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Internal Revenue Service

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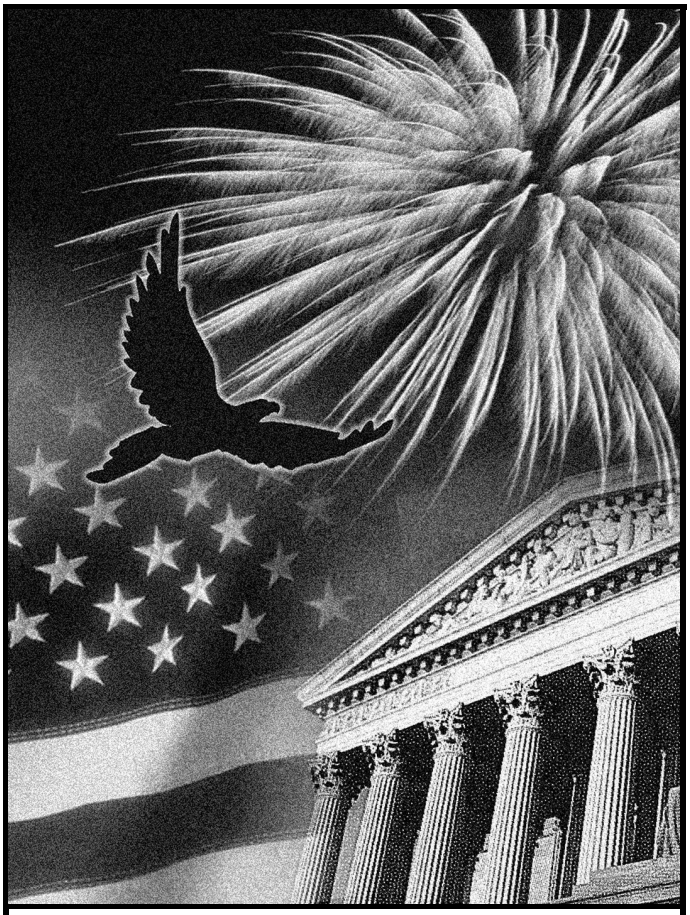
Pension and Annuity Income

For use in preparing
2009 Returns



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Dec 08, 2009

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What's New for 2009

Waiver of required minimum distribution (RMD) rules for certain retirement plans and IRAs for 2009. No RMD is required from your defined contribution plan or IRA for 2009. For more information, see *Waiver of required*

minimum distributions (RMDs) for 2009, under *Rollovers*, later.

What's New for 2010

Rollovers to Roth IRAs. For tax years starting in 2010, the $100,000 modified AGI limit on rollovers from eligible retirement plans to Roth IRAs is eliminated and married taxpayers filing a separate return can now roll over amounts to a Roth IRA.

Also, for any 2010 rollover from an eligible retirement plan (other than a Roth IRA) to a Roth IRA, any amounts that would be included as income will be included in income in equal amounts in 2011 and 2012. You can choose to include the entire amount in income in 2010.

Reminders

Hurricane and disaster-related tax relief. Special rules apply to retirement funds received by qualified individuals who suffered an economic loss as a result of Hurricane Katrina, Rita, or Wilma; the storms that began on May 4, 2007 in the Kansas disaster area; and the severe storms in the Midwestern disaster areas. For more information on these special rules see *Hurricane-Related Relief*, *Relief for Kansas Disaster Area*, and *Relief for Midwestern Disaster Areas*.

Photographs of missing children. The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

Introduction

This publication discusses the tax treatment of distributions you receive from pension and annuity plans and also shows you how to report the income on your federal income tax return. How these distributions are taxed depends on whether they are periodic payments (amounts received as an annuity) that are paid at regular intervals over several years or nonperiodic payments (amounts not received as an annuity).

What is covered in this publication? This publication contains information that you need to understand the following topics.

- How to figure the tax-free part of periodic payments under a pension or annuity plan, including using a simple worksheet for payments under a qualified plan.
- How to figure the tax-free part of nonperiodic payments from qualified and nonqualified plans, and how to use the optional methods to figure the tax on lump-sum distributions from pension, stock bonus, and profit-sharing plans.
- How to roll over certain distributions from a retirement plan into another retirement plan or IRA.
- How to report disability payments, and how beneficiaries and survivors of employees and retirees must report benefits paid to them.
- How to report railroad retirement benefits.
- When additional taxes on certain distributions may apply (including the tax on early distributions and the tax on excess accumulation).

TIP *For additional information on how to report pension or annuity payments on your federal income tax return, be sure to review the instructions on the back of Copies B, C, and 2 of the Form 1099-R that you received and the instructions for Form 1040, lines 16a and 16b (Form 1040A, lines 12a and 12b or Form 1040NR, lines 17a and 17b).*

CAUTION *A "corrected" Form 1099-R replaces the corresponding original Form 1099-R if the original Form 1099-R contained an error. Make sure you use the amounts shown on the corrected Form 1099-R when reporting information on your tax return.*

What is not covered in this publication? The following topics are not discussed in this publication.

The General Rule. This is the method generally used to determine the tax treatment of pension and annuity income from nonqualified plans (including commercial annuities). For a qualified plan, you generally cannot use the General Rule unless your annuity starting date is before November 19, 1996. Although this publication will help you determine whether you can use the General Rule, it will not help you use it to determine the tax treatment of your pension or annuity income. For that and other information on the General Rule, see Publication 939, General Rule for Pensions and Annuities.

Individual retirement arrangements (IRAs). Information on the tax treatment of amounts you receive from an IRA is in Publication 590, Individual Retirement Arrangements (IRAs).

Civil service retirement benefits. If you are retired from the federal government (either regular or disability retirement) or are the survivor or beneficiary of a federal employee or retiree who died, get Publication 721, Tax Guide to U.S. Civil Service Retirement Benefits. Publication 721 covers the tax treatment of federal retirement benefits, primarily those paid under the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS). It also covers benefits paid from the Thrift Savings Plan (TSP).

Social security and equivalent tier 1 railroad retirement benefits. For information about the tax treatment of these benefits, see Publication 915, Social Security and Equivalent Railroad Retirement Benefits. However, this publication (575) covers the tax treatment of the non-social security equivalent benefit portion of tier 1 railroad retirement benefits, tier 2 benefits, vested dual benefits, and

supplemental annuity benefits paid by the U.S. Railroad Retirement Board.

Tax-sheltered annuity plans (403(b) plans). If you work for a public school or certain tax-exempt organizations, you may be eligible to participate in a 403(b) retirement plan offered by your employer. Although this publication covers the treatment of benefits under 403(b) plans, it does not cover other tax provisions that apply to these plans. For that and other information on 403(b) plans, see Publication 571, Tax-Sheltered Annuity Plans (403(b) Plans) For Employees of Public Schools and Certain Tax-Exempt Organizations.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can write to us at the following address:

Internal Revenue Service
Individual Forms and Publications Branch
SE:W:CAR:MP:T:I
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at **taxforms@irs.gov*. (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

Ordering forms and publications. Visit *www.irs.gov/formspubs* to download forms and publications, call 1-800-829-3676, or write to the address below and receive a response within 10 days after your request is received.

Internal Revenue Service
1201 N. Mitsubishi Motorway
Bloomington, IL 61705-6613

Tax questions. If you have a tax question, check the information available on *www.irs.gov* or call 1-800-829-1040. We cannot answer tax questions sent to either of the above addresses.

Useful Items

You may want to see:

Publication

- ❑ **524** Credit for the Elderly or the Disabled
- ❑ **525** Taxable and Nontaxable Income
- ❑ **560** Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans)
- ❑ **571** Tax-Sheltered Annuity Plans (403(b) Plans) For Employees of Public Schools and Certain Tax-Exempt Organizations
- ❑ **590** Individual Retirement Arrangements (IRAs)
- ❑ **721** Tax Guide to U.S. Civil Service Retirement Benefits
- ❑ **915** Social Security and Equivalent Railroad Retirement Benefits
- ❑ **939** General Rule for Pensions and Annuities
- ❑ **4492** Information for Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma
- ❑ **4492-A** Information for Taxpayers Affected by the May 4, 2007, Kansas Storms and Tornadoes
- ❑ **4492-B** Information for Affected Taxpayers in the Midwestern Disaster Areas

Form (and Instructions)

- ❑ **W-4P** Withholding Certificate for Pension or Annuity Payments
- ❑ **1099-R** Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
- ❑ **4972** Tax on Lump-Sum Distributions
- ❑ **5329** Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts
- ❑ **8915** Qualified Hurricane Retirement Plan Distributions and Repayments
- ❑ **8930** Qualified Disaster Recovery Assistance Retirement Plan Distributions and Repayments

See *How To Get Tax Help* near the end of this publication for information about getting publications and forms.

General Information

Definitions. Some of the terms used in this publication are defined in the following paragraphs.

Pension. A pension is generally a series of definitely determinable payments made to you after you retire from work. Pension payments are made regularly and are based on such factors as years of service and prior compensation.

Annuity. An annuity is a series of payments under a contract made at regular intervals over a period of more than one full year. They can be either fixed (under which you receive a definite amount) or variable (not fixed). You can buy the contract alone or with the help of your employer.

Qualified employee plan. A qualified employee plan is an employer's stock bonus, pension, or profit-sharing plan that is for the exclusive benefit of employees or their beneficiaries and that meets Internal Revenue Code requirements. It qualifies for special tax benefits, such as tax deferral for employer contributions and capital gain treatment or the 10-year tax option for lump-sum distributions (if participants qualify). To determine whether your plan is a qualified plan, check with your employer or the plan administrator.

Qualified employee annuity. A qualified employee annuity is a retirement annuity purchased by an employer for an employee under a plan that meets Internal Revenue Code requirements.

Designated Roth account. A designated Roth account is a separate account created under a qualified Roth contribution program to which participants may elect to have part or all of their elective deferrals to a 401(k) or 403(b) plan designated as Roth contributions. Elective deferrals that are designated as Roth contributions are included in your income. However, qualified distributions are not included in your income. You should check with your plan administrator to determine if your plan will accept designated Roth contributions.

Tax-sheltered annuity plan. A tax-sheltered annuity plan (often referred to as a 403(b) plan or a tax-deferred annuity plan) is a retirement plan for employees of public schools and certain tax-exempt organizations. Generally, a tax-sheltered annuity plan provides retirement benefits by purchasing annuity contracts for its participants.

Types of pensions and annuities. Pensions and annuities include the following types.

Fixed-period annuities. You receive definite amounts at regular intervals for a specified length of time.

Annuities for a single life. You receive definite amounts at regular intervals for life. The payments end at death.

Joint and survivor annuities. The first annuitant receives a definite amount at regular intervals for life. After he or she dies, a second annuitant receives a definite amount at regular intervals for life. The amount paid to the second annuitant may or may not differ from the amount paid to the first annuitant.

Variable annuities. You receive payments that may vary in amount for a specified length of time or for life. The amounts you receive may depend upon such variables as profits earned by the pension or annuity funds, cost-of-living indexes, or earnings from a mutual fund.

Disability pensions. You receive disability payments because you retired on disability and have not reached minimum retirement age.

More than one program. You may receive employee plan benefits from more than one program under a single trust or plan of your employer. If you participate in more than one program, you may have to treat each as a separate pension or annuity contract, depending upon the facts in each case. Also, you may be considered to have received more than one pension or annuity. Your former employer or the plan administrator should be able to tell you if you have more than one contract.

Example. Your employer set up a noncontributory profit-sharing plan for its employees. The plan provides that the amount held in the account of each participant will be paid when that participant retires. Your employer also set up a contributory defined benefit pension plan for its employees providing for the payment of a lifetime pension to each participant after retirement.

The amount of any distribution from the profit-sharing plan depends on the contributions (including allocated forfeitures) made for the participant and the earnings from those contributions. Under the pension plan, however, a formula determines the amount of the pension benefits. The amount of contributions is the amount necessary to provide that pension.

Each plan is a separate program and a separate contract. If you get benefits from these plans, you must account for each separately, even though the benefits from both may be included in the same check.

