer identification number, "Form 1120-ND," and the tax period to which the deposit applies on your check or money order.

To get more deposit coupons, use the reorder form (Form 8109A) provided in the coupon book.

For more information concerning deposits, see **Publication 583**, Information for Business Taxpayers.

**Note:** *The depositary method does not apply to the section 4951 taxes reported in Part II. Pay those taxes with the return when it is filed.*

### 4. Backup Withholding

If a person receives certain payments and does not give the payor the correct employer identification number, the payor must withhold taxes from those payments. This type of withholding is called "backup withholding." If the fund has had any backup withholding withheld from payments, it should show this amount in the blank space in the right-hand column between lines 13 and 14f, page 1, Form 1120-ND, and label the amount as backup withholding. The fund should then include the amount in the total for line 14f.

### 5. Estimated Tax

Generally, a fund must make estimated tax payments if it can expect its estimated income tax (modified gross income tax

minus credits) to be \$500 or more for the year. Use **Form 1120-W**, Corporation Estimated Tax, as a worksheet to compute estimated tax. Skip lines 1 through 16 of Form 1120-W and on line 17 enter 34% of the estimated modified gross income for the year. Complete the rest of the form in accordance with its instructions. Use the Payment Coupons (Forms 8109) in making deposits of estimated tax.

If the fund overpaid estimated tax, it may be able to get a "quick refund" by filing **Form 4466**, Corporation Application for Quick Refund of Overpayment of Estimated Tax. The overpayment must be both: (1) at least 10% of expected income tax liability, and (2) at least \$500. To apply, file Form 4466 within 2½ months after the end of the tax year and before the fund files its tax return.

**Note:** *The section 4951 taxes reported in Part II are not subject to the estimated tax provisions.*

## D. Interest and Penalties

**1. Interest.**—Interest is charged on taxes not paid by the due date, even if an extension of time is granted. Interest is also charged on penalties imposed for failure to file, negligence, fraud, and substantial understatements of tax from the due date (including extensions) to the date of payment. The interest charge is figured at a rate determined under section 6621.

**2. Late Filing of Return.**—A fund that fails to file its return when due (including extensions of time for filing) may be subject to a penalty of 5% a month or fraction of a month, up to a maximum of 25%, for each month the return is not filed. The penalty is imposed on the net amount due. The minimum penalty for failure to file a tax return within 60 days of the due date for filing (including extensions) is the lesser of the underpayment of tax or \$100.

**3. Late Payment of Tax.**—Generally, the penalty for not paying tax when due is ½ of 1% of the unpaid amount, up to a maximum of 25%, for each month or fraction of a month the tax remains unpaid. The penalty is imposed on the net amount due.

**4. Underpayment of Estimated Tax.**—A fund that fails to pay estimated tax payments when due may be subject to an underpayment penalty for the period of underpayment. In general, to avoid the estimated tax penalty, the fund must make estimated tax payments of at least the smaller of 90% of the tax shown on the return, or 100% of its prior year's tax. See section 6655 for details and exceptions.

**Form 2220**, Underpayment of Estimated Tax by Corporations, is used to see if the fund owes a penalty and to figure the amount of the penalty. Generally, the fund does not have to file this form because IRS can figure the amount of any penalty and bill the fund for it. However, you must complete and attach Form 2220 even if the fund does not owe the penalty if: (a) the annualized income or adjusted seasonal installment method is used, or (b) the fund is a "large corporation" computing its first required installment based on the prior year's tax. If you attach Form 2220, be sure to check the box on line 15, Form 1120-ND, and enter the amount of any penalty on this line.

**5. Overstated Tax Deposits.**—If deposits are overstated, the fund may be subject to a penalty of 25% of the overstated deposit claim. See section 6656(b).

**6. Other Penalties.**—There are also penalties that can be imposed for negligence, substantial understatement of tax, and fraud. See sections 6653 and 6661.

