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# TAX SERVICES

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## INFORMATION REPORTING FORMS 1099, 1098, 1096, 3921, 3922, 5498 AND W-2G

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DECEMBER 2009

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**Preparation of U.S. Treasury Forms 1099 and 1096  
For the Year 2009**

**IMPORTANT - Please Note:** All information returns filed on paper must use a 3-line mailing address format.

Send all information returns filed on paper to the following:

<b>2009 Filing Locations</b>	
<b>If your principal business, office or agency, or legal residence in the case of an individual, is located in:</b>	<b>Use the following 3-line Internal Revenue Service Center address</b>
Alabama, Arizona, Arkansas, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Texas, Vermont, Virginia, West Virginia	Department of the Treasury Internal Revenue Service Austin, TX 73301
Alaska, California, Colorado, District of Columbia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Utah, Washington, Wisconsin, Wyoming	Department of the Treasury Internal Revenue Service Kansas City, MO 64999
If you have no legal residence or principal place of business in any Internal Revenue district, file with the Department of the Treasury, Internal Revenue Service Center, Austin, TX 73301.	

Electronic reporting may be required for filing all information returns discussed in this release. See Publication 1220 for filing specifications.

The following is a summary of the 2009 changes to the Form 1099 series, Form 3921, Form 3922 and Form 5498:

- **New title for general instructions** – The title for the general instructions has been changed to reflect the addition of Forms 3921 "Exercise of Incentive Stock Option Under Section 422(b)" and 3922 "Transfer of Stock Acquired through an Employee Stock Purchase Plan Under Section 423(c)" beginning in 2009. However, as of the release of these instructions, final regulations had not been issued for reporting Forms 3921 and 3922 and their separate instructions.
- **Extension of due date for statements sent to recipients** – The due date for furnishing statements for Forms 1099-B, 1099-S and 1099-MISC (if the amounts are reported in Boxes 8 or 14) has been extended to **February 15**.
- **Form 1098-E** – For loans made before September 1, 2004, Box 2 of the Form 1098-E should be checked if the amount in Box 1 of the form does not include loan origination fees and/or capitalized interest. This is a reverse of the 2008 instructions of Box 2.
- **Form 1099-C** – Revisions to Boxes 4 and 5, "Debt Description" was moved from Box 5 to Box 4. Box 5 now contains 2 check boxes to indicate whether the borrower was personally liable for repayment of the debt.
- **Creditor's phone number** – A central phone number for debtors to use to contact a person having knowledge of a cancelled debt is now required information in the creditor's information box. Also, the number of entities who must report cancellation of debt after expiration of the nonpayment testing period has been reduced. The order under "who must file" has been changed.
- **Form 1099-DIV** – Payments of Section 404(k) dividends directly from a corporation to participants in an employee stock ownership plan (ESOP) or their beneficiaries, must be reported on Form 1099-DIV. Payments of Section 404(k) dividends from the ESOP to the participants continue to be reported on Form 1099-R.
- **Form 1099-G** – There is a new Box 9 for reporting market gain associated with the repayment of Commodity Credit Corporation (CCC) loans.
- **Forms 1099-INT and 1099-OID** - The credit allowable to holders of the following tax credit bonds is treated as interest and reported in Box 1 of Form 1099-INT.
  - ▲ Qualified Forestry Conservation bonds issued after May 22, 2008.
  - ▲ Qualified Energy Conservation bonds
  - ▲ Qualified Zone Academy bonds
  - ▲ Midwestern Tax Credit bonds
- **Form 1099-MISC** - The following changes have been made to Form 1099-MISC:
  - ▲ Military Differential Pay - Effective for wage payments made after December 31, 2008, all military differential pay must be reported only on Form W-2. Please refer to the Revenue Ruling 2009-11 for additional information.
  - ▲ Death Benefits - Death benefits from nonqualified deferred compensation plans paid to the estate or beneficiary of a deceased employee are now reported on Form 1099-MISC instead of Form 1099-R. Death benefit payments from qualified plans continue to be reported on Form 1099-R.
  - ▲ Payment to individuals in medical research studies - these payments are reported in Box 3.



**2010** for paper filers. Forms 5498, 5498-ESA and 5498-SA are due on or before **June 1, 2010**. Electronic filers must file by **March 31, 2010**. A 30-day extension of time may be requested by filing Form 8809--Request for Extension of Time to File Information Returns, on or before the due date of the forms. A second 30-day extension may be requested by filing another Form 8809 with a detailed explanation before the end of the initial extension period.

**Note:** The IRS has extended the February 1, 2010, deadline for brokers who furnish composite annual tax reporting statements, Forms 1099-B, 1099-S and 1099-MISC (only if payments are being reported in Boxes 8 or 14). The deadline for brokers to provide the composite statements is **February 16, 2010**.

The following pages discuss specific issues and illustrate how to complete Forms 1096, 1099-DIV, 1099-INT, 1098, 1098-C, 1099-MISC, 1099-R and 5498.

### ***Backup Withholding***

Interest, dividends, rents, royalties, commissions, non-employee compensation and certain other payments may be subject to backup withholding at a 28 percent rate.

Backup withholding applies under five circumstances: (1) The payee fails to furnish a taxpayer identification number (TIN). Withholding is required until the TIN is furnished. (2) The Internal Revenue Service notifies the payor that the payee's TIN is incorrect ("B" Notice). The payor is required to promptly furnish a copy of this notice or an acceptable substitute to the payee along with a W-9 Form. Withholding begins on the 31st day after notification and continues until a correct TIN is furnished. (3) The Internal Revenue Service notifies the payor that the payee is subject to backup withholding. Withholding begins on the day after notification and continues until the Internal Revenue Service directs otherwise. (4) For interest and dividends, the payee fails to certify that he or she is *not* subject to backup withholding. Withholding is required until certification has been provided. (5) For interest, dividend, broker or barter accounts opened after 1983, the payee fails to certify, under penalty of perjury, that the TIN is correct; or (6) for interest, dividend, broker or barter accounts, payor is notified that the payee is subject to backup withholding ("C" Notice).

Backup withholding amounts must be reported on Form 945, Annual Return of Withheld Federal Income Tax.

### ***Taxpayer Identification Number (TIN) Matching***

TIN Matching is one of the e-services products that is offered and is accessible through the IRS website, [www.irs.gov](http://www.irs.gov) under "e-services." This program allows a payer or authorized agent who is required to file Form 1099-B, DIV, INT, MISC, OID and/or PATR, to match TIN and name combinations with IRS records before submitting the forms to the IRS. It is anticipated that payers who validate the TIN and name combinations before filing information returns will receive fewer backup withholding (CP2100) "B" Notices and penalty notices. E-services technical support is available by calling 1-866-255-0654.

### ***Corrected Returns***

File corrected returns when you discover an error after having filed the forms with the IRS. If a form was filed without a payee's TIN, an incorrect TIN, or incorrect dollar amounts, a new transmittal Form 1096 *must* be prepared. A new information return must be prepared and the "corrected" box must be checked. *All* boxes must be completed, not just the boxes needing correction. File Form 1096 with Copy A of the corrected return by August 1, 2010. Use a separate Form 1096 for each type of return being corrected. Do not cut forms, but submit the entire page. *Do not* include copies of the original return that was filed incorrectly. Provide a statement identified as "corrected" to the recipient as soon as possible. The following list contains common errors and how they should be corrected.

**Error:**

The wrong type of return was originally filed, (e.g., 1099-DIV instead of 1099-INT). This will require **two separate filings** to make the proper corrections.

**Correction:**

- a) Prepare a new information return using the **same type of form** that was initially used (i.e., 1099-DIV) and a new transmittal Form 1096. The "corrected" box must be checked on the 1099. Enter all necessary information as it was originally shown. However, for all dollar amounts, enter "0." File Form 1096 and Copy A of the return. **Do not** include copies of the original return that was filed incorrectly.
- b) Prepare a new information return using the proper type of form (i.e., 1099-INT) and a new transmittal Form 1096. **Do not** check the "corrected" boxes. Provide all requested information on the forms. On the transmittal Form 1096, enter the words "Filed to Correct Document Type" at the bottom margin of the form. File Form 1096 and Copy A of the return.

**Error:**

No payee TIN (SSN or EIN) or incorrect payee TIN was originally filed or incorrect payee's name and address.

**Correction:**

- a) Prepare a new transmittal Form 1096 and new information returns (e.g., Form 1099, 1098, etc.). Enter an "X" in the "corrected" box at the top of the 1099 Form. Enter the payor, recipient, and account number information exactly as it appeared on the original incorrect returns. Enter "0" for all money amounts. On Form 1096, enter only information about the corrected returns. For example, in Box 3 of Form 1096 enter only the number of corrected returns being submitted. File Form 1096 and Copy A's of the returns.
- b) Prepare a new transmittal Form 1096 and new information returns (e.g., Form 1099, 1098, etc.). Do not mark any of the forms "corrected." Enter the words "Filed to Correct TIN" or "Filed to Correct Name and Address" at the bottom margin of Form 1096. Submit the new information returns as though it was an original. Include on all forms the correct information including the correct TIN. File the 1096 and Copies A of the returns.

**Error:**

Incorrect money amounts, incorrect address or return filed when one should not have been filed.

**Correction:**

Prepare a new transmittal Form 1096 *and* new information returns (e.g., Form 1099, 1098, etc.). Enter an "X" in the "corrected" box at the top of each form. Enter the correct payor, recipient, TIN, and account number. Enter only information about the corrected returns on the Form 1096. On the returns, enter all **correct** money amounts in the correct boxes, as they **should have** appeared on the original returns. File Form 1096 and Copy A of the returns. **Do not** include copies of the original returns that were filed incorrectly.

### ***Reporting Incorrect Payor Name and/or TIN***

If a payor discovers that the payor's name or TIN was reported incorrectly, you must write a letter to the Internal Revenue Service at the Martinsburg Computing Center and include the following information:

1. Name and address of the payor
2. Type of Error (including the incorrect payor name and/or TIN that was reported)
3. Tax year
4. Payor TIN
5. Transmitter Control Code (TCC), if applicable
6. Type of return
7. Number of payees and
8. Filing method (paper or electronic).

Send the letter to IRS, Enterprise Computing Center - Martinsburg, Information Reporting Program, 240 Murall Drive, Kearneysville, WV 25430.

If the payor realized that there was a duplicate filing or that a large percentage of incorrect information had been filed, contact the information reporting customer service site at 1-866-455-7438 for further instructions.

### ***Voided Returns***

If you make an error while typing or printing a Form 1098, 1099, or 5498, enter an "X" in the "VOID" box at the top of the form. The return will then be disregarded during processing by IRS. Do **not** separate this form from the remaining forms on the sheet.

### ***Electronic Reporting***

Electronic filing is required for filing information returns by payors who have **250 or more** information returns. (Additional guidance is provided in IRS Publication 1220 or at [www.irs.gov/pub/irs-irbs/irb06-32.pdf](http://www.irs.gov/pub/irs-irbs/irb06-32.pdf)). The 250-or-more requirement applies separately to each type of form. For example, if a payor is filing 500 Forms 1099-INT and 100 Forms 1099-DIV, electronic filing is not required for Forms 1099-DIV, but Forms 1099-INT must be filed electronically.

Originals and corrections are not aggregated to determine whether electronic filing requirements apply. For example, if 400 1099-MISC Forms are filed electronically and there are 75 corrections, the corrections can be filed on paper because the number of corrections is less than the 250-filing requirement.

### ***Important Deadlines***

Approval for filing electronically is done by filing Form 4419, Application for Filing Information Returns Electronically, at least **30 days** before the March 1, 2010 due date of the returns.

Only one Form 4419 needs to be filed for all types of returns. Once approval is received, the payor need not reapply each year. Send the application, if mailing by airfreight, to: Internal Revenue Service, Martinsburg Computing Center, Information Reporting Program, 230 Murall Drive. Kearneysville, WV 25430.

To receive a waiver from the required electronic filing, submit Form 8508, **45 days before the due date of the return**, or a written statement requesting an undue hardship waiver from electronic filing for a period of time not to exceed one tax year. Send the form to Internal Revenue Service, Martinsburg

Computing Center, Information Reporting Program, 240 Murall Drive, Martinsburg, WV 25430. If the payor is required to file electronically, but fails to do so and does not have an approved waiver on record, the payor may be subject to a \$50 penalty per return for failure to file information returns. The first 250 returns will not be subject to the penalty. The due dates for electronic reporting are the same as for paper document reporting.

### ***Required Format for Paper Document Reporting***

Forms 1096, 1098, 1099 and 5498 must be prepared in accordance with the following instructions. If these instructions are not followed, a penalty of \$50 per incorrectly filed document may apply.