CAUTION *Distributions from a designated Roth account are treated separately from other distributions from the plan.*

Qualified domestic relations order (QDRO). A QDRO is a judgment, decree, or order relating to payment of child support, alimony, or marital property rights to a spouse, former spouse, child, or other dependent of a participant in a retirement plan. The QDRO must contain certain specific information, such as the name and last known mailing address of the participant and each alternate payee, and the amount or percentage of the participant's benefits to be paid to each alternate payee. A QDRO may not award an amount or form of benefit that is not available under the plan.

A spouse or former spouse who receives part of the benefits from a retirement plan under a QDRO reports the payments received as if he or she were a plan participant. The spouse or former spouse is allocated a share of the participant's cost (investment in the contract) equal to the cost times a fraction. The numerator of the fraction is the present value of the benefits payable to the spouse or former spouse. The denominator is the present value of all benefits payable to the participant.

A distribution that is paid to a child or other dependent under a QDRO is taxed to the plan participant.

Variable Annuities

The tax rules in this publication apply both to annuities that provide fixed payments and to annuities that provide payments that vary in amount based on investment results or other factors. For example, they apply to commercial variable annuity contracts, whether bought by an employee retirement plan for its participants or bought directly from the issuer by an individual investor. Under these contracts, the owner can generally allocate the purchase payments among several types of investment portfolios or mutual funds and the contract value is determined by the performance of those investments. The earnings are not taxed until distributed either in a withdrawal or in annuity payments. The taxable part of a distribution is treated as ordinary income.

For information on the tax treatment of a transfer or exchange of a variable annuity contract, see *Transfers of Annuity Contracts* under *Taxation of Nonperiodic Payments,* later.

Withdrawals. If you withdraw funds before your annuity starting date and your annuity is under a qualified retirement plan, a ratable part of the amount withdrawn is tax free. The tax-free part is based on the ratio of your cost (investment in the contract) to your account balance under the plan.

If your annuity is under a nonqualified plan (including a contract you bought directly from the issuer), the amount withdrawn is allocated first to earnings (the taxable part) and then to your cost (the tax-free part). However, if you bought your annuity contract before August 14, 1982, a different allocation applies to the investment before that date and the earnings on that investment. To the extent the amount withdrawn does not exceed that investment and earnings, it is allocated first to your cost (the tax-free part) and then to earnings (the taxable part).

If you withdraw funds (other than as an annuity) on or after your annuity starting date, the entire amount withdrawn is generally taxable.

The amount you receive in a full surrender of your annuity contract at any time is tax free to the extent of any cost that you have not previously recovered tax free. The rest is taxable.

For more information on the tax treatment of withdrawals, see *Taxation of Nonperiodic Payments*, later. If you withdraw funds from your annuity before you reach age 59½, also see *Tax on Early Distributions* under *Special Additional Taxes,* later.

Annuity payments. If you receive annuity payments under a variable annuity plan or contract, you recover your cost tax free under either the Simplified Method or the General Rule, as explained under *Taxation of Periodic Payments*, later. For a variable annuity paid under a qualified plan, you generally must use the Simplified Method. For a variable annuity paid under a nonqualified plan (including a contract you bought directly from the issuer), you must use a special computation under the General Rule. For more information, see *Variable annuities* in Publication 939 under *Computation Under the General Rule.*

Death benefits. If you receive a single-sum distribution from a variable annuity contract because of the death of the owner or annuitant, the distribution is generally taxable only to the extent it is more than the unrecovered cost of the contract. If you choose to receive an annuity, the payments are subject to tax as described above. If the contract provides a joint and survivor annuity and the primary annuitant had received annuity payments before death, you figure the tax-free part of annuity payments you receive as the survivor in the same way the primary annuitant did. See *Survivors and Beneficiaries*, later.

Section 457 Deferred Compensation Plans

If you work for a state or local government or for a tax-exempt organization, you may be able to participate in a section 457 deferred compensation plan. If your plan is an eligible plan, you are not taxed currently on pay that is deferred under the plan or on any earnings from the plan's investment of the deferred pay. You are generally taxed on amounts deferred in an eligible state or local government plan only when they are distributed from the plan. You are taxed on amounts deferred in an eligible tax-exempt organization plan when they are distributed or otherwise made available to you.

This publication covers the tax treatment of benefits under eligible section 457 plans, but it does not cover the treatment of deferrals. For information on deferrals under section 457 plans, see *Retirement Plan Contributions* under *Employee Compensation* in Publication 525.

Is your plan eligible? To find out if your plan is an eligible plan, check with your employer. Plans that are not eligible section 457 plans include the following:

- Bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plans.
- Nonelective deferred compensation plans for nonemployees (independent contractors).
- Deferred compensation plans maintained by churches.
- Length of service award plans for bona fide volunteer firefighters and emergency medical personnel. An exception applies if the total amount paid to a volunteer exceeds $3,000 for any year of service.

Disability Pensions

If you retired on disability, you generally must include in income any disability pension you receive under a plan that is paid for by your employer. You must report your taxable disability payments as wages on line 7 of Form 1040 or Form 1040A or on line 8 of Form 1040NR until you reach minimum retirement age. Minimum retirement age generally is the age at which you can first receive a pension or annuity if you are not disabled.

TIP *You may be entitled to a tax credit if you were permanently and totally disabled when you retired. For information on this credit, see Publication 524.*

Beginning on the day after you reach minimum retirement age, payments you receive are taxable as a pension or annuity. Report the payments on Form 1040, lines 16a and 16b; Form 1040A, lines 12a and 12b; or on Form 1040NR, lines 17a and 17b.

TIP *Disability payments for injuries incurred as a direct result of a terrorist attack directed against the United States (or its allies) are not included in income. For more information about payments to survivors of terrorist attacks, see Publication 3920,* Tax Relief for Victims of Terrorist Attacks*.*

Insurance Premiums for Retired Public Safety Officers

If you are an eligible retired public safety officer (law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew), you can elect to exclude from income distributions made from your eligible retirement plan that are used to pay the premiums for accident or health insurance or long-term care insurance. The premiums can be for coverage for you, your spouse, or dependents. The distribution must be made directly from the plan to the insurance provider. You can exclude from income the smaller of the amount of the insurance premiums or $3,000. You can only make this election for amounts that would otherwise be included in your income.

The amount excluded from your income cannot be used to claim a medical expense deduction.

An eligible retirement plan is a governmental plan that is:

- a qualified trust,
- a section 403(a) plan,
- a section 403(b) annuity, or
- a section 457(b) plan.

If you make this election, reduce the otherwise taxable amount of your pension or annuity by the amount excluded. The amount shown in box 2a of Form 1099-R does not reflect this exclusion. Report your total distributions on Form 1040, line 16a; Form 1040A, line 12a; or Form 1040NR, line 17a. Report the taxable amount on Form 1040, line 16b; Form 1040A, line 12b; or Form 1040NR, line 17b. Enter "PSO" next to the appropriate line on which you report the taxable amount.

If you are retired on disability and reporting your disability pension on line 7 of Form 1040 or Form 1040A, or line 8 of Form 1040NR, include only the taxable amount on that line and enter "PSO" and the amount excluded on the dotted line next to the applicable line.

Railroad Retirement Benefits

Benefits paid under the Railroad Retirement Act fall into two categories. These categories are treated differently for income tax purposes.

The first category is the amount of tier 1 railroad retirement benefits that equals the social security benefit that a railroad employee or beneficiary would have been entitled to receive under the social security system. This part of the tier 1 benefit is the social security equivalent benefit (SSEB) and you treat it for tax purposes like social security benefits. If you received, repaid, or had tax withheld from the SSEB portion of tier 1 benefits during 2009, you will receive Form RRB-1099, Payments by the Railroad Retirement Board (or Form RRB-1042S, Statement for Nonresident Alien Recipients of Payments by the Railroad Retirement Board, if you are a nonresident alien) from the U.S. Railroad Retirement Board (RRB).

For more information about the tax treatment of the SSEB portion of tier 1 benefits and Forms RRB-1099 and RRB-1042S, see Publication 915.

The second category contains the rest of the tier 1 railroad retirement benefits, called the non-social security equivalent benefit (NSSEB). It also contains any tier 2 benefit, vested dual benefit (VDB), and supplemental annuity benefit. Treat this category of benefits, shown on Form RRB-1099-R, as an amount received from a qualified employee plan. This allows for the tax-free (nontaxable) recovery of employee contributions from the tier 2 benefits and the NSSEB part of the tier 1 benefits. (The NSSEB and tier 2 benefits, less certain repayments, are combined into one amount called the Contributory Amount Paid on Form RRB-1099-R.) Vested dual benefits and supplemental annuity benefits are non-contributory pensions and are fully taxable. See *Taxation of Periodic Payments*, later, for information on how to report your benefits and how to recover the employee contributions tax free. Form RRB-1099-R is used for U.S. citizens, resident aliens, and nonresident aliens.

Nonresident aliens. A nonresident alien is an individual who is not a citizen or a resident alien of the United States. Nonresident aliens are subject to mandatory U.S. tax withholding unless exempt under a tax treaty between the United States and their country of legal residency. A tax treaty exemption may reduce or eliminate tax withholding from railroad retirement benefits. See *Tax withholding* next, for more information.

If you are a nonresident alien and your tax withholding rate changed or your country of legal residence changed during the year, you may receive more than one Form RRB-1042S or Form RRB-1099-R. To determine your total benefits paid or repaid and total tax withheld for the year, you should add the amounts shown on all forms you received for that year. For information on filing requirements for aliens, see Publication 519, U.S. Tax Guide for Aliens. For information on tax treaties between the United States and other countries that may reduce or eliminate U.S. tax on your benefits, see Publication 901, U.S. Tax Treaties.

Tax withholding. To request or change your income tax withholding from SSEB payments, U.S. citizens should contact the IRS for Form W-4V, Voluntary Withholding Request, and file it with the RRB. To elect, revoke, or change your income tax withholding from NSSEB, tier 2, VDB, and supplemental annuity payments received, use Form RRB W-4P, Withholding Certificate for Railroad Retirement Payments. If you are a nonresident alien or a U.S. citizen living abroad, you should provide Form RRB-1001, Nonresident Questionnaire, to the RRB to furnish citizenship and residency information and to claim any treaty exemption from U.S. tax withholding. Nonresident U.S. citizens cannot elect to be exempt from withholding on payments delivered outside of the U.S.

Help from the RRB. To request an RRB form or to get help with questions about an RRB benefit, you should contact your nearest RRB field office if you reside in the United States (call 1-877-772-5772 for the nearest field office) or U.S. consulate/Embassy if you reside outside the United States. You can visit the RRB on the Internet at *www.rrb.gov.*

Form RRB-1099-R. The following discussion explains the items shown on Form RRB-1099-R. The amounts shown on this form are before any deduction for:

- Federal income tax withholding,
- Medicare premiums,
- Legal process garnishment payments,
- Recovery of a prior year overpayment of an NSSEB, tier 2 benefit, VDB, or supplemental annuity benefit, or
- Recovery of Railroad Unemployment Insurance Act benefits received while awaiting payment of your railroad retirement annuity.

The amounts shown on this form are after any offset for:

- Social Security benefits,
- Age reduction,

PAYER'S NAME, STREET ADDRESS, CITY, STATE, AND ZIP CODE **UNITED STATES RAILROAD RETIREMENT BOARD** 844 N RUSH ST CHICAGO IL 60611-2092	**2009**		**ANNUITIES OR PENSIONS BY THE RAILROAD RETIREMENT BOARD**	
PAYER'S FEDERAL IDENTIFYING NO. 36-3314600	3. Employee Contribution Amount			
1. Claim Number and Payee Code	4. Contributory Amount Paid		**COPY B -**	
2. Recipient's Identification Number	5. Vested Dual Benefit		**REPORT THIS INCOME ON YOUR FEDERAL TAX RETURN. IF THIS FORM SHOWS FEDERAL INCOME TAX WITHHELD IN BOX 9 ATTACH THIS COPY TO YOUR RETURN.**	
Recipient's Name, Street Address, City, State, and Zip Code	6. Supplemental Annuity			
	7. Total Gross Paid			
	8. Repayments		**THIS INFORMATION IS BEING FURNISHED TO THE INTERNAL REVENUE SERVICE.**	
	9. Federal Income Tax Withheld			
	10. Rate of Tax		11. Country	12. Medicare Premium Total

Sample

FORM RRB-1099-R

- Public Service pensions or public disability benefits,
- Dual railroad retirement entitlement under another RRB claim number,
- Work deductions,
- Legal process partition deductions,
- Actuarial adjustment,
- Annuity waiver, or
- Recovery of a current-year overpayment of NSSEB, tier 2, VDB, or supplemental annuity benefits.