## E. Other Forms, Returns, Schedules, and Statements That May Be Required

The fund may have to file the following:

**Forms W-2 and W-3.**—Wage and Tax Statement; and Transmittal of Income and Tax Statements.

**Forms 1096 and 1099-MISC.**—Annual Summary and Transmittal of U.S. Information Returns; and Statement for Recipients of Miscellaneous Income. For more information, see **Publication 916**, Information Returns.

**Amended Return.**—To correct any error in a previously filed Form 1120-ND, file an amended Form 1120-ND and check the box for Amended Return in item D at the top of the form.

**Attachments.**—In order to process the return, we ask that you complete every applicable entry space on Form 1120-ND. Please **do not** attach statements and write "See attached" in lieu of completing the entry spaces on Form 1120-ND.

If more space is needed on the forms or schedules, attach separate sheets indicating at the top of each attachment the form number or schedule letter of the form or schedule being continued. Also, show the same information called for on the form in the same order as on the printed forms. Be sure to show totals on the printed forms. Please use sheets that are the same size as the forms and schedules. Attach these separate sheets after all the schedules and forms. Also, put the fund's name and employer identification number (EIN) on each sheet.

## F. Definitions

**1. Electing Taxpayer.**—The term "electing taxpayer" means an eligible taxpayer that elects the application of section 468A under the rules contained in Regulations section 1.468A-7.

**2. Self-Dealing.**—Except as provided in (3) below, the term "self-dealing," for purposes of section 4951, means any direct or indirect—

- sale, exchange, or leasing of real or personal property between the fund and a disqualified person;
- lending of money or other extension of credit between the fund and a disqualified person;
- furnishing of goods, services, or facilities between the fund and a disqualified person;
- payment of compensation (or payment or reimbursement of expenses) by the fund to a disqualified person; and
- transfers to, or use by or for the benefit of, a disqualified person of the income or assets of the fund.

**3. Exceptions.**—Acts of self-dealing do not include—

**a.** the payment by the fund for the purpose of satisfying, in whole or in part, the liability of the electing taxpayer for decommissioning costs of the nuclear power plant to which the fund relates;

**b.** the withdrawal of an excess contribution by the electing taxpayer in accordance with Regulations section 1.468A-5(c)(2);

**c.** the withdrawal by the electing taxpayer of amounts that have been treated as distributed under Regulations section 1.468A-5(c)(3);

**d.** the payment of amounts remaining in the fund to the electing taxpayer after the termination of the fund upon substantial completion of decommissioning;

**e.** the furnishing of goods, services, or facilities by a disqualified person to the fund if the furnishing is without charge and if the goods, services, or facilities so furnished are used exclusively for the purposes specified in section 468A(e)(4);

**f.** the payment of compensation (and the payment or reimbursement of expenses) by the fund to a disqualified person for personal services which are reasonable and necessary to carry out the purpose of the fund if the compensation (or payment or reimbursement) is not excessive; and

**g.** a payment by the fund for the performance of trust functions and certain general banking services by a bank or trust company which is a disqualified person, if the banking services are reasonable and necessary to carry out the purposes of the fund and the compensation paid to the bank or trust company is not excessive (considering the fair interest rate for the use of the funds by the bank or trust company). The general banking services that are allowed are:

**(1)** Checking accounts, as long as the bank does not charge interest on any overwithdrawals;

**(2)** Savings accounts, as long as the fund may withdraw its funds on no more than 30 days notice without a loss of interest for the time the money was on deposit; and

**(3)** Safekeeping activities (e.g., rental of a safety deposit box).

**4. Special Rule.**—For purposes of paragraph (2) on page 2, the transfer of personal property by a disqualified person to the fund is treated as a sale or exchange if the property is subject to a mortgage or similar lien.