1. Forms 1098, 1099 and 5498 are printed two or three to an 8" x 11" page and Form 1096 is one to a page. These forms **must** be submitted to the IRS on the 8" x 11" page. Do **not** cut or separate the forms. If at least one form on the page is correctly completed, you must submit the entire page.
2. **No photocopies** of any forms are acceptable.
3. **Do not** staple, tear, or tape any of these forms. Send the forms to the IRS in a flat mailing. **DO NOT FOLD.**
4. Pinfeed holes must be outside the 8" x 11" area of the page and they must be removed before submission, taking necessary precautions against tearing or ripping the form.
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.
6. Report information only in the appropriate boxes provided on the forms.
7. **Do not** submit any copy other than **Copy A** to the IRS.
8. **Do not** use prior year forms.
9. Use only the official forms or forms that meet the specifications for substitute forms (IRS Publication 1179). All substitute forms to recipients must contain the year, form number and form name prominently displayed together in one area of the statement.
10. Use decimal points to indicate dollars and cents. **DO NOT** use dollar signs (\$), apostrophes ('), ampersands (&), asterisks (\*), commas (,), or other special characters.

### ***Penalties***

The following penalties generally apply to the person required to file information returns, generally the payor. The penalties apply to taxpayers filing with paper forms as well as electronic media.

#### **1. Failure to File Correct Information Returns by the Due Date**

If the payor fails to file a correct information return by the due date and cannot show reasonable cause, the payor may be subject to a penalty. The penalty may be assessed for any of the following:

- Failure to file timely, failure to include all information required to be shown on a return, or incorrect information is included on a return.
- Filing on paper when required to file electronically.
- Reporting an incorrect TIN or failure to report a TIN.
- Failure to file paper forms that are machine-readable.

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

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

An entity whose average annual gross receipts for the most recent three tax years (or for the period in existence, if shorter) ending before the calendar year in which the information returns were due are \$5,000,000 or less qualifies as a small business.

If the failure to file 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.

### ***Exceptions to the Penalty***

- A. The penalty will not apply to any failure that was due to reasonable cause and not to willful neglect.
- B. De Minimis Rule for Corrections -

Even though reasonable cause cannot be shown, the penalty for failure to file correct information returns will not apply to a certain number of returns if:

1. Those returns are filed timely,
2. Either the information required to be shown on a return was not included or incorrect information was included ***and***
3. You filed corrections of the information returns by August 1.

If you meet all three conditions, the penalty will not apply to the ***greater*** of ten (10) information returns or one-half of one percent of the total number of information returns you are required to file for the calendar year.

## **2. Failure to Furnish Correct Payee Statements**

If the payor fails to provide correct payee statements and cannot show reasonable cause, the payor may be subject to a penalty. The penalty may be assessed for any of the following:

- Failure to provide the statement to the payee by January 31st.

- Failure to include all information required to be shown on the statement.
- Including incorrect information on the statement.

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 1st.

If any failure to provide a correct payee statement is due to intentional disregard, the penalty is at least \$100 per statement with no maximum penalty.

3. **Failure to File Forms 5498 – 5498-SA, 1099-SA, 1099-Q and 5498-ESA**

The penalties mentioned above do not apply to Forms 5498, 5498-SA, 5498-ESA, 1099-SA, and 1099-Q. The penalty relating to failure to timely file these forms is \$50 per return with *no maximum unless the failure is due to reasonable cause.*

**Civil damages for fraudulent filing of information returns** – If you willfully file a fraudulent information return for payments you claim you made to someone, that person may be able to sue you for damages of \$5,000 or more.

**Form 1096**

**Annual Summary and Transmittal of U.S. Information Returns**

Do Not Staple 6969

Form <b>1096</b> Department of the Treasury Internal Revenue Service		<b>Annual Summary and Transmittal of U.S. Information Returns</b>				OMB No. 1545-0108 <b>2009</b>							
FILER'S name													
Street address (including room or suite number)													
City, state, and ZIP code													
Name of person to contact				Telephone number ( )		<b>For Official Use Only</b> 							
Email address				Fax number ( )									
1 Employer identification number		2 Social security number		3 Total number of forms <b>A</b>		4 Federal income tax withheld \$ <b>B</b>	5 Total amount reported with this Form 1096 \$ <b>C</b>						
6 Enter an "X" in only one box below to indicate the type of form being filed.													
W-2G 32	1098 81	1098-C 78	1098-E 84	1098-T 83	1099-A 80	1099-B 79	1099-C 85	1099-CAP 73	1099-DIV 91	1099-G 80	1099-H 71	1099-INT 92	1099-LTC 93
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1099-MISC 95	1099-OID 90	1099-PATR 97	1099-Q 31	1099-R 99	1099-S 75	1099-SA 94	3921 25	3922 20	5498 28	5498-ESA 72	5498-SA 27		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

**Return this entire page to the Internal Revenue Service. Photocopies are not acceptable.**

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature ▶ Title ▶ Date ▶

- A.** A separate Form 1096 must be used to transmit each group of forms. For example, if filing both Forms 1098 and 1099-MISC, each type of form must be filed with a separate Form 1096. Original and corrected returns do not have to be filed separately.

The only acceptable paperless method of filing information returns with the Center is electronically through the FIRE system. See Publication 1220 for specifications for filing Forms 1098, 1099, 3921, 3922, 5498 and W-2G electronically.

- B.** Enter the total federal income tax withheld.
- C.** No entry in Box 5 is required if Form 1099-A or 1099-G is being filed. For all other forms, enter in Box 5 of Form 1096 the total of the amounts from the specific boxes of each form as follows:

Form W-2G.....	Box 1
Form 1098.....	Boxes 1, 2 and 4
Form 1098-C.....	Box 4c
Form 1098-E.....	Box 1
Form 1098-T.....	Boxes 1, 2, 4, 5, 6 and 10
Form 1099-B.....	Boxes 2 and 3
Form 1099-C.....	Box 2
Form 1099-CAP.....	Box 2
Form 1099-DIV.....	Boxes 1a, 2a, 3, 8 and 9

Form 1099-H.....	Box 1
Form 1099-INT.....	Boxes 1, 3 and 8
Form 1099-LTC.....	Boxes 1 and 2
Form 1099-MISC.....	Boxes 1, 2, 3, 5, 6, 7, 8, 10, 13 and 14
Form 1099-OID.....	Boxes 1, 2, and 6
Form 1099-PATR.....	Boxes 1, 2, 3 and 5
Form 1099-Q.....	Box 1
Form 1099-R.....	Box 1
Form 1099-S.....	Box 2
Form 1099-SA.....	Box 1
Form 3921.....	Boxes 3 and 4
Form 3922.....	Boxes 3, 4 and 5
Form 5498.....	Boxes 1, 2, 3, 4, 5, 8, 9, 10 12b, 13a, 14a and 15a
Form 5498-ESA.....	Boxes 1 and 2
Form 5498-SA.....	Box 1

### **Form 1099-DIV**

#### ***Dividends and Distributions***

Corporations or associations must file this form for each person:

1. to whom it has paid gross dividends or other distributions on stock of \$10 or more;
2. for whom it has withheld any Federal income tax (regardless of amount) under the backup withholding rules;
3. for whom it has withheld and paid foreign tax on dividends or other stock distributions if the recipient can claim credit for the tax on his/her income tax return; *or*,
4. to whom it has paid \$600 or more as part of a liquidation.

Beginning in 2009, all distributions from an employee stock ownership plan that are Section 404(k) dividends must be reported on a Form 1099-R. Payments of Section 404(k) dividends directly from the corporation to the plan participants or their beneficiaries must be reported on Form 1099-DIV.

Ordinary dividends from a foreign corporation will be qualified dividends if the other conditions under qualified dividends are met.

Distributions, commonly referred to as "dividends", that are actually interest, such as "dividends" on deposit or on share accounts in cooperative banks, credit unions, domestic building and loan associations, savings and loan associations and mutual savings banks, are to be reported on Form 1099-INT.

Trustees and middlemen are required to report all items of gross income and proceeds attributable to a trust interest holder (TIH) of a Widely Held Fixed Investment Trust (WHFIT) on the appropriate Form 1099. These trusts were previously required to file Form 1041. The written tax information statement furnished to the TIH for 2009 is due on or before March 15, 2010.

- A.** Box 1a - Shows total ordinary dividends that are taxable
- B.** Box 1b – The amount in this box is the portion of the amount in Box 1a that may be eligible for the zero and 15% capital gains rates
- C.** Box 2a – This is the total capital gain distributions (long-term) from a regulated investment company or real estate investment trust. Include all amounts shown in Boxes 2b, 2c and 2d.
- D.** Box 2b – This amount is the portion of the amount in Box 2a that is unrecaptured Section 1250 gain from certain depreciable real property.

9191 <input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED		OMB No. 1545-0110	
PAYER'S name, street address, city, state, ZIP code, and telephone no.		1a Total ordinary dividends	<b>2009</b>
		\$ <b>A</b>	
PAYER'S federal identification number		1b Qualified dividends	Form 1099-DIV
RECIPIENT'S identification number		\$ <b>B</b>	
RECIPIENT'S name		2a Total capital gain distr.	2b Unrecap. Sec. 1250 gain
Street address (including apt. no.)		\$ <b>C</b>	\$ <b>D</b>
City, state, and ZIP code		2c Section 1202 gain	2d Collectibles (28%) gain
Account number (see instructions)		\$ <b>E</b>	\$ <b>F</b>
2nd TIN not. <input type="checkbox"/>		3 Nondividend distributions	
Form 1099-DIV		\$ <b>G</b>	4 Federal income tax withheld
Cat. No. 14415N		\$ <b>H</b>	5 Investment expenses
Department of the Treasury - Internal Revenue Service		\$ <b>I</b>	\$ <b>K</b>
Do Not Cut or Separate Forms on This Page		6 Foreign tax paid	7 Foreign property or U.S. possession
Do Not Cut or Separate Forms on This Page		\$ <b>J</b>	9 Noncash liquidation distributions
\$		8 Cash liquidation distributions	\$

**Dividends and Distributions**

**Copy A**  
For Internal Revenue Service Center  
File with Form 1096.

For Privacy Act and Paperwork Reduction Act Notice, see the 2009 General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.

- E.** Box 2c – This amount is the portion of the amount in Box 2a that is Section 1202 gain from certain small business stock that may be subject to a 50% exclusion.
- F.** Box 2d – This amount is subject to the 28% capital gain rate from sale of exchange of collectibles.
- G.** Box 3 – This amount is nontaxable because it is a return of your cost (or other basis). File Form 5452 corporate report of non-dividend distributions, if you paid nontaxable dividends to shareholders. Once the recipient has recovered his cost or basis, additional distributions are taxable as a capital gain, even if the payor lists them as nontaxable. This amount is not included in Box 1.
- H.** Box 4 – Enter back up withholding in this box. The rate is 28%.
- I.** Box 5 – Investment expenses which include a stockholder’s pro rata share of expenses of a regulated investment company, including a mutual fund. This amount is included in Box 1a and is deductible as a miscellaneous itemized deduction on the recipient’s personal tax return, subject to the two-percent limit.
- J.** Box 6 – Enter any foreign taxes paid, denominated in U.S. Dollars.
- K.** Box 7 – Enter the name of the country to which the taxes reported in Box 6 were paid.

**Note:** Boxes 8 and 9 - Liquidation distributions include cash and non-cash. These two boxes apply only to corporations in partial or complete liquidation. If a payment includes non-cash property, show the fair market value of the property at the time of payment. Do not include these amounts in Box 1.

**Form 1099-INT**  
***Interest Income***

If this form shows two or more recipients, or if the amounts shown include interest belonging to another person, the recipient whose taxpayer identification number is on the form is considered a nominee recipient. This individual must file a 1099-INT with Form 1096, Annual Summary and Transmittal of U.S. Information Returns, with the Internal Revenue Service Center for each of the owners showing their share of income. The nominee recipient is the "payor" and the other owner(s) should be listed as the "recipient" on Form 1099-INT.

Savings and loans, credit unions, banks, insurance companies, and similar organizations, which paid or credited to the account of any person, interest totaling \$10 or more during the calendar year and other organizations that paid interest totaling \$600 or more during the calendar year during the regular course of business must file Form 1099-INT. If withheld federal income tax under the backup withholding rules, regardless of the amount of the payment or if withheld and paid foreign tax on interest, must also file Form 1099-INT.

**Canadian Nonresident Aliens** - If you pay U.S. bank deposit interest of \$10 to a nonresident alien who resides in Canada, you may have to report the interest on Form 1042-S. This interest is not subject to backup withholding.

**Note:** Interest payments made to a corporation, tax-exempt organization, individual retirement arrangement (IRA), Archer MSA, Health Savings Account (HSA), a U.S. agency, a state, the District of Columbia, a U.S. possession or registered securities or commodities dealers are not required to be reported on Form 1099-INT, **unless** these entities are holders of Clean Renewable Energy Bonds or Gulf Bonds. See Regulations Section 1.6049-4 for more information.