The amounts shown on Form RRB-1099-R do not reflect any special rules, such as capital gain treatment or the special 10-year tax option for lump-sum payments, or tax-free rollovers. To determine if any of these rules apply to your benefits, see the discussions about them later.

Generally, amounts shown on your Form RRB-1099-R are considered a normal distribution. Use distribution code "7" if you are asked for a distribution code. Distribution codes are not shown on Form RRB-1099-R.

There are three copies of this form. Copy B is to be included with your income tax return if federal income tax is withheld. Copy C is for your own records. Copy 2 is filed with your state, city, or local income tax return, when required. See the illustrated Copy B (Form RRB-1099-R) above.

TIP *Each beneficiary will receive his or her own Form RRB-1099-R. If you receive benefits on more than one railroad retirement record, you may get more than one Form RRB-1099-R. So that you get your form timely, make sure the RRB always has your current mailing address.*

Box 1—Claim Number and Payee Code. Your claim number is a six- or nine-digit number preceded by an alphabetical prefix. This is the number under which the RRB paid your benefits. Your payee code follows your claim number and is the last number in this box. It is used by the RRB to identify you under your claim number. In all your correspondence with the RRB, be sure to use the claim number and payee code shown in this box.

Box 2—Recipient's Identification Number. This is the recipient's U.S. taxpayer identification number. It is the social security number (SSN), individual taxpayer identification number (ITIN), or employer identification number (EIN), if known, for the person or estate listed as the recipient.

TIP *If you are a resident or nonresident alien who must furnish a taxpayer identification number to the IRS and are not eligible to obtain an SSN, use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN. The instructions for Form W-7 explain how and when to apply.*

Box 3—Employee Contribution Amount. This is the amount of taxes withheld from the railroad employee's earnings that exceeds the amount of taxes that would have been withheld had the earnings been covered under the social security system. This amount is the employee's cost that you use to figure the tax-free part of the NSSEB and tier 2 benefit you received (the amount shown in box 4). (For information on how to figure the tax-free part, see *Partly Taxable Payments* under *Taxation of Periodic Payments,* later.) The amount shown is the total employee contribution amount, not reduced by any amounts that the RRB calculated as previously recovered. It is the latest amount reported for 2009 and may have increased or decreased from a previous Form RRB-1099-R. If this amount has changed, the change is retroactive. You may need to refigure the tax-free part of your NSSEB/tier 2 benefit for 2009 and prior tax years. If this box is blank, it means that the amount of your NSSEB and tier 2 payments shown in box 4 is fully taxable.

CAUTION *If you had a previous annuity entitlement that ended and you are figuring the tax-free part of your NSSEB/tier 2 benefit for your current annuity entitlement, you should contact the RRB for confirmation of your correct employee contribution amount.*

Box 4—Contributory Amount Paid. This is the gross amount of the NSSEB and tier 2 benefit you received in 2009, less any 2009 benefits you repaid in 2009. (Any benefits you repaid in 2009 for an earlier year or for an unknown year are shown in box 8.) This amount is the total contributory pension paid in 2009. It may be partly taxable and partly tax free or fully taxable. If you determine you are eligible to compute a tax-free part as explained later in *Partly Taxable Payments* under *Taxation of Periodic Payments,* use the latest reported employee contribution amount shown in box 3 as the cost.

Box 5—Vested Dual Benefit. This is the gross amount of vested dual benefit (VDB) payments paid in 2009, less any 2009 VDB payments you repaid in 2009. It is fully taxable. VDB payments you repaid in 2009 for an earlier year or for an unknown year are shown in box 8.

Note. The amounts shown in boxes 4 and 5 may represent payments for 2009 and/or other years after 1983.

Box 6—Supplemental Annuity. This is the gross amount of supplemental annuity benefits paid in 2009, less any 2009 supplemental annuity benefits you repaid in 2009. It is fully taxable. Supplemental annuity benefits you repaid in 2009 for an earlier year or for an unknown year are shown in box 8.

Box 7—Total Gross Paid. This is the sum of boxes 4, 5, and 6. The amount represents the total pension paid in 2009. Include this amount on Form 1040, line 16a; Form 1040A, line 12a; or Form 1040NR, line 17a.

Box 8—Repayments. This amount represents any NSSEB, tier 2 benefit, VDB, and supplemental annuity benefit you repaid to the RRB in 2009 for years before 2009 or for unknown years. The amount shown in this box has not been deducted from the amounts shown in boxes 4, 5, and 6. It only includes repayments of benefits that were taxable to you. This means it only includes repayments in 2009 of NSSEB benefits paid after 1985, tier 2 and VDB benefits paid after 1983, and supplemental annuity benefits paid in any year. If you included the benefits in your income in the year you received them, you may be able to deduct the repaid amount. For more information about repayments, see *Repayment of benefits received in an earlier year*, later.

TIP *You may have repaid an overpayment of benefits by returning a payment, by making a payment, or by having an amount withheld from your railroad retirement annuity payment.*

Box 9—Federal Income Tax Withheld. This is the total federal income tax withheld from your NSSEB, tier 2 benefit, VDB, and supplemental annuity benefit. Include this on your income tax return as tax withheld. If you are a nonresident alien and your tax withholding rate and/or country of legal residence changed during 2009, you will receive more than one Form RRB-1099-R for 2009. Determine the total amount of U.S. federal income tax withheld from your 2009 RRB NSSEB, tier 2, VDB, and supplemental annuity payments by adding the amounts in box 9 of all original 2009 Forms RRB-1099-R, or the latest corrected or duplicate Forms RRB-1099-R you receive.

Box 10—Rate of Tax. If you are taxed as a U.S. citizen or resident alien, this box does not apply to you. If you are a nonresident alien, an entry in this box indicates the rate at which tax was withheld on the NSSEB, tier 2, VDB, and supplemental annuity payments that were paid to you in 2009. If you are a nonresident alien whose tax was withheld at more than one rate during 2009, you will receive a separate Form RRB-1099-R for each rate change during 2009.

Box 11—Country. If you are taxed as a U.S. citizen or resident alien, this box does not apply to you. If you are a nonresident alien, an entry in this box indicates the country of which you were a resident for tax purposes at the time you received railroad retirement payments in 2009. If you are a nonresident alien who was a resident of more than one country during 2009, you will receive a separate Form RRB-1099-R for each country of residence during 2009.

Box 12—Medicare Premium Total. This is for information purposes only. The amount shown in this box represents the total amount of Part B Medicare premiums deducted from your railroad retirement annuity payments in 2009. Medicare premium refunds are not included in the Medicare total. The Medicare total is normally shown on Form RRB-1099 (if you are a citizen or resident alien of the United States) or Form RRB-1042S (if you are a nonresident alien). However, if Form RRB-1099 or Form RRB-1042S is not required for 2009, then this total will be shown on Form RRB-1099-R. If your Medicare premiums were deducted from your social security benefits, paid by a third party, refunded to you, and/or you paid the premiums by direct billing, your Medicare total will not be shown in this box.

Repayment of benefits received in an earlier year. If you had to repay any railroad retirement benefits that you had included in your income in an earlier year because at that time you thought you had an unrestricted right to it, you can deduct the amount you repaid in the year in which you repaid it.

If you repaid $3,000 or less in 2009, deduct it on Schedule A (Form 1040), line 23. The 2%-of-adjusted-gross-income limit applies to this deduction. You cannot take this deduction if you file Form 1040A.

If you repaid more than $3,000 in 2009, you can either take a deduction for the amount repaid on Schedule A (Form 1040), line 28 or you can take a credit against your tax. For more information, see *Repayments* in Publication 525.

Withholding Tax and Estimated Tax

Your retirement plan distributions are subject to federal income tax withholding. However, you can choose not to have tax withheld on payments you receive unless they are eligible rollover distributions. (These are distributions, described later under *Rollovers*, that are eligible for rollover treatment but are not paid directly to another qualified retirement plan or to a traditional IRA.) If you choose not to have tax withheld or if you do not have enough tax withheld, you may have to make estimated tax payments. See *Estimated tax*, later.

The withholding rules apply to the taxable part of payments you receive from:

- An employer pension, annuity, profit-sharing, or stock bonus plan,
- Any other deferred compensation plan,
- A traditional individual retirement arrangement (IRA), or
- A commercial annuity.

For this purpose, a commercial annuity means an annuity, endowment, or life insurance contract issued by an insurance company.

There will be no withholding on any part of a distribution that (it is reasonable to believe) will not be includible in gross income.

Choosing no withholding. You can choose not to have income tax withheld from retirement plan payments unless they are eligible rollover distributions. You can make this choice on Form W-4P for periodic and nonperiodic payments. This choice generally remains in effect until you revoke it.

The payer will ignore your choice not to have tax withheld if:

- You do not give the payer your social security number (in the required manner), or
- The IRS notifies the payer, before the payment is made, that you gave an incorrect social security number.

To choose not to have tax withheld, a U.S. citizen or resident alien must give the payer a home address in the United States or its possessions. Without that address, the payer must withhold tax. For example, the payer has to withhold tax if the recipient has provided a U.S. address for a nominee, trustee, or agent to whom the benefits are delivered, but has not provided his or her own U.S. home address.

If you do not give the payer a home address in the United States or its possessions, you can choose not to have tax withheld only if you certify to the payer that you are not a U.S. citizen, a U.S. resident alien, or someone who left the country to avoid tax. But if you so certify, you may be subject to the 30% flat rate withholding that applies to nonresident aliens. This 30% rate will not apply if you are exempt or subject to a reduced rate by treaty. For details, get Publication 519.

Periodic payments. Unless you choose no withholding, your annuity or similar periodic payments (other than eligible rollover distributions) will be treated like wages for withholding purposes. Periodic payments are amounts paid at regular intervals (such as weekly, monthly, or yearly) for a period of time greater than one year (such as for 15 years or for life). You should give the payer a completed withholding certificate (Form W-4P or a similar form provided by the payer). If you do not, tax will be withheld as if you were married and claiming three withholding allowances.

Tax will be withheld as if you were single and were claiming no withholding allowances if:

- You do not give the payer your social security number (in the required manner), or
- The IRS notifies the payer (before any payment is made) that you gave an incorrect social security number.

You must file a new withholding certificate to change the amount of withholding.

Nonperiodic distributions. Unless you choose no withholding, the withholding rate for a nonperiodic distribution (a payment other than a periodic payment) that is not an eligible rollover distribution is 10% of the distribution. You can also ask the payer to withhold an additional amount using Form W-4P. The part of any loan treated as a distribution (except an offset amount to repay the loan), explained later, is subject to withholding under this rule.

Eligible rollover distribution. If you receive an eligible rollover distribution, 20% of it generally will be withheld for income tax. You cannot choose not to have tax withheld from an eligible rollover distribution. However, tax will not be withheld if you have the plan administrator pay the eligible rollover distribution directly to another qualified plan or an IRA in a direct rollover. For more information about eligible rollover distributions, see *Rollovers*, later.

Estimated tax. Your estimated tax is the total of your expected income tax, self-employment tax, and certain other taxes for the year, minus your expected credits and withheld tax. Generally, you must make estimated tax payments for 2010 if you expect to owe at least $1,000 in tax (after subtracting your withholding and credits) and you expect your withholding and credits to be less than the smaller of:

1. 90% of the tax to be shown on your 2010 return, or
2. 100% of the tax shown on your 2009 return.

If your adjusted gross income for 2009 was more than $150,000 ($75,000 if your filing status for 2010 is married filing separately), substitute 110% for 100% in (2) above. For more information, get Publication 505, Tax Withholding and Estimated Tax.