**5. Taxable Period.**—The term “taxable period” means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

**a.** the date of mailing of a notice of deficiency under section 6212, with respect to the tax imposed by section 4951(a)(1),

**b.** the date on which the tax imposed by section 4951(a)(1) is assessed, or

**c.** the date on which the correction of the act of self-dealing is completed.

**6. Amount Involved.**—The term “amount involved” means, with respect to any act of self-dealing, the greater of the amount of money and the fair market value of the other property received; except that in the

case of services described in section 4951(d)(2)(C), the amount involved is only the excess compensation. For purposes of the preceding sentence, the fair market value—

**a.** in the case of the initial taxes imposed by section 4951(a), is determined as of the date on which the act of self-dealing occurs; and

**b.** in the case of additional taxes imposed by section 4951(b), will be the highest fair market value during the taxable period.

**7. Correction.**—The terms “correction” and “correct” mean, with respect to any act of self-dealing, undoing the transaction to the extent possible, but in any case placing the fund in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

**8. Disqualified Person.**—The term “disqualified person” means, with respect to a nuclear decommissioning fund, a person who is—

**a.** a contributor to the fund,

**b.** a trustee of the fund,

**c.** an owner of more than 10% of:

**(1)** the total combined voting power of a corporation,

**(2)** the profits interest of a partnership, or

**(3)** the beneficial interest of a trust or unincorporated enterprise,

that is a contributor to the fund,

**d.** an officer, director, or employee of a person who is a contributor to the fund,

**e.** the spouse, ancestor, lineal descendant, or spouse of a lineal descendant of an individual described in a, b, c, or d,

**f.** a corporation of which persons described in a, b, c, d, or e own more than 35% of the total combined voting power,

**g.** a partnership in which persons described in a, b, c, d, or e own more than 35% of the profits interest, or

**h.** a trust or estate in which persons described in a, b, c, d, or e hold more than 35% of the beneficial interest.

For purposes of c(1) and f, there will be taken into account indirect stockholdings that would be taken into account under section 267(c), except that, for purposes of this paragraph, section 267(c)(4) will be treated as providing that the members of the family of an individual are only those individuals described in e. For purposes of c(2), (3), g, and h, the ownership of profits or beneficial interests will be determined by the rules of constructive ownership of stock provided in section 267(c) (other than paragraph (3) thereof), except that section 267(c)(4) will be treated as providing that the members of the family of an individual are only those individuals described in e.

## G. Additional Information

Funds are required to complete Items F through J on page 2, Form 1120-ND. Trustees and self-dealers filing to report section 4951 taxes should see the instructions under “Who Must File” to determine which items must be completed.

The purpose of this section is to determine whether there have been any acts of self-dealing between the fund and one or more trustees or other disqualified

persons for which an initial tax should be imposed and whether the fund meets the qualification requirements of the Code and regulations.

## Specific Instructions

**Name and address.**—The name of the fund must be entered on every Form 1120-ND that is filed. If the return is being filed to report the income, deductions, and income tax liability of the fund, then the address of the fund must also be shown in the heading. If the return is being filed by a trustee or disqualified person to report section 4951 taxes, then that person’s name and address must be entered in the appropriate spaces.

**Item A—Employer identification number of fund.**—All filers must enter the employer identification number (EIN) of the fund. A fund that does not have an EIN should apply for one on **Form SS-4**, Application for Employer Identification Number. This form may be obtained from most IRS and Social Security Administration offices. Send Form SS-4 to the same Internal Revenue Service Center to which Form 1120-ND is mailed. If the EIN has not been received by the filing time for the fund’s tax return, write “Applied for” in the space for the EIN. See Publication 583 for additional information.

**Item B—Identifying number of trustee or disqualified person.**—If the return is being filed by a trustee or disqualified person to report section 4951 taxes, enter the identifying number of the trustee or disqualified person. For an individual trustee or disqualified person, enter that person’s social security number. If the trustee or disqualified person is not an individual, the employer identification number of that person must be entered. Leave blank if Form 1120-ND is being filed to report the income, deductions, and income tax liability of the fund.