9292		<input type="checkbox"/> VOID		<input type="checkbox"/> CORRECTED		OMB No. 1545-0112		<b>2009</b>	<b>Interest Income</b>	
PAYER'S name, street address, city, state, ZIP code, and telephone no.				Payer's RTN (optional)		1 Interest income <b>A</b>				Form 1099-INT
						\$				
PAYER'S federal identification number				RECIPIENT'S identification number		2 Early withdrawal penalty <b>B</b>				
RECIPIENT'S name				3 Interest on U.S. Savings Bonds and Treas. obligations <b>C</b>		4 Federal income tax withheld <b>D</b>		5 Investment expenses <b>E</b>		
Street address (including apt. no.)				6 Foreign tax paid <b>F</b>		7 Foreign country or U.S. possession <b>G</b>		<b>Copy A</b> For Internal Revenue Service Center File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2009 General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.		
City, state, and ZIP code				8 Tax-exempt interest <b>H</b>		9 Specified private activity bond interest <b>I</b>				
Account number (see instructions)			2nd TIN not <input type="checkbox"/>	\$		\$				

Form 1099-INT      Cat. No. 14410K      Department of the Treasury - Internal Revenue Service

**Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page**

- 
- A.** Enter any amounts of \$10 or more (whether designated as interest or not) *except* U.S. Government obligations entered in Box 3.
- B.** Enter interest on principal forfeited because of an early withdrawal of a time deposit.
- C.** Include interest on U.S. Savings Bonds, Treasury Bills, Treasury Bonds, and Treasury Notes.
- D.** Enter backup withholding.
- E.** Enter the regular interest holder's pro rata share of investment expenses deductible by a single-class REMIC.
- F.** Enter any foreign taxes paid denominated in U.S. dollars.
- G.** Enter the name of the country to which the taxes reported in Box 6 were paid.
- H.** Enter interest of \$10 or more that is credited or paid to the person's account if that interest is used to finance government operations and is issued by a state, the District of Columbia, a U.S. possession, an Indian tribal government or a political subdivision.
- I.** Enter interest of \$10 or more from specified private activity bonds.

**Form 1098**

***Mortgage Interest Statement***

Form 1098 is for use by persons who, in the course of a trade or business, receive at least \$600 of mortgage interest (including points) from an individual, including a sole proprietor, during a calendar year. File a separate 1098 for each mortgage. This form is not required if the interest is not received in the course of a trade or business. For example, if on a sale of a personal residence, the buyer makes mortgage payments to the individual seller, a Form 1098 is not required to be filed. However, these reporting requirements also apply to governmental units and cooperative housing corporations without regard to the trade or business requirement. Report points paid in Box 2, which were paid directly by a borrower on the purchase of a principal residence.

Reimbursement (refund or credit) of prior year overpayment of interest aggregating \$600 or more must be reported in Box 3. If the reimbursement is less than \$600, reporting is not required unless a Form 1098 is otherwise required to be filed. If the reimbursement is in the same year it is overpaid, do not report the overpayment separately; report the net amount after the reimbursement in Box 1 as mortgage interest paid.

Points must be reported 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.

Prepaid Mortgage Insurance - Except for amounts paid to the Department of Veterans Affairs or the Rural Housing Service, payments allocable to periods after 2008 are treated as paid in the periods to which they are allocable.

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RECIPIENT'S/LENDER'S name, address, and telephone number OMB No. 1545-0801 <div style="text-align: center; font-size: 2em; font-weight: bold;">2009</div> Form 1098		Mortgage Interest Statement	
RECIPIENT'S federal identification no.	PAYER'S social security number	1 Mortgage interest received from payer(s)/borrower(s) \$	<b>Copy A</b> For Internal Revenue Service Center File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2009 General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.
PAYER'S/BORROWER'S name		2 Points paid on purchase of principal residence \$	
Street address (including apt. no.)		3 Refund of overpaid interest \$	
City, state, and ZIP code		4 Mortgage insurance premiums \$	
Account number (see instructions)		5	

**Form 1098-C**

***Contributions of Motor Vehicles, Boats, and Airplanes***

A charitable organization must file a separate Form 1098-C with the IRS for each contribution of a qualified vehicle that has a claimed value of more than \$500. A qualified vehicle is any motor vehicle manufactured primarily for use on public streets, roads and highways, a boat or an airplane. However, property held by the donor primarily for sale to customers, such as inventory of a car dealer, is not a qualified vehicle.

If a donor contributes a qualified vehicle with a claimed value of more than \$500, the organization must furnish a contemporaneous written acknowledgement of the contribution to the donor which contains the same information shown on Form 1098-C. Otherwise the donor cannot claim a deduction of more than \$500 for that vehicle. Copy B of Form 1098-C may be used for this purpose. An acknowledgement is considered contemporaneous if it is furnished to the donor no later than 30 days after the:

- date of sale, if you are required to check Box 4a or
- date of the contribution, if you are required to check Box 5a or Box 5b.

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DONOR'S name, street address, city, state, ZIP code, and telephone no.		OMB No. 1545-1959	<b>2009</b> Form 1098-C	<b>Contributions of Motor Vehicles, Boats, and Airplanes</b>
		1 Date of contribution <b>A</b>		
		2 Make, model, and year of vehicle <b>A</b>		
DONOR'S federal identification number	DONOR'S identification number	3 Vehicle or other identification number <b>A</b>		
DONOR'S name		4a <input type="checkbox"/> Donee certifies that vehicle was sold in arm's length transaction to unrelated party <b>B</b>		
Street address (including apt. no.)		4b Date of sale <b>B</b>		
City, state, and ZIP code		4c Gross proceeds from sale (see instructions) \$ <b>B</b>		
5a <input type="checkbox"/> Donee certifies that vehicle will not be transferred for money, other property, or services before completion of material improvements or significant intervening use <b>C</b>				
5b <input type="checkbox"/> Donee certifies that vehicle is to be transferred to a needy individual for significantly below fair market value in furtherance of donee's charitable purpose <b>D</b>				
5c Donee certifies the following detailed description of material improvements or significant intervening use and duration of use <b>E</b>				
6a Did you provide goods or services in exchange for the vehicle? . . . . . <b>F</b> . . . . . Yes <input type="checkbox"/> No <input type="checkbox"/>				
6b Value of goods and services provided in exchange for the vehicle \$ <b>G</b>				
6c Describe the goods and services, if any, that were provided. If this box is checked, donee certifies that the goods and services consisted solely of intangible religious benefits . . . . . <input type="checkbox"/> <b>H</b>				
7 Under the law, the donor may not claim a deduction of more than \$500 for this vehicle if this box is checked . . . . . <input type="checkbox"/> <b>I</b>				

**Copy A**

For Internal Revenue Service Center  
File with Form 1098.

For Privacy Act and Paperwork Reduction Act Notice, see the 2009 General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.

- A. Boxes 1, 2 and 3 are self-explanatory.
- B. If the vehicle is sold to a buyer other than needy individual without a significant intervening use or material improvement, the organization must certify that the sale was made in an arm's length transaction between unrelated parties. Check the box to make the certification. Boxes 4b and 4c must be completed.
- C. If the organization intends to make a significant intervening use of or a material improvement to the vehicle, Box 5a must be checked to certify that the vehicle will not be transferred for cash, other property or services before completion of the use or improvement. Box 5c must also be completed.
- D. Box 5b must be checked if the organization intends to sell the vehicle to a needy individual at a price significantly below fair market value or make a gratuitous transfer of the vehicle to a needy individual. The donor's contribution for a sale for this purpose is not limited to the gross proceeds from the sale. Skip this box if the qualified vehicle has a claimed value of \$500 or less.
- E. Describe in detail the intended material improvements or significant intervening use and duration of the use by the organization.
- F. This box must be checked to indicate whether goods or services were provided to the donor in exchange for the vehicle.
- G. If Box 6a is checked "yes," Box 6b must be completed.
- H. Describe the details of the goods and services, if Box 6a is checked "yes."
- I. If the vehicle has claimed value of \$500 or less or if the donor did not provide a taxpayer identification number, Box 7 must be checked. If this box is checked, **do not** file Copy A of the Form with the IRS and **do not** furnish Copy B to the donor.

## **Form 1099-MISC**

### ***Miscellaneous Income***

Every organization engaged in a trade or business (including a partnership, sole proprietor, corporation, labor union or trust) which made payments of at least \$600 to persons other than corporations (except in the case of legal services and health care services) must report on Form 1099-MISC, items of income for which no other form is prescribed. These items include: rents, royalties, prizes, nonemployee compensation, and health care payments. **Any payments of royalties or broker payments of at least \$10 must be reported on Form 1099-MISC.**

#### **Warning**

Taxpayers frequently overlook the fact that payments made for health care services must be reported on Form 1099-MISC **whether or not** the payments are made **to a corporation**. These rules apply to employers with self-insured medical programs. However, payments made under a flexible spending arrangement or a health reimbursement arrangement which is treated as employer-provided coverage under an accident or health plan for purposes of Section 106 are exempt from the reporting requirements.

In addition, payments made to attorneys even if the entity is a corporation must be reported on Form 1099-MISC.

### ***Prizes, Awards and Damages***

Prizes and awards received in recognition of past accomplishments in religious, charitable, scientific, artistic, educational, literary or civic fields are not taxable and need not be reported if (1) winners are chosen without action on their part, (2) the winners are not expected to perform future services, and (3) the payor transfers the prize or award to a charitable organization or governmental unit pursuant to a designation made by the recipient.

Punitive damages paid in cases that do not involve physical injury or sickness are taxable and must be included in Box 3 of Form 1099-MISC.

### ***Non-Employee Compensation***

Fees for professional services, referral commissions and split fees paid by one professional or tradesperson to another are also subject to information reporting. This includes, for example, an attorney who obtains the assistance of a second attorney in handling a particular case and agrees to split the fee. If the fee is \$600 or more, the first attorney must file an information return. Another example would be a realtor who refers a customer to a second realtor and the second realtor pays the first realtor a referral commission of \$600 or more. The second realtor must file an information return. Payments for services include payment for parts and materials used to render the service if supplying the parts and materials was incidental to providing the service.

**Notes:** 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 this form, report the payments in Box 3.

**Do not** report payments to **employees**, such as Christmas bonuses or reimbursements for travel or car expenses, on Form 1099. Report these on Form W-2, Wage and Tax Statement.

**Legal Services**

**Payments to attorneys.** Attorneys' fees of \$600 or more paid in the course of your trade or business are and continue to be reportable in Box 7 of Form 1099-MISC. However, if you make a payment in the course of your trade or business to an attorney in connection with legal services and the attorney's fee cannot be determined, the total amount paid to the attorney (gross proceeds) must be reported in Box 14. You must obtain the attorney's taxpayer identification number (TIN).

**Payments to corporations for legal services.** The exemption from reporting payments made to corporations does not apply to payments for legal service. Therefore, you must report attorneys' fees (in Box 7) or gross proceeds paid to attorneys (in Box 14), as described above, to corporations that provide legal services.

**Widely Held Fixed Investment Trusts**

The IRS issued final regulations on the reporting requirements for fixed investment trusts. Regulations Section 1.671-5(d) require trustees and middlemen to file with the IRS the appropriate Form 1099 for items of income, expense or credit.

**Deceased Employee's Wages**

Accrued wages and other compensation paid after the death of an employee is subject to social security and medicare taxes if it is paid in the year of death. These are reported on Form W-2 in Boxes 3 and 5, but not Box 1. Whether the payment is made in the year of death or after the year of death, you must also report the payment to the estate or beneficiary on Form 1099-MISC, Box 3.

Additionally, Death Benefits from qualified and nonqualified deferred compensation plans paid to the estate or beneficiary of a deceased employee are also reportable on Form 1099-MISC. Do not report the death benefits on Form 1099-R.

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PAYER'S name, street address, city, state, ZIP code, and telephone no.		1 Rents <b>A</b>	OMB No. 1545-0115	
		2 Royalties <b>B</b>	<div style="font-size: 2em; font-weight: bold;">2009</div> <div style="font-weight: bold;">Miscellaneous Income</div>	
		3 Other income <b>C</b>		
PAYER'S federal identification number	RECIPIENT'S identification number	4 Federal income tax withheld <b>D</b>	<div style="font-weight: bold;">Copy A</div> <div style="font-weight: bold;">For Internal Revenue Service Center</div>	
		5 Fishing boat proceeds <b>E</b>		
RECIPIENT'S name		7 Nonemployee compensation <b>F</b>	<div style="font-weight: bold;">For Privacy Act and Paperwork Reduction Act Notice, see the 2009 General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.</div>	
		8 Substitute payments in lieu of dividends or interest <b>G</b>		
Street address (including apt. no.)		10 Crop insurance proceeds <b>H</b>		
City, state, and ZIP code		11		
Account number (see instructions)	2nd TIN not <input type="checkbox"/>	12		
13 Excess golden parachute payments <b>I</b>	14 Gross proceeds paid to an attorney <b>H</b>			
15a Section 409A deferrals <b>J</b>	15b Section 409A income <b>K</b>	16 State tax withheld <b>I</b>	17 State/Payer's state no. <b>I</b>	18 State income
\$	\$	\$		\$

- A.** Include amounts paid for all types of rents (real estate, equipment, etc.) of \$600 or more.
- B.** Include gross royalty payments of \$10 or more before reduction for severance and other taxes that have been withheld. Do not report oil or gas payments for a working interest in Box 2; they should be reported in Box 7.
- C.** Enter other income of \$600 or more required to be reported that is not reported in another box. Compensation of a deceased employee paid to an estate or beneficiary and certain damages and prizes not paid for services rendered are included in Box 3.
- D.** Enter backup withholding.
- E.** Include payments made in the course of a trade or business by medical and health care insurers to each physician or other supplier or provider of services relating to health, accident, and sickness insurance programs. Where applicable, list a corporation as the recipient rather than the individual providing the service. Do not include payments made under a flexible spending arrangement or an employer provided health reimbursement arrangement.
- F.** Include fees, commissions, or other forms of compensation for services rendered to your trade or business by an individual who is not your employee. In addition, include any oil and gas payments for a working interest, whether or not services were performed. The amount in this box is subject to self-employment tax.
- Include in Box 7 the amount of all deferrals (plus earnings) reported in Box 15b that are includible in gross income because the nonqualified deferred compensation plan failed to satisfy the requirement of Section 409A.
- G.** Include aggregate payments of at least \$10 received by a broker on behalf of 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.
- H.** Report gross proceeds paid to an attorney in connection with legal services (regardless of whether the services are performed for the payor). Report gross proceeds paid to an attorney in connection with legal services (regardless of whether the services are performed for the payor).
- I.** If state income tax is withheld, enter the amount in Box 16. In Box 17, enter the abbreviated name of the state and payor's state identification number.
- J.** You do not have to complete this box. For details see IRS Notice 2008-115. If you choose to complete this box, include the amount of \$600 or more of total deferrals during the year for the non-employee from all nonqualified deferred compensation (NQDC) plans subject to the provisions on Section 409A. The deferrals during the year include earnings on the current and prior year deferrals. For additional information see Regulations Sections 1.409A through 1.409A-6.
- K.** Include the amount of current year and prior year deferrals that are includible in income under Section 409A because the NQDC plan failed to satisfy the requirements of Section 409A. Include the earnings on the deferrals. Do not include amounts previously included in income. Also do not include amounts that are considered subject to a substantial risk of forfeiture under Section 409A. The amount included in Box 15b is also includible in Box 7 and generally is subject to self-employment tax.