In figuring your withholding or estimated tax, remember that a part of your monthly social security or equivalent tier 1 railroad retirement benefits may be taxable. See Publication 915. You can choose to have income tax withheld from those benefits. Use Form W-4V to make this choice.

Cost (Investment in the Contract)

Distributions from your pension or annuity plan may include amounts treated as a recovery of your cost (investment in the contract). If any part of a distribution is treated as a recovery of your cost under the rules explained in this publication, that part is tax free. Therefore, the first step in figuring how much of a distribution is taxable is to determine the cost of your pension or annuity.

In general, your cost is your net investment in the contract as of the annuity starting date (or the date of the distribution, if earlier). To find this amount, you must first figure the total premiums, contributions, or other amounts you paid. This includes the amounts your employer contributed that were taxable to you when paid. (However, see *Foreign employment contributions*, later.) It does not include amounts withheld from your pay on a tax-deferred basis (money that was taken out of your gross pay before taxes were deducted). It also does not include amounts you contributed for health and accident benefits (including any additional premiums paid for double indemnity or disability benefits).

From this total cost you must subtract the following amounts.

1. Any refunded premiums, rebates, dividends, or unrepaid loans that were not included in your income and that you received by the later of the annuity starting date or the date on which you received your first payment.
2. Any other tax-free amounts you received under the contract or plan by the later of the dates in (1).
3. If you must use the Simplified Method for your annuity payments, the tax-free part of any single-sum payment received in connection with the start of the annuity payments, regardless of when you received it. (See *Simplified Method*, later, for information on its required use.)
4. If you use the General Rule for your annuity payments, the value of the refund feature in your annuity contract. (See *General Rule*, later, for information on its use.) Your annuity contract has a refund feature if the annuity payments are for your life (or the lives of you and your survivor) and payments in the nature of a refund of the annuity's cost will be made to your beneficiary or estate if all annuitants die before a stated amount or a stated number of payments are made. For more information, see Publication 939.

The tax treatment of the items described in (1) through (3) is discussed later under *Taxation of Nonperiodic Payments.*

TIP ***Form 1099-R.*** *If you began receiving periodic payments of a life annuity in 2009, the payer should show your total contributions to the plan in box 9b of your 2009 Form 1099-R.*

Annuity starting date defined. Your annuity starting date is the later of the first day of the first period for which you received a payment or the date the plan's obligations became fixed.

Example. On January 1, you completed all your payments required under an annuity contract providing for monthly payments starting on August 1 for the period beginning July 1. The annuity starting date is July 1. This is the date you use in figuring the cost of the contract and selecting the appropriate number from Table 1 for line 3 of the Simplified Method Worksheet.

Designated Roth accounts. Your cost in these accounts is your designated Roth contributions that were included in your income as wages subject to applicable withholding requirements.

Foreign employment contributions. If you worked abroad, your cost includes amounts contributed by your employer that were not includible in your gross income. This applies to contributions that were made either:

1. Before 1963 by your employer for that work,
2. After 1962 by your employer for that work if you performed the services under a plan that existed on March 12, 1962, or
3. After 1996 by your employer on your behalf if you performed the services of a foreign missionary (a duly ordained, commissioned, or licensed minister of a church or a lay person).

Foreign employment contributions while a nonresident alien. In determining your cost, special rules apply if you are a U.S. citizen or resident alien who received distributions in 2009 from a plan to which contributions were made while you were a nonresident alien. Your contributions and your employer's contributions are not included in your cost if the contribution:

- Was made based on compensation which was for services performed outside the United States while you were a nonresident alien, and
- Was not subject to income tax under the laws of the United States or any foreign country, but only if the contribution would have been subject to income tax if paid as cash compensation when the services were performed.

Taxation of Periodic Payments

This section explains how the periodic payments you receive from a pension or annuity plan are taxed. Periodic payments are amounts paid at regular intervals (such as weekly, monthly, or yearly) for a period of time greater than one year (such as for 15 years or for life). These payments are also known as amounts received as an annuity. If you receive an amount from your plan that is not a periodic payment, see *Taxation of Nonperiodic Payments*, later.

In general, you can recover the cost of your pension or annuity tax free over the period you are to receive the payments. The amount of each payment that is more than the part that represents your cost is taxable (however, see *Insurance Premiums for Retired Public Safety Officers*, earlier).

Designated Roth accounts. If you receive a qualified distribution from a designated Roth account, the distribution is not included in your gross income. This applies to both your cost in the account and income earned on that account. A qualified distribution is generally a distribution that is:

- Made after a 5-tax-year period of participation, and

- Made on or after the date you reach age 59½, made to a beneficiary or your estate on or after your death, or attributable to your being disabled.

If the distribution is not a qualified distribution, the rules discussed in this section apply. The designated Roth account is treated as a separate contract.

Period of participation. The 5-tax-year period of participation is the 5-tax-year period beginning with the first tax year for which the participant made a designated Roth contribution to the plan. Therefore, for designated Roth contributions made in 2009, the first year for which a qualified distribution can be made is 2014.

However, if a direct rollover is made to the plan from a designated Roth account under another plan, the 5-tax-year period for the recipient plan begins with the first tax year for which the participant first had designated Roth contributions made to the other plan.

Fully Taxable Payments

The pension or annuity payments that you receive are fully taxable if you have no cost in the contract because any of the following situations applies to you (however, see *Insurance Premiums for Retired Public Safety Officers*, earlier).

- You did not pay anything or are not considered to have paid anything for your pension or annuity.
- Your employer did not withhold contributions from your salary.
- You got back all of your contributions tax free in prior years (however, see *Exclusion not limited to cost* under *Partly Taxable Payments*, later).

Report the total amount you got on Form 1040, line 16b; Form 1040A, line 12b; or on Form 1040NR, line 17b. You should make no entry on Form 1040, line 16a; Form 1040A, line 12a; or Form 1040NR, line 17a.

Deductible voluntary employee contributions. Distributions you receive that are based on your accumulated deductible voluntary employee contributions are generally fully taxable in the year distributed to you. Accumulated deductible voluntary employee contributions include net earnings on the contributions. If distributed as part of a lump sum, they do not qualify for the 10-year tax option or capital gain treatment.

Partly Taxable Payments

If you have a cost to recover from your pension or annuity plan (see *Cost (Investment in the Contract)*, earlier), you can exclude part of each annuity payment from income as a recovery of your cost. This tax-free part of the payment is figured when your annuity starts and remains the same each year, even if the amount of the payment changes. The rest of each payment is taxable (however, see *Insurance Premiums for Retired Public Safety Officers*, earlier).

You figure the tax-free part of the payment using one of the following methods.

- ***Simplified Method.*** You generally must use this method if your annuity is paid under a qualified plan (a qualified employee plan, a qualified employee annuity, or a tax-sheltered annuity plan or contract). You cannot use this method if your annuity is paid under a nonqualified plan.
- ***General Rule.*** You must use this method if your annuity is paid under a nonqualified plan. You generally cannot use this method if your annuity is paid under a qualified plan.

You determine which method to use when you first begin receiving your annuity, and you continue using it each year that you recover part of your cost.

If you had more than one partly taxable pension or annuity, figure the tax-free part and the taxable part of each separately.

Qualified plan annuity starting before November 19, 1996. If your annuity is paid under a qualified plan and your annuity starting date (defined earlier under *Cost (Investment in the Contract)*) is after July 1, 1986, and before November 19, 1996, you could have chosen to use either the Simplified Method or the General Rule. If your annuity starting date is before July 2, 1986, you use the General Rule unless your annuity qualified for the Three-Year Rule. If you used the Three-Year Rule (which was repealed for annuities starting after July 1, 1986), your annuity payments are generally now fully taxable.

Exclusion limit. Your annuity starting date determines the total amount of annuity payments that you can exclude from income over the years. Once your annuity starting date is determined, it does not change. If you calculate the taxable portion of your annuity payments using the simplified method worksheet, the annuity starting date determines the recovery period for your cost. That recovery period begins on your annuity starting date and is not affected by the date you first complete the worksheet.

Exclusion limited to cost. If your annuity starting date is after 1986, the total amount of annuity income that you can exclude over the years as a recovery of the cost cannot exceed your total cost. Any unrecovered cost at your (or the last annuitant's) death is allowed as a miscellaneous itemized deduction on the final return of the decedent. This deduction is not subject to the 2%-of-adjusted-gross-income limit.

Example 1. Your annuity starting date is after 1986, and you exclude $100 a month ($1,200 a year) under the Simplified Method. The total cost of your annuity is $12,000. Your exclusion ends when you have recovered your cost tax free, that is, after 10 years (120 months). After that, your annuity payments are generally fully taxable.

Example 2. The facts are the same as in *Example 1,* except you die (with no surviving annuitant) after the eighth year of retirement. You have recovered tax free only $9,600 ($8 \times \$1,200$) of your cost. An itemized deduction for your unrecovered cost of $2,400 ($12,000 – $9,600) can be taken on your final return.

Exclusion not limited to cost. If your annuity starting date is before 1987, you can continue to take your monthly exclusion for as long as you receive your annuity. If you

chose a joint and survivor annuity, your survivor can continue to take the survivor's exclusion figured as of the annuity starting date. The total exclusion may be more than your cost.

Simplified Method

Under the Simplified Method, you figure the tax-free part of each annuity payment by dividing your cost by the total number of anticipated monthly payments. For an annuity that is payable for the lives of the annuitants, this number is based on the annuitants' ages on the annuity starting date and is determined from a table. For any other annuity, this number is the number of monthly annuity payments under the contract.

Who must use the Simplified Method. You must use the Simplified Method if your annuity starting date is after November 18, 1996, and you meet both of the following conditions.

1. You receive your pension or annuity payments from any of the following plans.
   a. A qualified employee plan.
   b. A qualified employee annuity.
   c. A tax-sheltered annuity plan (403(b) plan).
2. On your annuity starting date, at least one of the following conditions applies to you.
   a. You are under age 75.
   b. You are entitled to less than 5 years of guaranteed payments.

Guaranteed payments. Your annuity contract provides guaranteed payments if a minimum number of payments or a minimum amount (for example, the amount of your investment) is payable even if you and any survivor annuitant do not live to receive the minimum. If the minimum amount is less than the total amount of the payments you are to receive, barring death, during the first 5 years after payments begin (figured by ignoring any payment increases), you are entitled to less than 5 years of guaranteed payments.

Annuity starting before November 19, 1996. If your annuity starting date is after July 1, 1986, and before November 19, 1996, and you chose to use the Simplified Method, you must continue to use it each year that you recover part of your cost. You could have chosen to use the Simplified Method if your annuity is payable for your life (or the lives of you and your survivor annuitant) and you met both of the conditions listed earlier under *Who must use the Simplified Method*.

Who cannot use the Simplified Method. You cannot use the Simplified Method if you receive your pension or annuity from a nonqualified plan or otherwise do not meet the conditions described in the preceding discussion. See General Rule, later.

How to use the Simplified Method. Complete Worksheet A in the back of this publication to figure your taxable annuity for 2009. Be sure to keep the completed worksheet; it will help you figure your taxable annuity next year.

To complete line 3 of the worksheet, you must determine the total number of expected monthly payments for your annuity. How you do this depends on whether the annuity is for a single life, multiple lives, or a fixed period. For this purpose, treat an annuity that is payable over the life of an annuitant as payable for that annuitant's life even if the annuity has a fixed-period feature or also provides a temporary annuity payable to the annuitant's child under age 25.

TIP *You do not need to complete line 3 of the worksheet or make the computation on line 4 if you received annuity payments last year and used last year's worksheet to figure your taxable annuity. Instead, enter the amount from line 4 of last year's worksheet on line 4 of this year's worksheet.*

Single-life annuity. If your annuity is payable for your life alone, use Table 1 at the bottom of the worksheet to determine the total number of expected monthly payments. Enter on line 3 the number shown for your age on your annuity starting date. This number will differ depending on whether your annuity starting date is before November 19, 1996, or after November 18, 1996.

