



Instructions for Form 1120-ND (Revised July 1991)

Return for Nuclear Decommissioning Funds and Certain Related Persons

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

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us this 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 this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping . . . 23 hr., 55 min.

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

Preparing the form . . . 9 hr., 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 both the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP; and the **Office of Management and Budget**, Paperwork Reduction Project (1545-0954), Washington, DC 20503. **DO NOT** send the tax form to either of these offices. Instead, see the instructions below for information on where to file.

General Instructions

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.

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 5a(i), (ii), (iii), and (v); and
- The appropriate lines in Part II, Sections A and B.

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. An extension of time to file does not extend the time for payment of tax.

Tax Year.—Fill in the spaces at the top of the form to show the tax year of the fund. 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.

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.

Also, report acts of self-dealing 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.

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 | Philadelphia, PA 19255 |

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 that person.

If a trustee completes 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., should not sign.

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.

Figuring and Paying the Tax Accounting Method

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

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.

Estimated Tax

Generally, a fund must make estimated tax payments if it can expect its estimated income tax (modified gross income tax) 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 (1991 revision) and on line 17 (the estimated tax line) 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.*

Depository Method of Tax Payment

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

Deposit the fund's tax payments (and estimated tax payments) with a Federal Tax Deposit Coupon (**Form 8109**). Mail or deliver the completed Federal Tax Deposit Coupon (Form 8109) and the payment to a qualified depository for Federal taxes or to the Federal Reserve Bank (FRB) servicing the fund's geographic area. Make checks or money orders payable to that depository or FRB. To help ensure proper crediting 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.

Be sure to darken the "1120" box on the coupon. Records of deposits will be sent to IRS for proper crediting to the fund's account.

A penalty may be imposed for failure to deposit the required amount of tax. See section 6656. The penalty may also apply if you mail or deliver deposits to IRS offices rather than to authorized depositories or FRBs. For more information about deposits, see the instructions contained in the coupon book (Form 8109) and **Pub. 583**, Taxpayers Starting a Business.

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

Backup Withholding

If the fund has had income tax withheld from any payments it received because, for example, it failed to give the payer its correct employer identification number, it may claim a credit on Form 1120-ND for the total amount withheld. This type of withholding is called "backup withholding." Show the amount withheld in the blank space in the right hand column between lines 13 and 14f, page 1, and label the amount as "backup withholding." Also include the amount in the total for line 14f.

Interest and Penalties

A fund may be subject to interest and penalty charges if the fund files a late return or fails to pay tax when due unless it can show that the failure to file or pay was due to reasonable cause and not willful neglect.

Interest.—Interest is charged on taxes not paid by the due date even if an extension of time to file is granted. Interest is also charged on penalties

imposed for failure to file, negligence, fraud, gross valuation overstatements, and substantial understatements of tax from the due date (including extensions) to the date of payment. Interest charge is figured at a rate determined under section 6621.

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% of the unpaid tax for each month or part of a month the return is late, up to a maximum of 25% of the unpaid tax. The minimum penalty for a return that is more than 60 days late is the smaller of the tax due or \$100.

Late Payment of Tax.—The penalty for late payment of tax is usually ½ of 1% of the unpaid tax for each month or part of a month the tax is unpaid. The penalty cannot exceed 25% of the amount due. The penalty may also apply to any additional tax not paid within 10 days of the date of the notice and demand for payment.

Estimated Tax Penalty.—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:

- the annualized income or adjusted seasonal installment method is used, or
- 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.

Other Penalties.—There are also penalties that can be imposed for negligence, substantial understatement of tax, and fraud. See sections 6662 and 6663.

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 **Pub. 937**, Business Reporting.

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.

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.

Address.—Include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and the fund has a P.O. box, enter the P.O. box number instead of the street address.

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 Pub. 583 for additional information.

Item B—Identifying number of trustee or disqualified person.—If the return is 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 their social security number. If the trustee or disqualified person is not an individual, enter the employer identification number. 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 2e.