**Item C—“Return filed for” section.**—Check only the box that applies:

**(1)** When filed to report the income, deductions, and income tax liability of the fund, check the “Fund” box.

**(2)** When filed by a trustee who is liable for taxes under section 4951, check the “Trustee” box.

**(3)** When filed by a disqualified person who is liable for section 4951 tax, check the “Disqualified person” box.

## Part I.—Computation of Fund Income Tax

### Income

**Line 1—Taxable interest.**—Enter the total taxable interest income received or accrued for the year, including any original issue discount. Do not include tax-exempt interest; report it as an item of information in Item G(5).

**Line 2—Capital gain net income.**—The fund must recognize gain (or loss) upon the sale, exchange, or actual or deemed distribution of assets held by the fund. The amount realized on an actual or deemed distribution is the fair market value of the asset as of the date of distribution. Report these transactions on **Schedule D (Form 1120)**, Capital Gains and Losses, even if no gain or loss is indicated.

**Line 3—Other income.**—Enter any other taxable income not listed above, and explain its nature on an attached schedule. If “other income” consists of only one item, describe it in parentheses on line 3.

### Deductions

**Note:** *No deduction is allowed for certain expenses that are allocable to tax-exempt income. See section 265. In addition, no deduction is allowed for distributions made to the electing taxpayer. Such payments, however, must be reported as an item of information in Item G(4).*

**Line 5—Trustees fees.**—Enter the total deductible fees paid or incurred to trustee(s) for administering the fund during the year.

**Line 6—Taxes.**—Enter deductible taxes paid or incurred during the year, including state and local income taxes. Do not deduct Federal income taxes or taxes not imposed on the fund.

**Line 7—Accounting and legal services.**—Enter the total amount paid or incurred for accounting and legal services during the year.

**Line 8—Other deductions.**—Attach a separate sheet listing all allowable deductions that are not deductible elsewhere on Form 1120-ND. Include investment advisory fees, actuarial expenses, and other administrative expenses paid or incurred during the year, but do not include decommissioning costs.

**Line 11—Net operating loss deduction.**—Enter the amount of any net operating loss deduction allowed by Regulations section 1.468A-4(b)(4), and explain its computation on an attached schedule.

### Tax and Payments

**Line 14—Payments.**—No credits are allowed other than those on lines 14a through 14d and the credit for backup withholding.

## Schedule L

### Balance Sheets

Complete this schedule based on the method of accounting used by the fund in keeping its books and records.

**Restriction on Fund Assets.**—To the extent that the assets of the fund are not currently required to: **(a)** satisfy the liability of the electing taxpayer for decommissioning costs of the nuclear power plant to which the fund relates, or **(b)** pay all ordinary and necessary expenses incurred in connection with the fund, the fund’s assets are to be used exclusively to invest directly in:

- (1)** Public debt securities of the United States;
- (2)** State and local government obligations not in default as to principal or interest; or

**(3)** Time or demand deposits in a bank or domestic building and loan association (as defined in section 581), or an insured credit union (as defined in section 101(6) of the Federal Credit Union Act), located in the United States.

See Regulations section 1.468A-5 for more information on qualification requirements and disqualification of all or part of the fund for failure to meet these requirements.

## Part II.—Initial Taxes on Self-Dealing (Section 4951)

**Initial Taxes on Self-Dealer.**—An initial tax of 10% of the amount involved is imposed on each act of self-dealing between a disqualified person and a nuclear decommissioning fund covering each tax year (or part of a tax year) in the taxable period. The tax will be paid by any disqualified person (other than a trustee acting only as such) who participated in the act of self-dealing.

**Initial Taxes on Trustee.**—When a tax is imposed on an act of self-dealing, a tax of 2½% of the amount involved is imposed on any trustee who participated in the act, knowing that it was such an act (except those trustees whose participation was not willful and was due to reasonable cause), for each tax year (or part of a tax year) in the taxable period. The tax will be paid by any trustee who participated in the act of self-dealing.