Multiple-lives annuity. If your annuity is payable for the lives of more than one annuitant, use Table 2 at the bottom of the worksheet to determine the total number of expected monthly payments. Enter on line 3 the number shown for the annuitants' combined ages on the annuity starting date. For an annuity payable to you as the primary annuitant and to more than one survivor annuitant, combine your age and the age of the youngest survivor annuitant. For an annuity that has no primary annuitant and is payable to you and others as survivor annuitants, combine the ages of the oldest and youngest annuitants. Do not treat as a survivor annuitant anyone whose entitlement to payments depends on an event other than the primary annuitant's death.

However, if your annuity starting date is before 1998, do not use Table 2 and do not combine the annuitants' ages. Instead, you must use Table 1 at the bottom of the worksheet and enter on line 3 the number shown for the primary annuitant's age on the annuity starting date. This number will differ depending on whether your annuity starting date is before November 19, 1996, or after November 18, 1996.

Fixed-period annuity. If your annuity does not depend in whole or in part on anyone's life expectancy, the total number of expected monthly payments to enter on line 3 of the worksheet is the number of monthly annuity payments under the contract.

Example. Bill Smith, age 65, began receiving retirement benefits in 2009 under a joint and survivor annuity. Bill's annuity starting date is January 1, 2009. The benefits are to be paid for the joint lives of Bill and his wife, Kathy, age 65. Bill had contributed $31,000 to a qualified plan and had received no distributions before the annuity starting date. Bill is to receive a retirement benefit of $1,200 a month, and Kathy is to receive a monthly survivor benefit of $600 upon Bill's death.

Bill must use the Simplified Method to figure his taxable annuity because his payments are from a qualified plan

and he is under age 75. Because his annuity is payable over the lives of more than one annuitant, he uses his and Kathy's combined ages and Table 2 at the bottom of Worksheet A in completing line 3 of the worksheet. His completed worksheet is shown below.

Bill's tax-free monthly amount is $100 ($31,000 ÷ 310) as shown on line 4 of the worksheet. Upon Bill's death, if Bill has not recovered the full $31,000 investment, Kathy will also exclude $100 from her $600 monthly payment. The full amount of any annuity payments received after 310 payments are paid must be included in gross income.

If Bill and Kathy die before 310 payments are made, a miscellaneous itemized deduction will be allowed for the unrecovered cost on the final income tax return of the last to die. This deduction is not subject to the 2%-of-adjusted-gross-income limit.

Worksheet A. **Simplified Method Worksheet for Bill Smith**

Keep for Your Records

1. Enter the total pension or annuity payments received this year. Also, add this amount to the total for Form 1040, line 16a; Form 1040A, line 12a; or Form 1040NR, line 17a	**1.**	$ 14,400
2. Enter your cost in the plan (contract) at the annuity starting date plus any death benefit exclusion.* See *Cost (Investment in the Contract)* earlier	**2.**	31,000
Note. If your annuity starting date was before this year and you completed this worksheet last year, skip line 3 and enter the amount from line 4 of last year's worksheet on line 4 below (even if the amount of your pension or annuity has changed). Otherwise, go to line 3.		
3. Enter the appropriate number from Table 1 below. But if your annuity starting date was after 1997 and the payments are for your life and that of your beneficiary, enter the appropriate number from Table 2 below	**3.**	310
4. Divide line 2 by the number on line 3	**4.**	100
5. Multiply line 4 by the number of months for which this year's payments were made. If your annuity starting date was before 1987, enter this amount on line 8 below and skip lines 6, 7, 10, and 11. Otherwise, go to line 6	**5.**	1,200
6. Enter any amount previously recovered tax free in years after 1986. This is the amount shown on line 10 of your worksheet for last year	**6.**	-0-
7. Subtract line 6 from line 2	**7.**	31,000
8. Enter the smaller of line 5 or line 7	**8.**	1,200
9. Taxable amount for year. Subtract line 8 from line 1. Enter the result, but not less than zero. Also, add this amount to the total for Form 1040, line 16b; Form 1040A, line 12b; or Form 1040NR, line 17b. **Note:** If your Form 1099-R shows a larger taxable amount, use the amount figured on this line instead. If you are a retired public safety officer, see *Insurance Premiums for Retired Public Safety Officers* earlier before entering an amount on your tax return	**9.**	$ 13,200
10. Was your annuity starting date before 1987? ☐ Yes. **STOP.** Do not complete the rest of this worksheet. ☑ No. Add lines 6 and 8. This is the amount you have recovered tax free through 2009. You will need this number if you need to fill out this worksheet next year	**10.**	1,200
11. Balance of cost to be recovered. Subtract line 10 from line 2. If zero, you will not have to complete this worksheet next year. The payments you receive next year will generally be fully taxable	**11.**	$ 29,800

* A death benefit exclusion (up to $5,000) applied to certain benefits received by employees who died before August 21, 1996.

Table 1 for Line 3 Above

IF the age at annuity starting date was...	AND your annuity starting date was— BEFORE November 19, 1996, enter on line 3...	AFTER November 18, 1996, enter on line 3...
55 or under	300	360
56-60	260	310
61-65	240	260
66-70	170	210
71 or older	120	160

Table 2 for Line 3 Above

IF the combined ages at annuity starting date were...	THEN enter on line 3...
110 or under	410
111-120	360
121-130	310
131-140	260
141 or older	210

Multiple annuitants. If you and one or more other annuitants receive payments at the same time, you exclude from each annuity payment a pro rata share of the monthly tax-free amount. Figure your share by taking the following steps.

1. Complete your worksheet through line 4 to figure the monthly tax-free amount.
2. Divide the amount of your monthly payment by the total amount of the monthly payments to all annuitants.
3. Multiply the amount on line 4 of your worksheet by the amount figured in (2) above. The result is your share of the monthly tax-free amount.

Replace the amount on line 4 of the worksheet with the result in (3) above. Enter that amount on line 4 of your worksheet each year.

Qualified disaster recovery assistance distributions. If some, but not all, of the payments received are qualified disaster recovery assistance distributions, complete two Simplified Method worksheets – one for qualified disaster recovery assistance distributions and one for other distributions. Complete the worksheet for other distributions first. Enter on line 1 of the first worksheet only the distributions that are not qualified disaster recovery assistance distributions. On line 5, multiply line 4 by the number of months you received payments that are not qualified disaster recovery assistance distributions. Do not fill in line 11.

After completing the first worksheet, enter the amount from line 10 of that worksheet on line 6 of the worksheet for qualified disaster recovery assistance distributions. Complete lines 1 through 8 and 10 of the second worksheet. (The taxable amount of the qualified disaster recovery assistance distribution will be figured on Form 8930.) Enter on line 1 of the second worksheet the amount from Form 8930, line 8. On line 5 of the second worksheet, multiply line 4 by the number of months you received payments that are qualified disaster recovery assistance distributions. Carry the amount, if any, from line 8 of the second worksheet to Form 8930, line 9.

CAUTION *When you complete the Simplified Method worksheet for 2010, enter on line 6 the amount from line 10 of the second worksheet completed for 2009.*

If all of the payments are qualified disaster recovery assistance distributions, complete lines 1 through 8 and 10 of one Simplified Method worksheet. (The taxable amount of the qualified disaster recovery assistance distribution will be figured on Form 8930.) Enter on line 1 the amount from Form 8930, line 8. Carry the amount, if any, from line 8 of the worksheet to Form 8930, line 9.

If you can only allocate a percentage of the distribution as a qualified disaster recovery assistance distribution because of the dollar limitation, allocate your cost using the same percentage.

For more information on qualified disaster recovery assistance distributions, see *Relief for Midwestern Disaster Areas*, later.

General Rule

Under the General Rule, you determine the tax-free part of each annuity payment based on the ratio of the cost of the contract to the total expected return. Expected return is the total amount you and other eligible annuitants can expect to receive under the contract. To figure it, you must use life expectancy (actuarial) tables prescribed by the IRS.

Who must use the General Rule. You must use the General Rule if you receive pension or annuity payments from:

- A nonqualified plan (such as a private annuity, a purchased commercial annuity, or a nonqualified employee plan), or
- A qualified plan if you are age 75 or older on your annuity starting date and your annuity payments are guaranteed for at least 5 years.

Annuity starting before November 19, 1996. If your annuity starting date is after July 1, 1986, and before November 19, 1996, you had to use the General Rule for either circumstance just described. You also had to use it for any fixed-period annuity. If you did not have to use the General Rule, you could have chosen to use it. If your annuity starting date is before July 2, 1986, you had to use the General Rule unless you could use the Three-Year Rule.

If you had to use the General Rule (or chose to use it), you must continue to use it each year that you recover your cost.

Who cannot use the General Rule. You cannot use the General Rule if you receive your pension or annuity from a qualified plan and none of the circumstances described in the preceding discussions apply to you. See *Simplified Method*, earlier.

More information. For complete information on using the General Rule, including the actuarial tables you need, see Publication 939.

Taxation of Nonperiodic Payments

This section of the publication explains how any nonperiodic distributions you receive under a pension or annuity plan are taxed. Nonperiodic distributions are also known as amounts not received as an annuity. They include all payments other than periodic payments and corrective distributions.

For example, the following items are treated as nonperiodic distributions.

- Cash withdrawals.
- Distributions of current earnings (dividends) on your investment. However, do not include these distributions in your income to the extent the insurer keeps them to pay premiums or other consideration for the contract.
- Certain loans. See *Loans Treated as Distributions*, later.

- The value of annuity contracts transferred without full and adequate consideration. See *Transfers of Annuity Contracts*, later.

Corrective distributions of excess plan contributions. Generally, if the contributions made for you during the year to certain retirement plans exceed certain limits, the excess is taxable to you. To correct an excess, your plan may distribute it to you (along with any income earned on the excess). Although the plan reports the corrective distributions on Form 1099-R, the distribution is not treated as a nonperiodic distribution from the plan. It is not subject to the allocation rules explained in the following discussion, it cannot be rolled over into another plan, and it is not subject to the additional tax on early distributions.

TIP *If your retirement plan made a corrective distribution of excess amounts (excess deferrals, excess contributions, or excess annual additions), your Form 1099-R, should have the code "8," "B," "D," "P," or "E" in box 7.*

For information on plan contribution limits and how to report corrective distributions of excess contributions, see *Retirement Plan Contributions* under *Employee Compensation* in Publication 525.

Figuring the Taxable Amount

How you figure the taxable amount of a nonperiodic distribution depends on whether it is made before the annuity starting date or on or after the annuity starting date. If it is made before the annuity starting date, its tax treatment also depends on whether it is made under a qualified or nonqualified plan and, if it is made under a nonqualified plan, whether it fully discharges the contract, is received under certain life insurance or endowment contracts, or is allocable to an investment you made before August 14, 1982.

TIP *You may be able to roll over the taxable amount of a nonperiodic distribution from a qualified retirement plan into another qualified retirement plan or a traditional IRA tax free. See Rollovers, later. If you do not make a tax-free rollover and the distribution qualifies as a lump-sum distribution, you may be able to elect an optional method of figuring the tax on the taxable amount. See Lump-Sum Distributions, later.*

Annuity starting date. The annuity starting date is either the first day of the first period for which you receive an annuity payment under the contract or the date on which the obligation under the contract becomes fixed, whichever is later.

Distributions of employer securities. If you receive a distribution of employer securities from a qualified retirement plan, you may be able to defer the tax on the net unrealized appreciation (NUA) in the securities. The NUA is the net increase in the securities' value while they were in the trust. This tax deferral applies to distributions of the employer corporation's stocks, bonds, registered debentures, and debentures with interest coupons attached.

If the distribution is a lump-sum distribution, tax is deferred on all of the NUA unless you choose to include it in your income for the year of the distribution.

A lump-sum distribution for this purpose is the distribution or payment of a plan participant's entire balance (within a single tax year) from all of the employer's qualified plans of one kind (pension, profit-sharing, or stock bonus plans), but only if paid:

- Because of the plan participant's death,
- After the participant reaches age 59½,
- Because the participant, if an employee, separates from service, or
- After the participant, if a self-employed individual, becomes totally and permanently disabled.