## **Form 1099-R**

### ***Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, Individual Retirement Arrangements, Insurance Contracts, etc.***

A designated distribution of \$10 or more from profit-sharing or retirement plans, any annuity, Individual Retirement Accounts, pensions, survivor income benefit plans, charitable gift annuities, or insurance contracts must be reported on Form 1099-R. Reportable disability payments made from a retirement plan must also be reported on Form 1099-R. ***A separate Form 1099-R must be used for each type of distribution.*** Do not report two different distributions on the same 1099-R.

Death benefits from a qualified and non-qualified deferred compensation (NQDC) plan to an estate or beneficiary of a deceased plan participant are no longer reported on Form 1099-R. These are reported on Form 1099-MISC.

For distributions from a Roth IRA, report the gross distribution in Box 1 but generally **leave Box 2a blank**. Mark the "Taxable amount not determined" box in Box 2b. Enter Code J, Q, or T, as appropriate, in Box 7. Do not use any other codes with Code Q or Code T. You may enter Code 8 or P with Code J. For the withdrawal of excess contributions, use Box 2a.

You must report an IRA that is converted to a Roth IRA in Boxes 1 and 2a, even if the conversion is with the same trustee. Use Code 2 or 7 in Box 7 as appropriate.

**Distributions of Designated Roth Account Contributions** - A participant in a Section 401(k) plan or a Section 403(b) Plan that includes a Roth contribution program may elect to make designated Roth account contributions to the plan or program in lieu of elective deferrals. Designated Roth account contributions are reported on the participant's Form W-2. Designated Roth account distributions are reported separately on Form 1099-R (Code B).

### ***Notice to Beneficiaries***

If a distribution is **eligible** for rollover, the plan administrator must give a written notice to the recipient **before** the distribution is made. It must contain an explanation of the rollover requirements, the special tax treatment for lump-sum distributions, the mandatory 20% withholding rules, and an explanation of how distributions from the plan to which the rollover is made may have different restrictions and tax consequences than the plan from which the rollover is made. (See Exhibit A). It must be given to the recipient at least 30 days, but not more than 90 days, **prior** to the distribution (180 days for plan years beginning after December 31, 2006). However, you may provide the notice more than 90 days before the distribution (180 days for plan years beginning after December 31, 2006) if you also provide a summary of the notice during the 90 day/30 day period before the distribution. For periodic payments that are eligible rollover distributions, you must provide the notice before the first payment and at least once a year as long as the payments continue.

The IRS revised the "Safe Harbor Explanation" that plan administrators may provide to recipients of eligible rollover distributions from employer plans with Notice 2009-68. This notice reflects changes in the law made by several recent tax acts (See Exhibit A). This also applies to "Governmental 457 Plans." This notice also contains the "Safe Harbor Explanation" that applies to a distribution from a designated Roth Account (See Exhibit B).

The IRS requires that Box 7 be completed with an appropriate code number that shows the type of distribution being made. When applicable, you may enter a numeric and an alpha code. When more than

one numeric code is applicable to a distribution, it may be necessary to file more than one Form 1099-R. If part of an eligible rollover distribution is paid in a direct rollover and part is not, you must file a separate 1099-R for each part showing the appropriate code on each form.

### *Codes*

1. **Early (premature) distribution, no known exception** – Use Code 1 only if the employee/taxpayer has not reached age 59½ and none of the exceptions under distribution Codes 2, 3 or 4 apply when the distribution is made. Use Code 1 even if the distribution is made for medical, health insurance premiums, first-time homebuyer or qualified higher education expenses under Section 72(t). Code 1 must also be used even if the taxpayer is 59½ or older and he or she modifies a series of substantially equal periodic payments under Section 72(q), (t) or (v), prior to the end of the 5-year period. The exceptions regarding the 10% excise tax (Section 72(q), (t) or (v)) are listed in Exhibit A.
2. **Early (premature) distribution, exception applies** – Use Code 2 only if the employee/taxpayer has not reached age 59½ and only if the distribution is:
  - A Roth IRA Conversion (an IRA converted to a Roth IRA) or a reconversion if the participant is under the age of 59½.
  - An early distribution made from a qualified retirement plan or IRA because of an IRS levy under Section 6331.
  - A Section 457 (b) plan distribution that is not subject to the additional 10% excise tax.
  - A distribution from a qualified retirement plan after separation from service at the age of 55.
  - A distribution from a governmental defined benefit plan to a public safety employee after separation from service when the taxpayer has reached age 50.
  - A distribution that is part of a series of substantially equal periodic payments as described in Section 72(q), (t) or (v).
  - A distribution that is a permissible withdrawal under an eligible automatic contribution arrangement.
  - Any other distribution subject to an exception under Section 72(q), (t) or (v) that is not required to be reported using Code 1, 3 or 4.

If early distribution is due to disability or death, use Codes 3 or 4 instead of Code 2. Also use Code 2 for a Roth conversion or reconversion if the participant is under 59½.

3. **Disability**
4. **Death** – Includes payments to a beneficiary. Use Code 4, regardless of the age of the employee/taxpayer, to indicate payment to a beneficiary. Also, use it for death benefit payments not made as part of a pension, profit sharing, or retirement plan.
5. **Prohibited transaction**
6. **Section 1035 exchange** – Use Code 6 to indicate tax-free exchange of insurance contracts under Section 1035.
7. **Normal distribution** – Use Code 7 for:
  - A normal distribution from any plan, including a traditional IRA, SIMPLE or SEP, if the employee/taxpayer is at least 59½.
  - A Roth IRA conversion or reconversion if the participant is at least 59½.

- A distribution from a life insurance, annuity, or endowment contract and for reporting income from a failed life insurance contract.
  - Do not use Code 7 for a Roth IRA.
8. **Excess contributions plus earnings/ excess deferrals and/or earnings** – Use Code 8 for corrective distributions of excess contributions or deferrals plus earnings taxable in 2009.
  9. **Cost of current life insurance protection**
    - A. **May be eligible for 10-year averaging** – See Form 4972.
    - B. **Designated Roth Account Distribution** – Use code B for a distribution from a designated Roth account that is not a qualified distribution. However, use Code 2 for an IRS levy and Code E for a Section 415 excess.
    - D. **Excess contributions** – Plus earnings/excess deferrals taxable in 2007.
    - E. **Excess annual additions under Section 415** – and certain excess amounts under Section 403(b) plans.
    - F. **Charitable gift annuity**
    - G. **Direct rollover and rollover contributions**
    - H. **Direct Rollover of a designated Roth account distribution to a Roth IRA.**
    - J. **Early distribution from a Roth IRA** – When Code Q or T does not apply use Code 2 for an IRS levy and Code 5 for a prohibited transaction.
    - L. **Loans treated as deemed distributions under Section 72(p)**
    - N. **Recharacterized IRA contribution** – Made for 2009 and recharacterized in 2009.
    - P. **Excess Contributions** – Plus earnings/excess deferrals taxable in 2008.
    - Q. **Qualified distribution from a Roth IRA.**
    - R. **Recharacterized IRA Contribution** – Made for 2008 and recharacterized in 2009.
    - S. **Early distribution from A SIMPLE IRA in first 2 years**, no known exception.
    - T. **Roth IRA Distribution**, exception applies.
    - U. **Dividends distributed from an ESOP under Section 404(k)** - these are not eligible rollover distributions.

### *Annuity Contracts Simplified Method*

The IRS published Notice 98-2 which provides a Simplified Method for determining the taxable and tax-free portion of certain annuities paid on qualified employee plans and annuity contracts. A copy of the notice is included at the end of this publication. The Safe Harbor Method under Notice 88-118 was replaced by the Simplified Method for distributions after November 18, 1996, (*See Exhibit C*).

Report in Box 9b the total employee contribution toward the annuity **only** in the year periodic payments began. Do **not** put an amount in this box if the distribution is not eligible for the simplified safe harbor method of Notice 88-118. If amounts were previously recovered tax-free in prior years, do **not** include that amount in this box. This information is applicable for annuities **prior** to November 18, 1996. If the distribution is a total distribution, enter the total employee contribution **only** in Box 5.

### *Deemed IRAs*

A qualified employer plan may allow employees to make voluntary employee contributions to a separate account or annuity established under the plan. Under the terms of the plan, the account or annuity must

meet the applicable requirements of Section 408 or 408A for a traditional IRA or Roth IRA. Under Section 408(q), the “deemed IRA” portion of the qualified employer plan is subject to the rules applicable to traditional and Roth IRAs and not to those of the applicable plan under Section 401(a), 403(a), 403(b) or 457.

The reporting and withholding rules on any plan and IRA distributions apply separately depending on whether the distributions are made from the deemed IRA or the qualified employer plan. A total distribution of amounts held in the qualified employer plan portion and the deemed IRA portion is reported on two separate 1099-R Forms. Also, the 20% mandatory withholding rules of Section 3405(c) do not apply to a distribution from the deemed IRA portion, but would apply to a distribution from the qualified employer plan portion.

### *Automatic Rollovers*

The IRS has issued guidance on the new Automatic (default) Rollover rule for qualified retirement plans under Code Section 401(a) (31) (B), Notice 2005-5. The guidance defines a mandatory distribution as one that is made without the participant’s consent and that it is made to a participant before he or she attains the later of age 62 or normal retirement age. The Automatic Rollover requirements apply to any mandatory distribution that is more than \$1,000, but not more than \$5,000 and is an eligible rollover distribution that is subject to the direct rollover requirements that are in Section 401(a)(31).

In order to satisfy the automatic requirement of Section 401(a)(31)(B), a plan must provide that when making a mandatory distribution, if after receiving the proper notice, a participant fails to elect to receive a mandatory distribution directly or to have it paid in a direct rollover to an eligible retirement plan, the distribution will be paid in a direct rollover to an individual retirement plan.

The automatic rollover requirements apply to mandatory distributions made on or after March 28, 2005.

### *Rules to Remember for Federal Income Tax Withholding*

A Form W-4P must be completed and signed by the recipient prior to receiving any distribution. Unless the recipient elects on Form W-4P *not* to have income tax withheld from the distribution, the plan administrator is required to withhold on periodic payments as though the payments were wages, based on the recipient’s Form W-4P. Nonperiodic distributions that *are not* eligible for rollover are subject to a 10% withholding tax. All withheld Federal income tax is reported in Box 4.

Any eligible rollover distribution paid to a participant from a qualified plan is subject to a mandatory and automatic 20% withholding tax, unless the distribution is paid directly to another qualified plan or an Individual Retirement Account through a direct trustee-to-trustee transfer. An eligible rollover distribution is defined as any distribution from a qualified plan, annuity, or tax-sheltered annuity, *except* for the following:

1. Benefits paid over the life or life expectancy of the participant or beneficiary, or jointly over both life expectancies;
2. Benefits paid over a scheduled period of time of at least 10 years;
3. Required minimum distributions;
4. Elective deferrals and earnings returned because of Section 415 limits;
5. Corrective distributions of excess deferrals under Section 402(g) and earnings;
6. Corrective distributions of excess contributions under a qualified cash or deferred arrangement (under 401(k)) and excess aggregate contributions (under Section 401(m)) and earnings;

7. Loans treated as deemed distributions (Plan loan offset amounts, however, can be eligible rollover distributions);
8. Section 404(k) dividends;
9. Cost of current life insurance protection;
10. Distributions to a payee other than the employee, the employee's surviving spouse, or a spouse or former spouse who is an alternate payee under a QDRO;
11. Any hardship distribution;
12. A permissible withdrawal under Section 414(w);
13. Prohibited allocations of securities in an S-corporation that are treated as deemed distributions;
14. Distributions of premiums for accident or health insurance under Regulations Sections 1.402(a)-1(e).