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 2d, Form 1120-ND, page 2. Liabilities are not treated as incurred prior to the time economic performance occurs. See section 461(h).*

Line 5—Trustee 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 deducted 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.

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-Dealers.—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 for each tax year (or part of a tax year) in the

taxable period. The tax is required to be paid by any disqualified person (other than a trustee acting as such) who participates in the act of self-dealing.

Initial Taxes on Trustee.—A tax of 2½% of the amount involved is imposed on a trustee who participates in the act. The tax is not imposed if the trustee who unwilling or due to reasonable cause participated in the act. The tax is computed on all acts of self-dealing that occur within the taxable period. The tax is required to be paid by the trustee who participates in the act.

Exception.—The initial tax on act of self-dealing of a disqualified person or a trustee is not imposed if the acts of self-dealing are corrected within the “taxable period.” The terms “disqualified person,” “amount involved,” and “taxable period” are defined below.

Definitions

Self-Dealing.—Except as provided under “Special Rule” below, the term “self-dealing” 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 extensions 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.

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

- The payment by the fund for the purpose of satisfying, in whole or part, the liability of the electing taxpayer for decommissioning costs of the nuclear power plant;
- The withdrawal of excess contributions by the electing taxpayer in accordance with Regulations section 1.468A-5(c)(2);
- The withdrawal of amounts that have been treated as distributions by the electing taxpayer under Regulations section 1.468A-5(c)(3);
- The payment of amounts remaining in the fund to the electing taxpayer after the termination of the fund upon the substantial completion of decommissioning;
- 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 exclusively used purposes specified in section 468A(e)(4);

- The payment of compensation (and the payment or reimbursement of expenses) by the fund to a disqualified person for personal services that are reasonable and necessary to carry out the purposes of the fund and the compensation (or payment or reimbursement) is not excessive; and;
- A payment by the fund for the performance of trust functions and certain general banking services by a bank or trust company that 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 market interest rate for the use of the funds by the bank or trust company).

The allowable general banking services are:

- Checking accounts, as long as the bank does not charge interest on any overwithdrawals;
- Savings accounts, as long as the fund may withdraw its money after giving no more than 30 days notice, without losing interest for the period the money was on deposit; and
- Safekeeping activities (for example, rental of a safe deposit box).

Special Rule.—When determining if an act is an act of self-dealing, 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.

Taxable Period.—For an act of self-dealing, the term “taxable period” means the period beginning with the date of the act of self-dealing and ending with the date of the earliest of—

- The date of mailing of notice of deficiency under section 6212 with respect to the section 4951 tax,
- The date on which the tax imposed by section 4951 is assessed, or
- The date on which the act of self-dealing is corrected.

Amount Involved.—The term “amount involved” means the greater of the amount of money given (or received) and the fair market value of the other property given (or received). When services described in section

4951(d)(2)(C), the amount involved is only the excess compensation.

Fair Market Value.—Fair market value is determined as of the date on which the act of self-dealing occurs and at the highest market value during the taxable period.

Correction.—The term “correction” means the undoing of an act of self-dealing, to the extent possible, but in any case returning the fund to a financial position no worse than it would have been if the disqualified person acted under the highest fiduciary relationship.

Disqualified Person.—The term “disqualified person” means a person who is:

1. a contributor to the fund,
2. a trustee of the fund,
3. an owner or more than 10% of: a. the total combined voting power of a corporation, b. the profits interest of a partnership, c. the beneficial interest of a trust or unincorporated business, that is a contributor to the fund,
4. an officer, director, or employee of a person who is a contributor to the fund,
5. the spouse, ancestor, lineal descendant, or spouse of a lineal descendant of an individual described in items 1 through 4, above,
6. a corporation of which persons described in items 1 through 5 above own more than 35% of the total combined voting power,
7. a partnership of which persons described in items 1 through 5 above own more than 35% of the profits interest, or
8. a trust or estate of which persons described in items 1 through 5 above own more than 35% of the beneficial interest.

For purposes of 3a and 6, indirect stockholdings 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 5. For purposes of 3b, 3c, 7, and 8, 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 5.