TIP *If you choose to include NUA in your income for the year of the distribution and the participant was born before January 2, 1936, you may be able to figure the tax on the NUA using the optional methods described under Lump-Sum Distributions, later.*

If the distribution is not a lump-sum distribution, tax is deferred only on the NUA resulting from employee contributions other than deductible voluntary employee contributions.

The NUA on which tax is deferred should be shown in box 6 of the Form 1099-R you receive from the payer of the distribution.

When you sell or exchange employer securities with tax-deferred NUA, any gain is long-term capital gain up to the amount of the NUA that is not included in your basis in the employer securities. Any gain that is more than the NUA is long-term or short-term gain, depending on how long you held the securities after the distribution.

Your basis in the employer securities is the total of the following amounts.

- Your contributions to the plan that are attributable to the securities.
- Your employer's contributions that were taxed as ordinary income in the year the securities were distributed.
- Your NUA in the securities that is attributable to employer contributions and taxed as ordinary income in the year the securities were distributed.

How to report. Enter the total amount of a nonperiodic distribution on Form 1040, line 16a; Form 1040A, line 12a; or Form 1040NR, line 17a. Enter the taxable amount of the distribution on Form 1040, line 16b; Form 1040A, line 12b; or Form 1040NR, line 17b. However, if you make a tax-free rollover or elect an optional method of figuring the tax on a lump-sum distribution, see *How to report* in the discussions of those tax treatments, later.

Distribution On or After Annuity Starting Date

If you receive a nonperiodic payment from your annuity contract on or after the annuity starting date, you generally must include all of the payment in gross income. For example, a cost-of-living increase in your pension after the annuity starting date is an amount not received as an annuity and, as such, is fully taxable.

Reduction in subsequent payments. If the annuity payments you receive are reduced because you received a nonperiodic distribution, you can exclude part of the nonperiodic distribution from gross income. The part you can exclude is equal to your cost in the contract reduced by any tax-free amounts you previously received under the contract, multiplied by a fraction. The numerator is the reduction in each annuity payment because of the nonperiodic distribution. The denominator is the full unreduced amount of each annuity payment originally provided for.

Single-sum in connection with the start of annuity payments. If you receive a single-sum payment on or after your annuity starting date in connection with the start of annuity payments for which you must use the Simplified Method, treat the single-sum payment as if it were received before your annuity starting date. (See *Simplified Method* under *Taxation of Periodic Payments,* earlier, for information on its required use.) Follow the rules in the next discussion, *Distribution Before Annuity Starting Date From a Qualified Plan.*

Distribution in full discharge of contract. You may receive an amount on or after the annuity starting date that fully satisfies the payer's obligation under the contract. The amount may be a refund of what you paid for the contract or for the complete surrender, redemption, or maturity of the contract. Include the amount in gross income only to the extent that it exceeds the remaining cost of the contract.

Distribution Before Annuity Starting Date From a Qualified Plan

If you receive a nonperiodic distribution before the annuity starting date from a qualified retirement plan, you generally can allocate only part of it to the cost of the contract. You exclude from your gross income the part that you allocate to the cost. You include the remainder in your gross income.

For this purpose, a qualified retirement plan is:

- A qualified employee plan (or annuity contract purchased by such a plan),
- A qualified employee annuity plan, or
- A tax-sheltered annuity plan (403(b) plan).

Use the following formula to figure the tax-free amount of the distribution.

$$\text{Amount received} \times \frac{\text{Cost of contract}}{\text{Account balance}} = \text{Tax-free amount}$$

For this purpose, your account balance includes only amounts to which you have a nonforfeitable right (a right that cannot be taken away).

Example. Ann Brown received a $50,000 distribution from her retirement plan before her annuity starting date. She had $10,000 invested (cost) in the plan. Her account balance was $100,000. She can exclude $5,000 of the $50,000 distribution, figured as follows:

$$\$50{,}000 \times \frac{\$10{,}000}{\$100{,}000} = \$5{,}000$$

Defined contribution plan. Under a defined contribution plan, your contributions (and income allocable to them) may be treated as a separate contract for figuring the taxable part of any distribution. A defined contribution plan is a plan in which you have an individual account. Your benefits are based only on the amount contributed to the account and the income, expenses, etc., allocated to the account.

Example. Ryan participates in a defined contribution plan that treats employee contributions and earnings allocable to them as a separate contract. He received a non-annuity distribution of $5,000 before his annuity starting date. He had made after-tax contributions of $10,000. The earnings allocable to his contributions were $2,500. His employer also contributed $10,000. The earnings allocable to the employer contributions were $2,500.

To determine the tax-free amount of Ryan's distribution use the same formula shown above. However, because employee contributions are treated as a separate contract the account balance would be the total of Ryan's contributions and allocable earnings.

Thus the tax-free amount would be $5,000 × ($10,000 ÷ $12,500) = $4,000. The taxable amount would be $1,000 ($5,000 – $4,000).

If the employee contributions were not treated as a separate contract, the tax-free amount would be $2,000 ($5,000 × ($10,000 ÷ $25,000)) and the taxable amount would be $3,000 ($5,000 – $2,000).

Plans that permitted withdrawal of employee contributions. If you contributed before 1987 to a pension plan that, as of May 5, 1986, permitted you to withdraw your contributions before your separation from service, any distribution before your annuity starting date is tax free to the extent that it, when added to earlier distributions received after 1986, does not exceed your cost as of December 31, 1986. Apply the allocation described in the preceding discussion only to any excess distribution.

Distribution Before Annuity Starting Date From a Nonqualified Plan

If you receive a nonperiodic distribution before the annuity starting date from a plan other than a qualified retirement plan, it is allocated first to earnings (the taxable part) and then to the cost of the contract (the tax-free part). This allocation rule applies, for example, to a commercial annuity contract you bought directly from the issuer. You include in your gross income the smaller of:

- The nonperiodic distribution, or
- The amount by which the cash value of the contract (figured without considering any surrender charge) immediately before you receive the distribution exceeds your investment in the contract at that time.

Example. You bought an annuity from an insurance company. Before the annuity starting date under your

annuity contract, you received a $7,000 distribution. At the time of the distribution, the annuity had a cash value of $16,000 and your investment in the contract was $10,000. The distribution is allocated first to earnings, so you must include $6,000 ($16,000 – $10,000) in your gross income. The remaining $1,000 ($7,000 – $6,000) is a tax-free return of part of your investment.

Exception to allocation rule. Certain nonperiodic distributions received before the annuity starting date are not subject to the allocation rule in the preceding discussion. Instead, you include the amount of the payment in gross income only to the extent that it exceeds the cost of the contract.

This exception applies to the following distributions.

- Distributions in full discharge of a contract that you receive as a refund of what you paid for the contract or for the complete surrender, redemption, or maturity of the contract.
- Distributions from life insurance or endowment contracts (other than modified endowment contracts, as defined in section 7702A of the Internal Revenue Code) that are not received as an annuity under the contracts.
- Distributions under contracts entered into before August 14, 1982, to the extent that they are allocable to your investment before August 14, 1982.

If you bought an annuity contract before August 14, 1982, and made investments both before and after August 14, 1982, the distributed amounts are allocated to your investment or to earnings in the following order.

1. The part of your investment that was made before August 14, 1982. This part of the distribution is tax free.
2. The earnings on the part of your investment that was made before August 14, 1982. This part of the distribution is taxable.
3. The earnings on the part of your investment that was made after August 13, 1982. This part of the distribution is taxable.
4. The part of your investment that was made after August 13, 1982. This part of the distribution is tax free.

Distribution of U.S. savings bonds. If you receive U.S. savings bonds in a taxable distribution from a retirement or profit-sharing plan, report the value of the bonds at the time of distribution as income. The value of the bonds includes accrued interest. When you cash the bonds, your Form 1099-INT will show the total interest accrued, including the part you reported when the bonds were distributed to you. For information on how to adjust your interest income for U.S. savings bond interest you previously reported, see *How To Report Interest Income* in chapter 1 of Publication 550, Investment Income and Expenses.

Loans Treated as Distributions

If you borrow money from your retirement plan, you must treat the loan as a nonperiodic distribution from the plan unless it qualifies for the exception to this loan-as-distribution rule explained later. This treatment also applies to any loan under a contract purchased under your retirement plan, and to the value of any part of your interest in the plan or contract that you pledge or assign (or agree to pledge or assign). It applies to loans from both qualified and nonqualified plans, including commercial annuity contracts you purchase directly from the issuer. Further, it applies if you renegotiate, extend, renew, or revise a loan that qualified for the exception below if the altered loan does not qualify. In that situation, you must treat the outstanding balance of the loan as a distribution on the date of the transaction.

You determine how much of the loan is taxable using the allocation rules for nonperiodic distributions discussed under *Figuring the Taxable Amount*, earlier. The taxable part may be subject to the additional tax on early distributions. It is not an eligible rollover distribution and does not qualify for the 10-year tax option.

Exception for qualified plan, 403(b) plan, and government plan loans. At least part of certain loans under a qualified employee plan, qualified employee annuity, tax-sheltered annuity (403(b) plan), or government plan is not treated as a distribution from the plan. This exception to the loan-as-distribution rule applies only to a loan that either:

- Is used to acquire your main home, or
- Must be repaid within 5 years.

If a loan qualifies for this exception, you must treat it as a nonperiodic distribution only to the extent that the loan, when added to the outstanding balances of all your loans from all plans of your employer (and certain related employers) exceeds the lesser of:

- $50,000, or
- Half the present value (but not less than $10,000) of your nonforfeitable accrued benefit under the plan, determined without regard to any accumulated deductible employee contributions.

You must reduce the $50,000 amount if you already had an outstanding loan from the plan during the 1-year period ending the day before you took out the loan. The amount of the reduction is your highest outstanding loan balance during that period minus the outstanding balance on the date you took out the new loan. If this amount is zero or less, ignore it.

Substantially level payments. To qualify for the exception to the loan-as-distribution rule, the loan must require substantially level payments at least quarterly over the life of the loan. If the loan is from a designated Roth account, the payments must be satisfied separately for that part of the loan and for the part of the loan from other accounts under the plan. This level payment requirement does not apply to the period in which you are on a leave of absence without pay or with a rate of pay that is less than the required installment. Generally, this leave of absence must not be longer than 1 year. You must repay the loan within 5 years from the date of the loan (unless the loan was used to acquire your main home). Your installment

payments after the leave ends must not be less than your original payments.

However, if your plan suspends your loan payments for any part of the period during which you are in the uniformed services, you will not be treated as having received a distribution even if the suspension is for more than 1 year and the term of the loan is extended. The loan payments must resume upon completion of such period and the loan must be repaid in substantially level installments within 5 years from the date of the loan (unless the loan was used to acquire your main home) plus the period of suspension.

Example 1. On May 1, 2009, you borrowed $40,000 from your retirement plan. The loan was to be repaid in level monthly installments over 5 years. The loan was not used to acquire your main home. You make nine monthly payments and start an unpaid leave of absence that lasts for 12 months. You were not in a uniformed service during this period. After the leave period ends and you resume active employment, you resume making repayments on the loan. You must repay this loan by April 30, 2014 (5 years from the date of this loan). You can increase your monthly installments or you can make the original monthly installments and on April 30, 2014, pay the balance.

Example 2. The facts are the same as in Example 1, except that you are on a leave of absence performing service in the uniformed services for 2 years. The loan payments were suspended for that period. You must resume making loan payments at the end of that period and the loan must be repaid by April 30, 2016 (5 years from the date of the loan plus the period of suspension).

Related employers and related plans. In determining loan balances for purposes of applying the exception to the loan-as-distribution rule, you must add the balances of all your loans from all plans of your employer and from all plans of your employers who are treated as a single employer. Treat separate employers' plans as plans of a single employer if they are treated that way under other qualified retirement plan rules because the employers are related.

Employers are related if they are:

- Members of a controlled group of corporations,
- Businesses under common control, or
- Members of an affiliated service group.

An affiliated service group generally is two or more service organizations whose relationship involves an ownership connection. Their relationship also includes the regular or significant performance of services by one organization for or in association with another.