Each eligible rollover distribution, including each eligible rollover distribution paid directly to an eligible retirement plan in a direct rollover, must be reported on Form 1099-R.

The 20% withholding does not apply to distributions from IRAs. An employer may, but need not, exclude distributions that are less than \$200 from the 20% withholding.

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PAYER'S name, street address, city, state, and ZIP code		1 Gross distribution	OMB No. 1545-0119		<b>2009</b> Form 1099-R	<b>Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.</b>
		\$ <b>A</b>				
		2a Taxable amount				
		\$ <b>B</b>				
		2b Taxable amount not determined <input type="checkbox"/>	Total distribution <input type="checkbox"/>			
PAYER'S federal identification number	RECIPIENT'S identification number	3 Capital gain (included in box 2a)	4 Federal income tax withheld		<b>Copy A For Internal Revenue Service Center</b>  File with Form 1096.	
		\$ <b>C</b>	\$			
RECIPIENT'S name		5 Employee contributions / Designated Roth contributions or insurance premiums	6 Net unrealized appreciation in employer's securities		For Privacy Act and Paperwork Reduction Act Notice, see the 2009 General Instructions for Forms 1099, 1098, 3921, 3922, 5498, and W-2G.	
		\$ <b>D</b>	\$ <b>E</b>			
Street address (including apt. no.)		7 Distribution code(s)	IRA/SEP/SIMPLE <input type="checkbox"/>	8 Other		
City, state, and ZIP code		<b>F</b>	<b>G</b>	%		
		9a Your percentage of total distribution %	9b Total employee contributions			
		\$	\$			
1st year of desig. Roth contrib.		10 State tax withheld	11 State/Payer's state no.		12 State distribution	
		\$			\$	
Account number (see instructions)		13 Local tax withheld	14 Name of locality		15 Local distribution	
		\$			\$	

Form 1099-R

Cat. No. 14436Q

Department of the Treasury - Internal Revenue Service

**Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page**

- A.** Enter total distribution before tax or other withholdings. Include direct rollovers, premiums paid by a trustee or custodian for current life or other insurance protection, distributions of qualified deductible voluntary employee contributions (DECs) and IRA, SEP or SIMPLE distributions. Also include in this box distributions from governmental Section 457(b) plans.
- B.** Report the amount includible as income. Do not include excludable or tax deferred amounts reportable in Boxes 5, 6, and 8. See the discussion on Expected Annuity Payments, in Exhibit C. Generally, the payor is not required to compute the taxable amount of an IRA, SEP or SIMPLE distribution. For a distribution of excess contributions plus earnings from an IRA, report the gross distribution in Box 1 and only the earnings in Box 2a; enter Code 8 or P in Box 7.
- C.** For lump sum distributions only, enter the amount in Box 2a eligible for the capital gain election.
- D.** Enter the total contributed to the plan by the individual; any amount paid by the employer which was includible in the employee's income; the cost of premiums paid for life insurance protection taxable to the employee; and premiums paid on commercial annuities. The total employee contributions must be reported only in the first year of periodic payments. Also, report after-tax contributions directly rolled over to an IRA. Do not include contributions to any DECs or 401(k) Plans or any other contribution to a retirement plan that was not an after-tax contribution.
- E.** Report the amount of a lump-sum distribution attributable to net unrealized appreciation in employer (or a subsidiary or parent corporation) securities. Include this amount in Box 1 but not in Box 2a.
- F.** See discussion of codes in previous pages.
- G.** The current actuarial value of an annuity contract that is part of a lump-sum distribution. DO NOT include this amount in Boxes 1 and 2a.
- H.** See discussion of Life Annuity Rules in Exhibit C.

Boxes 10-15 - The use of these boxes is optional.

**Form 5498**  
***IRA Contribution Information***

Form 5498 must be filed with the IRS by June 1, 2010 and a copy provided to the participant, on or before February 1, 2010 for each person for whom any individual retirement arrangement is maintained during 2008. For contributions made between January 1st and April 15, 2010, trustees and issuers should obtain the participant's designation of the year for which the contributions are made.

The receipt of a direct rollover from a qualified plan or tax-sheltered annuity including a governmental Section 457(b) plan must be reported on this form. However, do **not** report a direct trustee-to-trustee transfer from one IRA to another. You must report the receipt of a conversion from an IRA to a Roth conversion IRA even if the conversion is with the same trustee. Report the total amount converted from a Traditional IRA, SEP or SIMPLE to a Roth IRA in Box 3.

**Note:** The fair market value information must be given to the participant **no later than February 1, 2010.**

2828		<input type="checkbox"/> VOID		<input type="checkbox"/> CORRECTED	
TRUSTEE'S or ISSUER'S name, street address, city, state, and ZIP code		1 IRA contributions (other than amounts in boxes 2-4, 8-10, 13a, 14a, and 15a)	OMB No. 1545-0747		
		\$	2009		
		2 Rollover contributions	Form 5498		
		\$			
		3 Roth IRA conversion amount	4 Recharacterized contributions		
		\$	\$		
TRUSTEE'S or ISSUER'S federal identification no.	PARTICIPANT'S social security number	5 Fair market value of account	6 Life insurance cost included in box 1		
		\$ <b>A</b>	\$ <b>B</b>		
PARTICIPANT'S name		7 IRA <input type="checkbox"/> SEP <input type="checkbox"/> SIMPLE <input type="checkbox"/> Roth IRA <input type="checkbox"/>	8 SEP contributions		
Street address (including apt. no.)		\$	9 SIMPLE contributions		
City, state, and ZIP code		10 Roth IRA contributions	\$		
		\$	11 Check if RMD for 2010		
		12a RMD date	<input type="checkbox"/>		
		12b RMD amount	\$		
		13a Postponed contribution	13b Year	13c Code	
		\$			
		14a Repayments	14b Code		
		\$			
Account number (see instructions)		15a Other contributions	15b Code		
		\$			

Form 5498      Cat. No. 50010C      Department of the Treasury - Internal Revenue Service

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A. This is the fair market value (FMV) of the account at the end of the year. However, if a decedent is shown as the participant on this form it may be the FMV at the date of death. If a decedent's name is shown as the participant and the FMV is zero, the executor or administrator of the decedent's estate may request a date-of-death valuation.

B. For endowment contracts only, this is the amount allocable to the cost of life insurance. The IRA owner should subtract this amount from the allowable IRA contribution included in Box 1 to compute the amount allowable as an IRA deduction.

**EXHIBIT A****SAFE HARBOR EXPLANATION FOR PLANS QUALIFIED UNDER SECTION 401(a), SECTION 403(a) ANNUITY PLANS, OR SECTION 403(b) TAX SHELTER ANNUITIES AND GOVERNMENTAL 457 PLANS****Special tax notice regarding plan payments**

For payments other than from a Designated Roth Account

**Your Rollover Options**

You are receiving this notice because all or a portion of a payment you are receiving from the [INSERT NAME OF PLAN] (the "Plan") is eligible to be rolled over to an IRA or an employer plan. This notice is intended to help you decide whether to do such a rollover.

This notice describes the rollover rules that apply to payments from the Plan that are *not* from a designated Roth account (a type of account with special tax rules in some employer plans). If you also receive a payment from a designated Roth account in the Plan, you will be provided a different notice for that payment, and the Plan administrator or the payor will tell you the amount that is being paid from each account.

Rules that apply to most payments from a plan are described in the "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section.

**General Information about Rollovers*****How can a rollover affect my taxes?***

You will be taxed on a payment from the Plan if you do not roll it over. If you are under the age of 59 1/2 and do not do a rollover, you will also have to pay a 10% additional income tax on early distributions (unless an exception applies). However, if you do a rollover, you will not have to pay tax until you receive payments later and the 10% additional income tax will not apply if those payments are made after you are age 59 1/2 (or if an exception applies).

***Where may I rollover the payment?***

You may roll over the payment to either an IRA (an individual retirement account or individual retirement annuity) or an employer plan (a tax-qualified plan, Section 403(b) plan, or governmental section 457(b) plan) that will accept the rollover. The rules of the IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the IRA or employer plan (for example, no spousal consent rules apply to IRAs and IRAs may not provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the IRA or employer plan.

***How do I do a rollover?***

There are two ways to do a rollover. You can do either a direct rollover or a 60-day rollover.

- *If you do a direct rollover*, the Plan will make the payment directly to your IRA or an employer plan. You should contact the IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

- *If you do not do a direct rollover*, you may still do a rollover by making a deposit into an IRA or eligible employer plan that will accept it. You will have 60 days after you receive the payment to make the deposit. If you do not do a direct rollover, the Plan is required to withhold 20% of the payment for federal income taxes (up to the amount of cash property received other than employer stock). This means that, in order to roll over the entire payment in a 60-day rollover, you must use other funds to make up for the 20% withheld. If you do not roll over the entire amount of the payment, the portion not rolled over will be taxed and will be subject to the 10% additional income tax on early distributions if you are under the age 59 1/2 (unless an exception applies).

### ***How much may I rollover?***

If you wish to do a rollover, you may roll over all or part of the amount eligible for rollover. Any payment from the Plan is eligible for rollover, except:

- Certain payments spread over a period of at least 10 years or over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary)
- Required minimum distributions after age 70 1/2 (or after death)
- Hardship distributions
- ESOP dividends
- Corrective distributions of contributions that exceed tax law limitations
- Loans treated as deemed distributions (for example, loans in default due to missed payments before your employment ends)
- Cost of life insurance paid by the Plan
- Contributions made under special automatic enrollment rules that are withdrawn pursuant to your request within 90 days of enrollment
- Amounts treated as distributed because of a prohibited allocation of S corporation stock under an ESOP (also, there will generally be adverse tax consequences if you roll over a distribution of S corporation stock to an IRA).

The Plan administrator or the payor can tell you what portion of a payment is eligible for rollover.

### ***If I don't do a rollover, will I have to pay the 10% additional income tax on early distributions?***

If you are under age 59 1/2, you will have to pay the 10% additional income tax on early distributions for any payment from the Plan (including amounts withheld for income tax) that you do not roll over, unless one of the exceptions listed below applies. This tax is in addition to the regular income tax on the payment not rolled over.

The 10% additional income tax *does not* apply to the following payments from the Plan:

- Payments made after you separate from service if you will be at least age 55 in the year of the separation
- Payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary)
- Payments from a governmental defined benefit pension plan made after you separate from service if you are a public safety employee and you are at least age 50 in the year of the separation
- Payments made due to disability
- Payments after your death
- Payments of ESOP dividends
- Corrective distributions of contributions that exceed tax law limitations
- Cost of life insurance paid by the Plan
- Contributions made under special automatic enrollment rules that are withdrawn pursuant to your request within 90 days of enrollment
- Payments made directly to the government to satisfy a federal tax levy

- Payments made under a qualified domestic relations order (QDRO)
- Payments up to the amount of your deductible medical expenses
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11, 2001 for more than 179 days
- Payments of certain automatic enrollment contributions requested to be withdrawn within 90 days of the first contribution.

***If I do a rollover to an IRA, will the 10% additional income tax apply to early distributions from the IRA?***

If you receive a payment from an IRA when you are under age 59 1/2, you will have to pay the 10% additional income tax on early distributions from the IRA, unless an exception applies. In general, the exceptions to the 10% additional income tax for early distributions from an IRA are the same as the exceptions listed above for early distributions from a plan. However, there are a few differences for payments from an IRA, including:

- There is no exception for payments after separation from service that are made after age 55.
- The exception for qualified domestic relations orders (QDROs) does not apply (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to an IRA of a spouse or former spouse).
- The exception for payments made at least annually in equal or close to equal amounts over a specified period applies without regard to whether you have had a separation from service.
- There are additional exceptions for (1) payments for qualified higher education expenses, (2) payments up to \$10,000 used in a qualified first-time home purchase, and (3) payments after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

***Will I owe State income taxes?***

This notice does not describe any State or local income tax rules (including withholding rules).

## **SPECIAL RULES AND OPTIONS**

**If your payment includes after-tax contributions**

After-tax contributions included in a payment are not taxed. If a payment is only part of your benefit, an allocable portion of your after-tax contributions is generally included in the payment. If you have pre-1987 after-tax contributions maintained in a separate account, a special rule may apply to determine whether the after-tax contributions are included in a payment.

You may roll over to an IRA a payment that includes after-tax contributions through either a direct rollover or a 60-day rollover. You must keep track of the aggregate amount of the after-tax contributions in all of your IRAs (in order to determine your taxable income for later payments from the IRAs). If you do a direct rollover of only a portion of the amount paid from the Plan, and a portion is paid to you, each of the payments will include an allocable portion of the after-tax contributions. If you do a 60-day rollover to an IRA of only a portion of the payment made to you, the after-tax contributions are treated as rolled over last. For example, assume you are receiving a complete distribution of your benefit which totals \$12,000, of which \$2,000 is after-tax contributions. In this case, if you roll over \$10,000 to an IRA in a 60-day rollover, no amount is taxable because the \$2,000 amount not rolled over is treated as being after-tax contributions.