Denial of interest deduction. If the loan from a qualified plan is not treated as a distribution because the exception applies, you cannot deduct any of the interest on the loan during any period that:

- The loan is secured by amounts from elective deferrals under a qualified cash or deferred arrangement (section 401(k) plan) or a salary reduction agreement to purchase a tax-sheltered annuity, or
- You are a key employee as defined in section 416(i) of the Internal Revenue Code.

Reporting by plan. If your loan is treated as a distribution, you should receive a Form 1099-R showing code "L" in box 7.

Effect on investment in the contract. If your loan is treated as a distribution, you must reduce your investment in the contract to the extent that the distribution is tax free under the allocation rules for qualified plans explained earlier. Repayments of the loan increase your investment in the contract to the extent that the distribution is taxable under those rules.

If you receive a loan under a nonqualified plan other than a 403(b) plan, including a commercial annuity contract that you purchase directly from the issuer, you increase your investment in the contract to the extent that the distribution is taxable under the general allocation rule for nonqualified plans explained earlier. Repayments of the loan do not affect your investment in the contract. However, if the distribution is excepted from the general allocation rule (for example, because it is made under a contract entered into before August 14, 1982), you reduce your investment in the contract to the extent that the distribution is tax free and increase it for loan repayments to the extent that the distribution is taxable.

Transfers of Annuity Contracts

If you transfer without full and adequate consideration an annuity contract issued after April 22, 1987, you are treated as receiving a nonperiodic distribution. The distribution equals the excess of:

- The cash surrender value of the contract at the time of transfer, over
- Your investment in the contract at that time.

This rule does not apply to transfers between spouses or transfers between former spouses incident to a divorce.

Tax-free exchange. No gain or loss is recognized on an exchange of an annuity contract for another annuity contract if the insured or annuitant remains the same. However, if an annuity contract is exchanged for a life insurance or endowment contract, any gain due to interest accumulated on the contract is ordinary income.

If you transfer a full or partial interest in a tax-sheltered annuity that is not subject to restrictions on early distributions to another tax-sheltered annuity, the transfer qualifies for nonrecognition of gain or loss.

If you exchange an annuity contract issued by a life insurance company that is subject to a rehabilitation, conservatorship, or similar state proceeding for an annuity contract issued by another life insurance company, the exchange qualifies for nonrecognition of gain or loss. The exchange is tax free even if the new contract is funded by two or more payments from the old annuity contract. This also applies to an exchange of a life insurance contract for a life insurance, endowment, annuity, or a qualified long-term care insurance contract.

If you transfer part of the cash surrender value of an existing annuity contract for a new annuity contract issued by another insurance company, the transfer qualifies for nonrecognition of gain or loss. The funds must be transferred directly between the insurance companies. Your investment in the original contract immediately before the

exchange is allocated between the contracts based on the percentage of the cash surrender value allocated to each contract.

Example. You own an annuity contract issued by ABC Insurance. You assign 60% of the cash surrender value of that contract to DEF Insurance to purchase an annuity contract. The funds are transferred directly between the insurance companies. You do not recognize any gain or loss on the transaction. After the exchange, your investment in the new contract is equal to 60% of your investment in the old contract immediately before the exchange. Your investment in the old contract is equal to 40% of your original investment in that contract.

Tax-free transfers for certain cash distributions. If you receive cash from the surrender of one contract and invest the cash in another contract, you generally do not have a tax-free transfer. However, you can elect to receive tax-free treatment for a cash distribution from an insurance company that is subject to a rehabilitation, conservatorship, insolvency, or similar state proceeding if all of the following conditions are met.

- You withdraw all the cash to which you are entitled.
- You reinvest the proceeds within 60 days in a single contract issued by another insurance company.
- You assign all rights to any future distributions to the new issuer if the cash distribution is restricted by the state proceeding to an amount that is less than required for full settlement.
- An exchange of these contracts would otherwise qualify as a tax-free transfer.

You must give the new issuer a statement containing the following information.

- The amount of cash distributed under the old contract.
- The amount of cash reinvested in the new contract.
- Your investment in the old contract on the date of the initial distribution.

You must also attach the following items to your timely filed income tax return for the year of the initial distribution.

- A copy of the statement you gave to the new issuer.
- A statement that contains the words "ELECTION UNDER REV. PROC. 92-44," the new issuer's name, and the policy number or similar identifying information for the new contract.

Tax-free exchange reported on Form 1099-R. If you make a tax-free exchange of an annuity contract for another annuity contract issued by a different company, the exchange will be shown on Form 1099-R with a code "6" in box 7. You need not report this on your tax return.

Date of purchase of contract received in a tax-free exchange. If you acquire an annuity contract in a tax-free exchange for another annuity contract, its date of purchase is the date you purchased the annuity you exchanged. This rule applies for determining if the annuity qualifies for exemption from the tax on early distributions as an immediate annuity. See *Tax on Early Distributions*, later.

Lump-Sum Distributions

TIP *This section on lump-sum distributions only applies if the plan participant was born before January 2, 1936. If the plan participant was born after January 1, 1936, the taxable amount of this nonperiodic payment is reported as discussed earlier.*

A lump-sum distribution is the distribution or payment in one tax year of a plan participant's entire balance from all of the employer's qualified plans of one kind (for example, pension, profit-sharing, or stock bonus plans). A distribution from a nonqualified plan (such as a privately purchased commercial annuity or a section 457 deferred compensation plan of a state or local government or tax-exempt organization) cannot qualify as a lump-sum distribution.

The participant's entire balance from a plan does not include certain forfeited amounts. It also does not include any deductible voluntary employee contributions allowed by the plan after 1981 and before 1987.

If you receive a lump-sum distribution from a qualified employee plan or qualified employee annuity and the plan participant was born before January 2, 1936, you may be able to elect optional methods of figuring the tax on the distribution. The part from active participation in the plan before 1974 may qualify as capital gain subject to a 20% tax rate. The part from participation after 1973 (and any part from participation before 1974 that you do not report as capital gain) is ordinary income. You may be able to use the 10-year tax option, discussed later, to figure tax on the ordinary income part.

Each individual, estate, or trust who receives part of a lump-sum distribution on behalf of a plan participant who was born before January 2, 1936, can choose whether to elect the optional methods for the part each received. However, if two or more trusts receive the distribution, the plan participant or the personal representative of a deceased participant must make the choice.

Use Form 4972 to figure the separate tax on a lump-sum distribution using the optional methods. The tax figured on Form 4972 is added to the regular tax figured on your other income. This may result in a smaller tax than you would pay by including the taxable amount of the distribution as ordinary income in figuring your regular tax.

Alternate payee under qualified domestic relations order. If you receive a distribution as an alternate payee under a qualified domestic relations order (discussed earlier under *General Information*), you may be able to choose the optional tax computations for it. You can make this choice for a distribution that would be treated as a lump-sum distribution had it been received by your spouse or former spouse (the plan participant). However, for this purpose, the balance to your credit does not include any amount payable to the plan participant.

If you choose an optional tax computation for a distribution received as an alternate payee, this choice will not affect any election for distributions from your own plan.

More than one recipient. One or all of the recipients of a lump-sum distribution can use the optional tax computations. See *Multiple recipients of a lump-sum distribution* in the instructions for Form 4972.

Reemployment. A separated employee's vested percentage in his or her retirement benefit may increase if he or she is rehired by the employer within five years following separation from service. This possibility does not prevent a distribution made before reemployment from qualifying as a lump-sum distribution. However, if the employee elected an optional method of figuring the tax on the distribution and his or her vested percentage in the previous retirement benefit increases after reemployment, the employee must recapture the tax saved. This is done by increasing the tax for the year in which the increase in vesting first occurs.

Distributions that do not qualify. The following distributions do not qualify as lump-sum distributions for the capital gain treatment or 10-year tax option.

- The part of a distribution not rolled over if the distribution is partially rolled over to another qualified plan or an IRA.
- Any distribution if an earlier election to use either the 5- or 10-year tax option had been made after 1986 for the same plan participant.
- U.S. Retirement Plan Bonds distributed with a lump sum.
- Any distribution made during the first five tax years that the participant was in the plan, unless it was made because the participant died.
- The current actuarial value of any annuity contract included in the lump sum. (Form 1099-R, box 8, should show this amount, which you use only to figure tax on the ordinary income part of the distribution.)
- Any distribution to a 5% owner that is subject to penalties under section 72(m)(5)(A) of the Internal Revenue Code.
- A distribution from an IRA.
- A distribution from a tax-sheltered annuity (section 403(b) plan).
- A distribution of the redemption proceeds of bonds rolled over tax free to a qualified pension plan, etc., from a qualified bond purchase plan.
- A distribution from a qualified plan if the participant or his or her surviving spouse previously received an eligible rollover distribution from the same plan (or another plan of the employer that must be combined with that plan for the lump-sum distribution rules) and the previous distribution was rolled over tax free to another qualified plan or an IRA.
- A distribution from a qualified plan that received a rollover after 2001 from an IRA (other than a conduit IRA), a governmental section 457 plan, or a section 403(b) tax-sheltered annuity on behalf of the plan participant.
- A distribution from a qualified plan that received a rollover after 2001 from another qualified plan on behalf of that plan participant's surviving spouse.
- A corrective distribution of excess deferrals, excess contributions, excess aggregate contributions, or excess annual additions.
- A lump-sum credit or payment from the Federal Civil Service Retirement System (or the Federal Employees' Retirement System).

How to treat the distribution. If you receive a lump-sum distribution, you may have the following options for how to treat the taxable part.

- Report the part of the distribution from participation before 1974 as a capital gain (if you qualify) and the part from participation after 1973 as ordinary income.
- Report the part of the distribution from participation before 1974 as a capital gain (if you qualify) and use the 10-year tax option to figure the tax on the part from participation after 1973 (if you qualify).
- Use the 10-year tax option to figure the tax on the total taxable amount (if you qualify).
- Roll over all or part of the distribution. See *Rollovers*, later. No tax is currently due on the part rolled over. Report any part not rolled over as ordinary income.
- Report the entire taxable part of the distribution as ordinary income on your tax return.

The first three options are explained in the following discussions.

Electing optional lump-sum treatment. You can choose to use the 10-year tax option or capital gain treatment only once after 1986 for any plan participant. If you make this choice, you cannot use either of these optional treatments for any future distributions for the participant.

Complete Form 4972 and attach it to your Form 1040 if you choose to use one or both of the tax options. If you received more than one lump-sum distribution for a plan participant during the year, you must add them together in your computation. If you and your spouse are filing a joint return and you both have received a lump-sum distribution, each of you should complete a separate Form 4972.

Time for choosing. You must decide to use the tax options before the end of the time, including extensions, for making a claim for credit or refund of tax. This is usually 3 years after the date the return was filed or 2 years after the date the tax was paid, whichever is later. (Returns filed before their due date are considered filed on their due date.)

Changing your mind. You can change your mind and decide not to use the tax options within the time period just discussed. If you change your mind, file Form 1040X, Amended U.S. Individual Income Tax Return, with a statement saying you do not want to use the optional lump-sum treatment. Generally, you must pay any additional tax due to the change with the Form 1040X.

How to report. If you elect capital gain treatment (but not the 10-year tax option) for a lump-sum distribution, include the ordinary income part of the distribution on Form 1040, lines 16a and 16b; or on Form 1040NR, lines 17a and 17b. Enter the capital gain part of the distribution in Part II of Form 4972. Include the tax from Form 4972, line 7 in the total on Form 1040, line 44; or on Form 1040NR, line 41.

If you elect the 10-year tax option, do not include any part of the distribution on Form 1040, lines 16a or 16b; or on Form 1040NR, lines 17a or 17b. Report the entire distribution in Part III of Form 4972 or, if you also elect capital gain treatment, report the capital gain part in Part II and the ordinary income part in Part III. Include the tax from Form 4972, line 30 in the total on Form 1040, line 44; or on Form 1040NR, line 41.

Taxable and tax-free parts of the distribution. The taxable part of a lump-sum distribution is the employer's contributions and income earned on your account. You may recover your cost in the lump sum and any net unrealized appreciation (NUA) in employer securities tax free.