You may roll over to an employer plan all of a payment that includes after-tax contributions, but only through a direct rollover (and only if the receiving plan separately accounts for after-tax contributions and is not a governmental section 457(b) plan). You can do a 60-day rollover to an employer plan of part of a payment that includes after-tax contributions, but only up to the amount of the payment that would be taxable if not rolled over.

**If you miss the 60-day rollover deadline**

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. To apply for a waiver, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590, Individual Retirement Arrangements (IRAs).

**If your payment includes employer stock that you do not rollover**

If you do not do a rollover, you can apply a special rule to payments of employer stock (or other employer securities) that are either attributable to after-tax contributions or paid in a lump sum after separation from service (or after age 59 1/2, disability, or the participant's death). Under the special rule, the net unrealized appreciation on the stock will not be taxed when distributed from the Plan and will be taxed at capital gain rates when you sell the stock. Net unrealized appreciation is generally the increase in the value of employer stock after it was acquired by the Plan. If you do a rollover for a payment that includes employer stock (for example, by selling the stock and rolling over the proceeds within 60 days of the payment), the special rule relating to the distributed employer stock will not apply to any subsequent payments from the IRA or employer plan. The Plan administrator can tell you the amount of any net unrealized appreciation.

**If you have an outstanding loan that is being offset**

If you have an outstanding loan from the Plan, your Plan benefit may be offset by the amount of the loan, typically when your employment ends. The loan offset amount is treated as a distribution to you at the time of the offset and will be taxed (including the 10% additional income tax on early distributions, unless an exception applies) unless you do a 60-day rollover in the amount of the loan offset to an IRA or employer plan.

**If you were born on or before January 1, 1936**

If you were born on or before January 1, 1936 and receive a lump sum distribution that you do not roll over, special rules for calculating the amount of the tax on the payment might apply to you. For more information, see IRS Publication 575, Pension and Annuity Income.

**If your payment is from a governmental Section 457(b) plan**

If the Plan is a governmental section 457(b) plan, the same rules described elsewhere in this notice generally apply, allowing you to roll over the payment to an IRA or an employer plan that accepts rollovers. One difference is that, if you do not do a rollover, you will not have to pay the 10% additional income tax on early distributions from the Plan even if you are under age 59 1/2 (unless the payment is from a separate account holding rollover contributions that were made to the Plan from a tax qualified plan, a Section 403(b) plan, or an IRA). However, if you do a rollover to an IRA or to an employer plan that is not a governmental section 457(b) plan, a later distribution made before age 59 1/2 will be subject to the 10% additional income tax on early distributions (unless an exception applies). Other differences are that you cannot do a rollover if the payment is due to an "unforeseeable emergency" and the special rules under "If your payment includes employer stock that you do not rollover" and "If you were born on or before January 1, 1936" do not apply.

**If you are an eligible retired public safety officer and your pension payment is used to pay for health coverage or qualified long-term care insurance**

If the Plan is a governmental plan, you retired as a public safety officer, and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income plan payments paid directly as premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents, up to a maximum of

\$3,000 annually. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

### **If you roll over your payment to a Roth IRA**

You can roll over a payment from the Plan made before January 1, 2010 to a Roth IRA only if your modified adjusted gross income is not more than \$100,000 for the year the payment is made to you and, if married, you file a joint return. These limitations do not apply to payments made to you from the Plan after 2009. If you wish to roll over the payment to a Roth IRA, but you are not eligible to do a rollover to a Roth IRA until after 2009, you can do a rollover to a traditional IRA and then, after 2009, elect to convert the traditional IRA into a Roth IRA.

If you roll over the payment to a Roth IRA, a special rule applies under which the amount of the payment rolled over (reduced by any after-tax amounts) will be taxed. However, the 10% additional income tax on early distributions will not apply (unless you take the amount rolled over out of the Roth IRA within 5 years, counting from January 1 of the year of the rollover). For payments from the Plan during 2010 that are rolled over to a Roth IRA, the taxable amount can be spread over a 2-year period starting in 2011.

If you roll over the payment to a Roth IRA, later payments from the Roth IRA that are qualified distributions will not be taxed (including earnings after the rollover). A qualified distribution from a Roth IRA is a payment made after you are age 59 1/2 (or after your death or disability, or as a qualified first-time homebuyer distribution of up to \$10,000) and after you have had a Roth IRA for at least 5 years. In applying this 5-year rule, you count from January 1 of the year for which your first contribution was made to a Roth IRA. Payments from the Roth IRA that are not qualified distributions will be taxed to the extent of earnings after the rollover, including the 10% additional income tax on early distributions (unless an exception applies). You do not have to take required minimum distributions from a Roth IRA during your lifetime. For more information, see IRS Publication 590, Individual Retirement Arrangements (IRAs).

You cannot roll over a payment from the Plan to a designated Roth account in an employer plan.

### **If You are not a Plan Participant**

*Payments after death of the participant.* If you receive a distribution after the participant's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice. However, the 10% additional income tax on early distributions and the special rules for public safety officers do not apply, and the special rule described under the section "If you were born on or before January 1, 1936" applies only if the participant was born on or before January 1, 1936.

- ***If you are a surviving spouse*** - If you receive a payment from the Plan as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to an IRA, you may treat the IRA as your own or as an inherited IRA.

An IRA you treat as your own is treated like any other IRA of yours, so that payments made to you before you are age 59 1/2 will be subject to the 10% additional income tax on early distributions (unless an exception applies) and required minimum distributions from your IRA do not have to start until after you are age 70 1/2.

If you treat the IRA as an inherited IRA, payments from the IRA will not be subject to the 10% additional income tax on early distributions. However, if the participant had started taking required minimum distributions, you will have to receive required minimum distributions from the inherited IRA. If the participant had not started taking required minimum distributions from the Plan, you will not have to start receiving required minimum distributions from the inherited IRA until the year the participant would have been age 70 1/2.

- ***If you are a surviving beneficiary other than a spouse*** - If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited IRA. Payments from the inherited IRA will not be subject to the 10% additional income tax on early distributions. You will have to receive required minimum distributions from the inherited IRA.
- ***Payments under a qualified domestic relations order*** - If you are the spouse or former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (QDRO), you generally have the same options the participant would have (for example, you may roll over the payment to your own IRA or an eligible employer plan that will accept it). Payments under the QDRO will not be subject to the 10% additional income tax on early distributions.
- ***If you are a nonresident alien*** - If you are a nonresident alien and you do not do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, the Plan is generally required to withhold 30% of the payment for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you may request an income tax refund by filing Form 1040NR and attaching your Form 1042-S. See Form W-8 BEN for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, U.S. Tax Guide for Aliens, and IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

#### **Other Special Rules**

- If a payment is one in a series of payments for less than 10 years, your choice whether to make a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).
- If your payments for the year are less than \$200 (not including payments from a designated Roth account in the Plan), the Plan is not required to allow you to do a direct rollover and is not required to withhold for federal income taxes. However, you may do a 60-day rollover.
- Unless you elect otherwise, a mandatory cashout of more than \$1,000 (not including payments from a designated Roth account in the Plan) will be directly rolled over to an IRA chosen by the Plan administrator or the payor. A mandatory cashout is a payment from a plan to a participant made before age 62 (or normal retirement age, if later) and without consent, where the participant's benefit does not exceed \$5,000 (not including any amounts held under the plan as a result of a prior rollover made to the plan).
- You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information, see IRS Publication 3, Armed Forces' Tax Guide.

#### **For More Information**

You may wish to consult with the Plan administrator or payor, or a professional tax advisor, before taking a payment from the Plan. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, Pension and Annuity Income; IRS Publication 590, Individual Retirement Arrangements (IRAs); and IRS Publication 571, Tax-Sheltered Annuity Plans (403(b) Plans). These publications are available from a local IRS office, on the web at [www.irs.gov](http://www.irs.gov), or by calling 1-800-TAX-FORM.

**EXHIBIT B****SAFE HARBOR EXPLANATION FOR PAYMENTS  
FROM A DESIGNATED ROTH ACCOUNT**

You are receiving this notice because all or a portion of a payment you are receiving from the [INSERT NAME OF PLAN] (the "Plan") is eligible to be rolled over to a Roth IRA or designated Roth account in an employer plan. This notice is intended to help you decide whether to do a rollover.

This notice describes the rollover rules that apply to payments from the Plan that are from a designated Roth account. If you also receive a payment from the Plan that is not from a designated Roth account, you will be provided a different notice for that payment, and the Plan administrator or the payor will tell you the amount that is being paid from each account.

Rules that apply to most payments from a designated Roth account are described in the "General Information About Rollovers" section. Special rules that only apply in certain circumstances are described in the "Special Rules and Options" section.

**GENERAL INFORMATION ABOUT ROLLOVERS****How can a rollover affect my taxes?**

After-tax contributions included in a payment from a designated Roth account are not taxed, but earnings might be taxed. The tax treatment of earnings included in the payment depends on whether the payment is a qualified distribution. If a payment is only part of your designated Roth account, the payment will include an allocable portion of the earnings in your designated Roth account.

If the payment from the Plan is not a qualified distribution and you do not do a rollover to a Roth IRA or a designated Roth account in an employer plan, you will be taxed on the earnings in the payment. If you are under age 59 1/2, a 10% additional income tax on early distributions will also apply to the earnings (unless an exception applies). However, if you do a rollover, you will not have to pay taxes currently on the earnings and you will not have to pay taxes later on payments that are qualified distributions.

If the payment from the Plan is a qualified distribution, you will not be taxed on any part of the payment even if you do not do a rollover. If you do a rollover, you will not be taxed on the amount you roll over and any earnings on the amount you roll over will not be taxed if paid later in a qualified distribution.

A qualified distribution from a designated Roth account in the Plan is a payment made after you are age 59 1/2 (or after your death or disability) and after you have had a designated Roth account in the Plan for at least 5 years. In applying the 5-year rule, you count from January 1 of the year your first contribution was made to the designated Roth account. However, if you did a direct rollover to a designated Roth account in the Plan from a designated Roth account in another employer plan, your participation will count from January 1 of the year your first contribution was made to the designated Roth account in the Plan or, if earlier, to the designated Roth account in the other employer plan.

**Where may I roll over the payment?**

You may roll over the payment to either a Roth IRA (a Roth individual retirement account or Roth individual retirement annuity) or a designated Roth account in an employer plan (a tax-qualified plan or section 403(b) plan) that will accept the rollover. The rules of the Roth IRA or employer plan that holds the rollover will determine your investment options, fees, and rights to payment from the Roth IRA or employer plan (for example, no spousal consent rules apply to Roth IRAs and Roth IRAs may not provide loans). Further, the amount rolled over will become subject to the tax rules that apply to the Roth IRA or

the designated Roth account in the employer plan. In general, these tax rules are similar to those described elsewhere in this notice, but differences include:

- If you do a rollover to a Roth IRA, all of your Roth IRAs will be considered for purposes of determining whether you have satisfied the 5-year rule (counting from January 1 of the year for which your first contribution was made to any of your Roth IRAs).
- If you do a rollover to a Roth IRA, you will not be required to take a distribution from the Roth IRA during your lifetime and you must keep track of the aggregate amount of the after-tax contributions in all of your Roth IRAs (in order to determine your taxable income for later Roth IRA payments that are not qualified distributions).
- Eligible rollover distributions from a Roth IRA can only be rolled over to another Roth IRA.

### **How do I do a rollover?**

There are two ways to do a rollover. You can either do a direct rollover or a 60-day rollover.

*If you do a direct rollover*, the Plan will make the payment directly to your Roth IRA or designated Roth account in an employer plan. You should contact the Roth IRA sponsor or the administrator of the employer plan for information on how to do a direct rollover.

*If you do not do a direct rollover*, you may still do a rollover by making a deposit within 60 days into a Roth IRA, whether the payment is a qualified or nonqualified distribution. In addition, you can do a rollover by making a deposit within 60 days into a designated Roth account in an employer plan if the payment is a nonqualified distribution and the rollover does not exceed the amount of the earnings in the payment. You cannot do a 60-day rollover to an employer plan of any part of a qualified distribution. If you receive a distribution that is a nonqualified distribution and you do not roll over an amount at least equal to the earnings allocable to the distribution, you will be taxed on the amount of those earnings not rolled over, including the 10% additional income tax on early distributions if you are under age 59 1/2 (unless an exception applies).

If you do a direct rollover of only a portion of the amount paid from the Plan and a portion is paid to you, each of the payments will include an allocable portion of the earnings in your designated Roth account.

If you do not do a direct rollover and the payment is not a qualified distribution, the Plan is required to withhold 20% of the earnings for federal income taxes (up to the amount of cash and property received other than employer stock). This means that, in order to roll over the entire payment in a 60-day rollover to a Roth IRA, you must use other funds to make up for the 20% withheld.

### **How much may I roll over?**

If you wish to do a rollover, you may roll over all or part of the amount eligible for rollover. Any payment from the Plan is eligible for rollover, except:

- Certain payments spread over a period of at least 10 years or over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary)
- Required minimum distributions after age 70 1/2 (or after death)
- Hardship distributions
- ESOP dividends
- Corrective distributions of contributions that exceed tax law limitations
- Loans treated as deemed distributions (for example, loans in default due to missed payments before your employment ends)
- Cost of life insurance paid by the Plan
- Contributions made under special automatic enrollment rules that are withdrawn pursuant to your request within 90 days of enrollment

- Amounts treated as distributed because of a prohibited allocation of S corporation stock under an ESOP (also, there will generally be adverse tax consequences if S corporation stock is held by an IRA).

The Plan administrator or the payor can tell you what portion of a payment is eligible for rollover.

**If I don't do a rollover, will I have to pay the 10% additional income tax on early distributions?**

If a payment is not a qualified distribution and you are under age 59 1/2 , you will have to pay the 10% additional income tax on early distributions with respect to the earnings allocated to the payment that you do not roll over (including amounts withheld for income tax), unless one of the exceptions listed below applies. This tax is in addition to the regular income tax on the earnings not rolled over.

The 10% additional income tax does not apply to the following payments from the Plan:

- Payments made after you separate from service if you will be at least age 55 in the year of the separation
- Payments that start after you separate from service if paid at least annually in equal or close to equal amounts over your life or life expectancy (or the lives or joint life expectancy of you and your beneficiary)
- Payments made due to disability
- Payments after your death
- Payments of ESOP dividends
- Corrective distributions of contributions that exceed tax law limitations
- Cost of life insurance paid by the Plan
- Contributions made under special automatic enrollment rules that are withdrawn pursuant to your request within 90 days of enrollment
- Payments made directly to the government to satisfy a federal tax levy
- Payments made under a qualified domestic relations order (QDRO)
- Payments up to the amount of your deductible medical expenses
- Certain payments made while you are on active duty if you were a member of a reserve component called to duty after September 11 , 2001 for more than 179 days
- Payments of certain automatic enrollment contributions requested to be withdrawn within 90 days of the first contribution.

**If I do a rollover to a Roth IRA, will the 10% additional income tax apply to early distributions from the IRA?**

If you receive a payment from a Roth IRA when you are under age 59 1/2 , you will have to pay the 10% additional income tax on early distributions on the earnings paid from the Roth IRA, unless an exception applies or the payment is a qualified distribution. In general, the exceptions to the 10% additional income tax for early distributions from a Roth IRA listed above are the same as the exceptions for early distributions from a plan. However, there are a few differences for payments from a Roth IRA, including:

- There is no special exception for payments after separation from service.
- The exception for qualified domestic relations orders (QDROs) does not apply (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to a Roth IRA of a spouse or former spouse).
- The exception for payments made at least annually in equal or close to equal amounts over a specified period applies without regard to whether you have had a separation from service.
- There are additional exceptions for (1) payments for qualified higher education expenses, (2) payments up to \$10,000 used in a qualified first-time home purchase, and (3) payments after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

**Will I owe State income taxes?**

This notice does not describe any State or local income tax rules (including withholding rules).

**SPECIAL RULES AND OPTIONS****If you miss the 60-day rollover deadline**

Generally, the 60-day rollover deadline cannot be extended. However, the IRS has the limited authority to waive the deadline under certain extraordinary circumstances, such as when external events prevented you from completing the rollover by the 60-day rollover deadline. To apply for a waiver, you must file a private letter ruling request with the IRS. Private letter ruling requests require the payment of a nonrefundable user fee. For more information, see IRS Publication 590, Individual Retirement Arrangements (IRAs).

**If your payment includes employer stock that you do not roll over**

If you receive a payment that is not a qualified distribution and you do not roll it over, you can apply a special rule to payments of employer stock (or other employer securities) that are paid in a lump sum after separation from service (or after age 59 1/2, disability, or the participant's death). Under the special rule, the net unrealized appreciation on the stock included in the earnings in the payment will not be taxed when distributed to you from the Plan and will be taxed at capital gain rates when you sell the stock. If you do a rollover to a Roth IRA for a nonqualified distribution that includes employer stock (for example, by selling the stock and rolling over the proceeds within 60 days of the distribution), you will not have any taxable income and the special rule relating to the distributed employer stock will not apply to any subsequent payments from the Roth IRA or employer plan. Net unrealized appreciation is generally the increase in the value of the employer stock after it was acquired by the Plan. The Plan administrator can tell you the amount of any net unrealized appreciation.

If you receive a payment that is a qualified distribution that includes employer stock and you do not roll it over, your basis in the stock (used to determine gain or loss when you later sell the stock) will equal the fair market value of the stock at the time of the payment from the Plan.

**If you have an outstanding loan that is being offset**

If you have an outstanding loan from the Plan, your Plan benefit may be offset by the amount of the loan, typically when your employment ends. The loan offset amount is treated as a distribution to you at the time of the offset and, if the distribution is a nonqualified distribution, the earnings in the loan offset will be taxed (including the 10% additional income tax on early distributions, unless an exception applies) unless you do a 60-day rollover in the amount of the earnings in the loan offset to a Roth IRA or designated Roth account in an employer plan.

**If you receive a nonqualified distribution and you were born on or before January 1, 1936**

If you were born on or before January 1, 1936, and receive a lump sum distribution that is not a qualified distribution and that you do not roll over, special rules for calculating the amount of the tax on the earnings in the payment might apply to you. For more information, see IRS Publication 575, Pension and Annuity Income.

**If you receive a nonqualified distribution, are an eligible retired public safety officer, and your pension payment is used to pay for health coverage or qualified long-term care insurance**

If the Plan is a governmental plan, you retired as a public safety officer, and your retirement was by reason of disability or was after normal retirement age, you can exclude from your taxable income nonqualified distributions paid directly as premiums to an accident or health plan (or a qualified long-term care insurance contract) that your employer maintains for you, your spouse, or your dependents, up to a maximum of \$3,000 annually. For this purpose, a public safety officer is a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

**If You are not a Plan Participant**

*Payments after death of the participant* - If you receive a distribution after the participant's death that you do not roll over, the distribution will generally be taxed in the same manner described elsewhere in this notice. However, whether the payment is a qualified distribution generally depends on when the participant first made a contribution to the designated Roth account in the Plan. Also, the 10% additional income tax on early distributions and the special rules for public safety officers do not apply, and the special rule described under the section "If you receive a nonqualified distribution and you were born on or before January 1, 1936" applies only if the participant was born on or before January 1, 1936.

- ***If you are a surviving spouse*** - If you receive a payment from the Plan as the surviving spouse of a deceased participant, you have the same rollover options that the participant would have had, as described elsewhere in this notice. In addition, if you choose to do a rollover to a Roth IRA, you may treat the Roth IRA as your own or as an inherited Roth IRA.

A Roth IRA you treat as your own is treated like any other Roth IRA of yours, so that you will not have to receive any required minimum distributions during your lifetime and earnings paid to you in a nonqualified distribution before you are age 59 1/2 will be subject to the 10% additional income tax on early distributions (unless an exception applies).

If you treat the Roth IRA as an inherited Roth IRA, payments from the Roth IRA will not be subject to the 10% additional income tax on early distributions. An inherited Roth IRA is subject to required minimum distributions. If the participant had started taking required minimum distributions from the Plan, you will have to receive required minimum distributions from the inherited Roth IRA. If the participant had not started taking required minimum distributions, you will not have to start receiving required minimum distributions from the inherited Roth IRA until the year the participant would have been age 70 1/2 .

- ***If you are a surviving beneficiary other than a spouse*** - If you receive a payment from the Plan because of the participant's death and you are a designated beneficiary other than a surviving spouse, the only rollover option you have is to do a direct rollover to an inherited Roth IRA. Payments from the inherited Roth IRA, even if made in a nonqualified distribution, will not be subject to the 10% additional income tax on early distributions. You will have to receive required minimum distributions from the inherited Roth IRA.
- ***Payments under a qualified domestic relations order*** - If you are the spouse or a former spouse of the participant who receives a payment from the Plan under a qualified domestic relations order (QDRO), you generally have the same options the participant would have (for example, you may roll over the payment as described in this notice).
- ***If you are a nonresident alien*** - If you are a nonresident alien and you do not do a direct rollover to a U.S. IRA or U.S. employer plan, instead of withholding 20%, the Plan is generally required to withhold 30% of the payment for federal income taxes. If the amount withheld exceeds the amount of tax you owe (as may happen if you do a 60-day rollover), you

may request an income tax refund by filing Form 1040NR and attaching your Form 1042-S. See Form W-8BEN for claiming that you are entitled to a reduced rate of withholding under an income tax treaty. For more information, see also IRS Publication 519, U.S. Tax Guide for Aliens, and IRS Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

### **Other Special Rules**

- If a payment is one in a series of payments for less than 10 years, your choice whether to make a direct rollover will apply to all later payments in the series (unless you make a different choice for later payments).
- If your payments for the year (only including payments from the designated Roth account in the Plan) are less than \$200, the Plan is not required to allow you to do a direct rollover and is not required to withhold for federal income taxes. However, you can do a 60-day rollover.
- Unless you elect otherwise, a mandatory cashout from the designated Roth account in the Plan of more than \$1,000 will be directly rolled over to a Roth IRA chosen by the Plan administrator or the payor. A mandatory cashout is a payment from a plan to a participant made before age 62 (or normal retirement age, if later) and without consent, where the participant's benefit does not exceed \$5,000 (not including any amounts held under the plan as a result of a prior rollover made to the plan).
- You may have special rollover rights if you recently served in the U.S. Armed Forces. For more information, see IRS Publication 3, Armed Forces' Tax Guide.

A designated Roth contribution is an elective contribution under a cash or deferred arrangement that is (i) designated by the employee at the time of the cash or deferred election as a designated Roth contribution that is being made in lieu of all or a portion of the pre-tax elective contribution the employee is eligible to make under the plan, (ii) treated by the employer as includible in the employee's gross income at the time the employee would have received the amount in cash if the employee had not made the cash or deferred election, and (iii) maintained by the plan in a separate account.

### **For More Information**

You may wish to consult with the Plan administrator or payor, or a professional tax advisor, before taking a payment from the Plan. Also, you can find more detailed information on the federal tax treatment of payments from employer plans in: IRS Publication 575, Pension and Annuity Income; IRS Publication 590, Individual Retirement Arrangements (IRAs); and IRS Publication 571, Tax-Sheltered Annuity Plans (403(b) Plans). These publications are available from a local IRS office, on the web at [www.irs.gov](http://www.irs.gov), or by calling 1-800-TAX-FORM.

## **EXHIBIT C**

### ***Annuity Contracts Simplified Method***

Notice 98-2 replaces Notice 88-118 which provides the Simplified Method under Code Section 72(d) (1) for determining the tax-free and taxable portions of certain annuity payments made from a qualified plan under Section 401 (a), employee annuities under Section 403(a), and annuity contracts under Section 403(b) of the Code.

In general, this new method applies to an annuity if the annuity starting date is after November 18, 1996. Unlike the safe-harbor method in Notice 88-118, the Simplified Method is required by the code and distributees must use this method in order to comply with Section 72(d) of the Code as amended by the Small Business Job Protection Act and the Taxpayer Relief Act of 1997. Payors must also use this method to report the taxable portion of the annuity payments on Form 1099R. The new method does not apply if the annuity starting date is on or before November 18, 1996.

#### ***I. Background***

Section 402(a)(1) of the Code provides that the amount actually distributed to any distributee by an employees trust described in Section 401(a) which is exempt from tax under Section 501(a) shall be taxable to the distributee, in the year in which distributed, under Section 72 (relating to annuities). Similarly, amounts distributed from employee annuity contracts under Section 403(a) and annuity contracts under Section 403(b) are taxable to the distributee (in the year in which distributed) under Section 72.

Prior to the enactment of the Tax Reform Act of 1986 (TRA 86), many recipients of annuity payments for qualified plans were able to apply the so-called three-year rule under Section 72(d) of the Code. Under this rule, if the total annuity payments in the first three years equaled or exceeded the investment in the contract, a distributee could exclude annuity payments from gross income until the investment had been recovered. Subsequent annuity payments were fully includible in gross income. Those individuals who could not use the three-year rule were required to determine an exclusion ratio under Section 72(b) in order to determine the taxable portion of their annuity payments.

As a result of the repeal of the three-year rule by Section 1122(c)(1) of TRA 86, all annuity distributions from qualified plans to distributees with annuity starting dates after July 1, 1986, are taxed under Section 72(b) of the Code. Section 72(b) provides that a portion of the annuity payments received in a taxable year may be excluded from gross income as a return of the distributees investment according to an exclusion ratio determined at the annuity starting date. The numerator of this ratio is the employee investment in the contract, and the denominator is the expected return.

The investment in the contract is defined under Section 72(c)(1) of the Code as the aggregate premiums or other consideration paid (generally the aggregate amount of after-tax contributions made to the plan), reduced by amounts received before the annuity starting date that were excluded from gross income. In addition, Section 72(c)(2) provides that the investment in the contract must be adjusted to reflect the value of any refund feature. In general, a contract contains a refund feature if (i.) the annuity payments depend, in whole or in part, upon the continuing life of one or more persons, (ii.) there are to be payments on or after the death of the annuitant if a specified amount or a stated number of payments has not been made prior to death, and (iii.) such payments are in the nature of a refund of the consideration paid. Section 1.72-7 of the regulations provides rules for determining the refund feature adjustment.

Finally, in certain cases the investment in the contract may be increased by any death benefit exclusion that is allowed under Section 101(b) if employee death benefits are paid to a survivor in the form of an annuity, other than as a joint and survivor annuity. See Section 101(b)(2)(D) of the Code and Section 1.101-2(e) of the regulations. The total amount excludable under Section 101(b) by beneficiaries with respect to any employee may not exceed \$5,000, regardless of the number of employers or the number of beneficiaries.

**Note** - The Small Business Job Protection Act of 1996 repealed the \$5,000 exclusion for decedents dying after August 20, 1996. Surviving beneficiaries are no longer permitted to increase the investment in the contract by the death benefit exclusion.

Notice 88-118 provided a simplified Safe-Harbor method for determining the tax-free portion and taxable portion of certain annuity payments made from qualified plans under Sections 401(a), 403(a) and 403(b). Under the Safe Harbor method, the exclusion ratio was determined by dividing the distributee's investment in the contract by an expected number of payments based upon the distributee's age. The result represented the tax-free portion of each payment. This Safe Harbor method could be elected only if the distributee received monthly payments and this method did not apply to installment payments that were not life contingent.

Section 1403 of the Small Business Job Protection Act amended Section 72(d) of the Code to require the use of a Simplified Method of recovering the investment in the contract for most annuity distributions from qualified plans under Section 401(a), 403(a) and 403(b). The Simplified Method is similar to, but not the same as, the Safe-Harbor method provided by Notice 88-118. This amendment also provided a special rule where a single sum is received in connection with the commencement of annuity payments. In such case, the single-sum payment is treated as if received before the annuity starting date. These changes apply to distributions with annuity starting dates *after* November 18, 1996.

The Taxpayer Relief Act of 1997 under Section 1075 amended the Simplified Method of recovering the investment in the contract in Section 72(d) (1) (B) of the Code to prescribe a different table if the annuity is payable based on the lives of more than one individual. This new table applies to distributions with annuity starting dates after December 31, 1997. This act did not make any changes for annuities payable based on the life of only one individual under the Simplified Method described by the Small Business Job Protection Act.

## ***II. Simplified Method***

### **A. General**

The Simplified Method provided in Section 72(d) of the Code and in this notice simplifies the calculation of the amount to be excluded from taxation by allowing the use of a simpler method to determine the expected number of payments to be received and the investment in the contract.

The Simplified Method provided in this notice must be used by distributees to comply with Section 72(b) of the Code, and by payors to report the taxable portion of annuity distributions on Form 1099-R. If three conditions are met: (i) the annuity payments depend upon the life of the distributee or the joint lives of the distributee and beneficiary, (ii) the annuity payments are made from an employee plan qualified under Section 401(a) of the Code, an employee annuity under Section 403(a), or an annuity contract under Section 403(b), and (iii.) the distributee is less than age 75 when annuity payments commence or, if the distributee is age 75 or older, there are less than five years of guaranteed payments.

**B. Expected Annuity Payments**

Under the Simplified Method, for annuities starting dates beginning **after** November 18, 1996 but before January 1, 1998, the total number of monthly annuity payments expected to be received is based on the primary annuitant's age at the annuity starting date rather than according to the life expectancy tables in Section 1.72-9 of the regulations. The same expected number of payments applies to a distributee whether he or she is receiving a single life annuity or a joint and survivor annuity. These payments are set forth in the tables below.

***ANNUITY STARTING DATE***

<u>(Old Rules)</u> <u>Prior to November 18, 1996</u>		<u>After November 18, 1996</u> <u>and before January 1, 1998</u>	
<u>Age of Primary Annuitant</u>	<u>Expected Number of Payments</u>	<u>Age of Primary Annuitant</u>	<u>Expected Number of Payments</u>
55 and under	300	55 and under	360
56-60	260	56-60	310
61-65	240	61-65	260
66-70	170	66-70	210
71 and over	120	71 and over	160

**New recovery method for joint and survivor annuity payments from qualified plans.** For annuity starting dates beginning after December 31, 1997, a new method is used to figure the tax-free portion of an annuity that is payable *over the lives of more than one annuitant*. New law requires that the recovery factors (the number of anticipated monthly payments used to recover the tax-free investment in the contract or basis) be determined by *combining the ages* of the annuitants.

The separate tables for 1998 and subsequent years that apply to payments based on the life of only one annuitant and on the lives of more than one annuitant are shown below:

**AFTER DECEMBER 31, 1997**

<u>Age of Primary Annuitant</u>	<u>Expected Number of Payments</u>	<u>Combined age of Annuitants</u>	<u>Expected Number of Payments</u>
55 and under	360	110 and under	410
56-60	310	111-120	360
61-65	260	121-130	310
66-70	210	131-140	260
71 and over	160	141 and over	210

**C. Investment in the Contract**

The investment in the contract is the aggregate amount of premiums and other consideration paid (generally the after-tax contributions to the plan), minus the aggregate amount received before the annuity starting date that was excluded from gross income. No refund feature adjustment is required. A distributee who elects the Simplified Method may increase the investment in the contract by any death benefit exclusion (subject to the \$5,000 limit determined with respect to an employee) allowed under Section 101(b) of the Code. However, plan administrators or payors must disregard any such death benefit exclusion adjustment for reporting purposes under the Simplified Method. Also, this exclusion is no longer available for decedents dying after August 20, 1996 since Section 101(b) was repealed.

**D. Excluded Amount**

Under the Simplified Method, the distributee recovers his or her investment in the contract in even amounts over the number of monthly payments determined from the table above. The portion of each monthly annuity payment that is excluded from gross income by a distributee who uses the simplified method for income tax purposes is a level dollar amount determined by dividing the investment in the contract, including any applicable death benefit exclusion, by the set number of annuity payments from the tables above, as follows:

$$\text{Investment} / \text{Expected Number of Monthly Payments} = \text{Tax free portion of monthly annuity}$$

The dollar amount determined above will be excluded from each monthly annuity payment, even where the amount of the annuity payments change. For example, the amount to be excluded from each annuity payment determined at the annuity starting date remains constant, even if the amount of the annuity payments increases due to cost of living increases, or decreases in the case of a reduced survivor annuity. If the amount to be excluded from each monthly payment is greater than the amount of the monthly annuity (e.g., because of decreased survivor payments), then each monthly annuity payment will be completely excluded from gross income until the entire investment is recovered. For those distributees with annuity starting dates after December 31, 1986, annuity payments received after the investment is recovered (generally, after the set number of payments has been received) are fully includible in gross income. If annuity payments cease before the set number of payments has been made, a deduction for the unrecovered investment is allowed on the distributee's last tax return.

If annuity payments are to be made to multiple beneficiaries, the total amount to be excluded from all monthly payments is determined with reference to the age of the oldest beneficiary. Each beneficiary will exclude from each annuity payment a pro-rata portion of this amount determined according to a ratio, the numerator of which is the amount of the beneficiary's monthly annuity, and the denominator of which is the total amount of the monthly annuity payments to all beneficiaries.

**E. Examples**

The application of the Simplified Method is illustrated by the following examples. In all examples, the investment in the contract is stated as the employee's after-tax contributions and with no adjustment for the refund feature.

*Example 1*

Upon retirement, Employee A, age 65, begins receiving retirement benefits in the form of a joint and 50 percent survivor annuity to be paid for the joint lives of A and A's spouse, age 64. A's annuity starting date is January 1, 1997. A contributed \$26,000 to the plan, and has received no distributions prior to the annuity starting date. A will receive a monthly retirement benefit of \$1,000 per month, and A's spouse will receive a monthly survivor benefit of \$500 upon A's death.

Under the Simplified Method, A's investment in the contract is \$26,000 (the after-tax contributions to the plan). The set number of monthly payments for a distributee who is age 65 is 260. The tax-free portion of each \$1,000 monthly annuity payment to A is \$100, determined by dividing A's investment (\$26,000) by the number of monthly payments (260).

$$\$26,000 \text{ investment} / 260 = \$100 \text{ return of investment per month}$$

Upon A's death, if A has not recovered the full \$26,000 investment, A's spouse will also exclude \$100 from each \$500 monthly annuity payment.

Any annuity payments received after 260 payments have been made will be fully includible in gross income. If A and A's spouse die before 260 payments have been made, a deduction is allowed for the last income tax return in the amount of the unrecovered investment.

### *Example 2*

Upon retirement, Employee B, age 65, begins receiving retirement benefits in the form of a joint and 50 percent survivor annuity to be paid for the joint lives of B and B's spouse, age 64. B's annuity starting date is January 1, 1998. B contributed \$26,000 to the plan, and has received no distributions prior to the annuity starting date. B will receive a monthly retirement benefit of \$1,000 per month, and B's spouse will receive a monthly survivor benefit of \$500 upon B's death.

B's investment in the contract is \$26,000. The expected number of monthly payments is 310 for two distributees whose combined ages are 129. The tax-free portion of each \$1,000 monthly annuity payment to B is \$83.87, determined by dividing B's investment (\$26,000) by the expected number of payments (310).

$$\text{\$26,000 investment} / 310 = \text{\$83.87 return of investment per month.}$$

Upon B's death, if B has not recovered the full \$26,000 investment, B's spouse will also exclude \$83.87 from each \$500 monthly annuity payment.

Any annuity payments received after 310 monthly payments have been made will be fully includible in gross income. If B and B's spouse die before 310 monthly payments have been made, a deduction is allowed for the last income tax return in the amount of the unrecovered investment.

### ***III. Transition Rule***

Some payors and distributees may have continued to use the law in effect prior to the Small Business Job Protection Act (SBJPA) for annuity starting dates after November 18, 1996 and before January 1, 1998. This notice contains a transition rule for these payors and distributees.

Under this transition rule, for annuities with annuity starting dates after November 18, 1996 and before January 1, 1998, the law in effect prior to SBJPA (including the methodology contained in Notice 88-118) may be used to determine the taxable and tax-free portions of annuity payments received in 1996 and 1997. Accordingly, under this transition rule, payors are not to re-issue Forms 1099-R for 1996 (and 1997, if applicable), and distributees are not to file amended income tax returns for 1996 (and 1997, if applicable), solely because they failed to take into account the changes to Section 72(d) of the Code made by SBJPA.

However, under this transition rule, a payor who reports the taxable portion of annuity payments on Form 1099-R must determine the taxable and tax-free portion of annuity payments using the transition method described below. The transition method must be applied to annuity payments made on and after January 1, 1998. However, payors may choose to apply the transition method for annuity payments made on an earlier date (for example, payments made on and after January 1, 1997). Under the transition method, the tax-free portion of each annuity payment made on and after the transition date is determined by dividing the remaining investment in the contract by the remaining number of expected payments. The remaining investment in the contract is the distributee's original investment in the contract as of the annuity starting

date, minus the amount of the investment in the contract treated as recovered after the annuity starting date and prior to the transition date. The remaining number of expected monthly payments is the total number of expected monthly payment as of the annuity starting minus the number of payments made prior to the transition date. Where the payor does not report the taxable portion of annuity payments on Form 1099-R, a distributee who uses the transition rule must determine the taxable and tax-free portions of annuity payments using the transition method described in this paragraph.

#### *Example of Transition Rule*

Assume the same facts as in Example 1 except that A's annuity starting date is December 1, 1996. The tax-free portion of each \$1,000 monthly and tax-free annuity payment to A was determined under Notice 88-118. This tax-free portion was \$108.33, calculated as follows:

$$\text{\$26,000 investment} / 240 \text{ monthly payments} = \text{\$108.33 return of investment}$$

The \$108.33 was treated as tax-free for the 1996 return. Under the transition rule, this treatment for 1996 is allowed. However, the taxable and tax-free portion must be redetermined using the method with a transition date of January 1, 1998, or earlier.

Assume that A uses January 1, 1997 as transition date. For annuity payments received for after December 1, 1996, determine the tax-free portion of each \$1,000 annuity payment by dividing the remaining investment in the contract by the remaining number of expected payments as of the transition date, determined in accordance with Section 72(d) and this notice. Accordingly, the tax-free portion of each \$1,000 payment received in 1997 and later years is \$99.97, determined as follows:

$$\begin{aligned} &\text{\$25,891.67 investment} / 259 \text{ monthly payments} = \text{\$108.33 return of investment} \\ &(\text{\$26,000 minus } \text{\$108.33}) \end{aligned}$$

Under this method, the total amount of annuity payments that is tax-free is \$26,000.

#### ***IV. Effective Date***

The Simplified Method described in this notice is generally effective for annuity starting dates after November 18, 1996. For annuity starting dates after December 31, 1997, if the annuity is payable based on the lives of more than one individual, the Simplified Method based on the combined ages of the annuitants is to be used.