Cost. In general, your cost is the total of:

- The plan participant's nondeductible contributions to the plan,
- The plan participant's taxable costs of any life insurance contract distributed,
- Any employer contributions that were taxable to the plan participant, and
- Repayments of any loans that were taxable to the plan participant.

You must reduce this cost by amounts previously distributed tax free.

Net unrealized appreciation (NUA). The NUA in employer securities (box 6 of Form 1099-R) received as part of a lump-sum distribution is generally tax free until you sell or exchange the securities. (See *Distributions of employer securities* under *Figuring the Taxable Amount,* earlier.) However, if you choose to include the NUA in your income for the year of the distribution and there is an amount in box 3 of Form 1099-R, part of the NUA will qualify for capital gain treatment. Use the *NUA Worksheet* in the instructions for Form 4972 to find the part that qualifies.

Losses. You may be able to claim a loss on your return if you receive a lump-sum distribution that is less than the plan participant's cost. You must receive the distribution entirely in cash or worthless securities. The amount you can claim is the difference between the participant's cost and the amount of the cash distribution, if any.

To claim the loss, you must itemize deductions on Schedule A (Form 1040). Show the loss as a miscellaneous deduction subject to the 2%-of-adjusted-gross-income limit.

You cannot claim a loss if you receive securities that are not worthless, even if the total value of the distribution is less than the plan participant's cost. You recognize gain or loss only when you sell or exchange the securities.

TIP *A loss under a nonqualified plan, such as a commercial variable annuity, is deductible in the same manner as a lump-sum distribution.*

Capital Gain Treatment

Capital gain treatment applies only to the taxable part of a lump-sum distribution resulting from participation in the plan before 1974. The amount treated as capital gain is taxed at a 20% rate. You can elect this treatment only once for any plan participant, and only if the plan participant was born before January 2, 1936.

Complete Part II of Form 4972 to choose the 20% capital gain election.

Figuring the capital gain and ordinary income parts. Generally, figure the capital gain and ordinary income parts of a lump-sum distribution by using the following formulas.

Capital Gain:

$$\text{Total Taxable Amount} \times \frac{\text{Months of active participation before 1974}}{\text{Total months of active participation}}$$

Ordinary Income:

$$\text{Total Taxable Amount} \times \frac{\text{Months of active participation after 1973}}{\text{Total months of active participation}}$$

In figuring the months of active participation before 1974, count as 12 months any part of a calendar year in which the plan participant actively participated under the plan. For active participation after 1973, count as one month any part of a calendar month in which the participant actively participated in the plan.

The capital gain part should be shown in box 3 of Form 1099-R or other statement given to you by the payer of the distribution.

Reduction for federal estate tax. If any federal estate tax (discussed under *Survivors and Beneficiaries,* later) was paid on the lump-sum distribution, you must decrease the capital gain by the amount of estate tax applicable to it. Follow the Form 4972 instructions for Part II, line 6, to figure the part of the estate tax applicable to the capital gain that is used to reduce the capital gain. If you do not make the capital gain election, enter on line 18 of Part III the estate tax attributable to the total lump-sum distribution. For information on how to figure the estate tax attributable to the lump-sum distribution, get the instructions for Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, or contact the administrator of the decedent's estate.

10-Year Tax Option

The 10-year tax option is a special formula used to figure a separate tax on the ordinary income part of a lump-sum distribution. You pay the tax only once, for the year in which you receive the distribution, not over the next 10 years. You can elect this treatment only once for any plan participant, and only if the plan participant was born before January 2, 1936.

The ordinary income part of the distribution is the amount shown in box 2a of the Form 1099-R given to you by the payer, minus the amount, if any, shown in box 3. You can also treat the capital gain part of the distribution (box 3 of Form 1099-R) as ordinary income for the 10-year

tax option if you do not choose capital gain treatment for that part.

Complete Part III of Form 4972 to choose the 10-year tax option. You must use the special Tax Rate Schedule shown in the instructions for Part III to figure the tax.

Examples

The following examples show how to figure the separate tax on Form 4972.

Example 1. Robert C. Smith, who was born in 1935, retired from Crabtree Corporation in 2009. He withdrew the entire amount to his credit from the company's qualified pension plan. In December 2009, he received a total distribution of $175,000 (the $25,000 tax-free part of the distribution consisting of employee contributions plus the $150,000 taxable part of the distribution consisting of employer contributions and earnings on all contributions).

The payer gave Robert a Form 1099-R, which shows the capital gain part of the taxable distribution (the part attributable to participation before 1974) to be $10,000. Robert elects 20% capital gain treatment for this part. Filled-in copies of Robert's Form 1099-R and Form 4972 follow. He enters $10,000 on Form 4972, Part II, line 6 and $2,000 ($10,000 × 20%) on Part II, line 7.

The ordinary income part of the taxable distribution is $140,000 ($150,000 − $10,000). Robert elects to figure the tax on this part using the 10-year tax option. He enters $140,000 on Form 4972, Part III, line 8. Then he completes the rest of Form 4972 and includes the tax of $24,270 in the total on line 44 of his Form 1040.

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, and ZIP code Crabtree Corporation Employees' Pension Plan 1111 Main Street Anytown, Texas 75000		1 Gross distribution $ 175000.00 2a Taxable amount $ 150000.00	OMB No. 1545-0119 2009 Form 1099-R	Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.
		2b Taxable amount not determined ☐	Total distribution ☒	Copy B Report this income on your federal tax return. If this form shows federal income tax withheld in box 4, attach this copy to your return.
PAYER'S federal identification number 10-0000000	RECIPIENT'S identification number 002-00-3456	3 Capital gain (included in box 2a) $ 10000.00	4 Federal income tax withheld $ 30000.00	
RECIPIENT'S name Robert C. Smith		5 Employee contributions /Designated Roth contributions or insurance premiums $ 25000.00	6 Net unrealized appreciation in employer's securities $	
Street address (including apt. no.) 911 Mill Way		7 Distribution code(s) 7A IRA/ SEP/ SIMPLE ☐	8 Other $ %	This information is being furnished to the Internal Revenue Service.
City, state, and ZIP code Anytown, Texas 75000		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** Department of the Treasury - Internal Revenue Service

Form **4972**

Department of the Treasury
Internal Revenue Service (99)

Tax on Lump-Sum Distributions

(From Qualified Plans of Participants Born Before January 2, 1936)

▶ **Attach to Form 1040, Form 1040NR, or Form 1041.**

OMB No. 1545-0193

2009

Attachment Sequence No. **28**

Name of recipient of distribution: Robert C. Smith

Identifying number: 002-00-3456

Part I Complete this part to see if you can use Form 4972

			Yes	No
1	Was this a distribution of a plan participant's entire balance (excluding deductible voluntary employee contributions and certain forfeited amounts) from all of an employer's qualified plans of one kind (pension, profit-sharing, or stock bonus)? If "No," **do not** use this form	1	✓	
2	Did you roll over any part of the distribution? If "Yes," **do not** use this form	2		✓
3	Was this distribution paid to you as a beneficiary of a plan participant who was born before January 2, 1936?	3		✓
4	Were you **(a)** a plan participant who received this distribution, **(b)** born before January 2, 1936, **and (c)** a participant in the plan for at least 5 years before the year of the distribution?	4	✓	
	If you answered "No" to both questions 3 **and** 4, **do not** use this form.			
5a	Did you use Form 4972 after 1986 for a previous distribution from your own plan? If "Yes," **do not** use this form for a 2009 distribution from your own plan	5a		✓
b	If you are receiving this distribution as a beneficiary of a plan participant who died, did you use Form 4972 for a previous distribution received for that participant after 1986? If "Yes," **do not** use the form for this distribution	5b		

Part II Complete this part to choose the 20% capital gain election (see instructions)

6	Capital gain part from Form 1099-R, box 3	6	10,000
7	Multiply line 6 by 20% (.20) ▶	7	2,000
	If you also choose to use Part III, go to line 8. Otherwise, include the amount from line 7 in the total on Form 1040, line 44, Form 1040NR, line 41, or Form 1041, Schedule G, line 1b, whichever applies.		

Part III Complete this part to choose the 10-year tax option (see instructions)

8	Ordinary income from Form 1099-R, box 2a minus box 3. If you did not complete Part II, enter the taxable amount from Form 1099-R, box 2a	8	140,000
9	Death benefit exclusion for a beneficiary of a plan participant who died before August 21, 1996	9	
10	Total taxable amount. Subtract line 9 from line 8	10	140,000
11	Current actuarial value of annuity from Form 1099-R, box 8. If none, enter -0-	11	-0-
12	Adjusted total taxable amount. Add lines 10 and 11. If this amount is $70,000 or more, **skip** lines 13 through 16, enter this amount on line 17, and go to line 18	12	140,000
13	Multiply line 12 by 50% (.50), but **do not** enter more than $10,000	13	
14	Subtract $20,000 from line 12. If line 12 is $20,000 or less, enter -0-	14	
15	Multiply line 14 by 20% (.20)	15	
16	Minimum distribution allowance. Subtract line 15 from line 13	16	
17	Subtract line 16 from line 12	17	140,000
18	Federal estate tax attributable to lump-sum distribution	18	
19	Subtract line 18 from line 17. If line 11 is zero, **skip** lines 20 through 22 and go to line 23	19	140,000
20	Divide line 11 by line 12 and enter the result as a decimal (rounded to at least three places)	20	.
21	Multiply line 16 by the decimal on line 20	21	
22	Subtract line 21 from line 11	22	
23	Multiply line 19 by 10% (.10)	23	14,000
24	Tax on amount on line 23. Use the Tax Rate Schedule in the instructions	24	2,227
25	Multiply line 24 by ten (10). If line 11 is zero, **skip** lines 26 through 28, enter this amount on line 29, and go to line 30	25	22,270
26	Multiply line 22 by 10% (.10)	26	
27	Tax on amount on line 26. Use the Tax Rate Schedule in the instructions	27	
28	Multiply line 27 by ten (10)	28	
29	Subtract line 28 from line 25. Multiple recipients, see instructions ▶	29	22,270
30	**Tax on lump-sum distribution.** Add lines 7 and 29. Also include this amount in the total on Form 1040, line 44, Form 1040NR, line 41, or Form 1041, Schedule G, line 1b, whichever applies ▶	30	24,270

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Example 2. Mary Brown, who was born in 1935, sold her business in 2009. She withdrew her entire interest in the qualified profit-sharing plan she had set up as the sole proprietor.

The cash part of the distribution, $160,000, is all ordinary income and is shown on her Form 1099-R below. She chooses to figure the tax on this amount using the 10-year tax option. Mary also received an annuity contract as part of the distribution from the plan. Box 8, Form 1099-R, shows that the current actuarial value of the annuity was $10,000. She enters these figures on Form 4972 (shown later).

After completing Form 4972, she includes the tax of $28,070 in the total on Form 1040, line 44.

☐ CORRECTED (if checked)

PAYER'S name, street address, city, state, and ZIP code Brown's Real Estate Profit-Sharing Plan 2101 Chelsea Court Anytown, Nevada 89300		1 Gross distribution $ 160000.00 2a Taxable amount $ 160000.00	OMB No. 1545-0119 2009 Form 1099-R	**Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.**
		2b Taxable amount not determined ☐	Total distribution ☒	**Copy B** **Report this income on your federal tax return. If this form shows federal income tax withheld in box 4, attach this copy to your return.**
PAYER'S federal identification number 10-0000000	RECIPIENT'S identification number 005-00-6789	3 Capital gain (included in box 2a) $	4 **Federal income tax withheld** $ 32000.00	
RECIPIENT'S name Mary Brown		5 Employee contributions /Designated Roth contributions or insurance premiums $	6 Net unrealized appreciation in employer's securities $	
Street address (including apt. no.) 12 Mill Avenue		7 Distribution code(s) 7A IRA/SEP/SIMPLE ☐	8 Other $ 10000.00 %	This information is being furnished to the Internal Revenue Service.
City, state, and ZIP code Anytown, Nevada 89300		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** Department of the Treasury - Internal Revenue Service

Form **4972**

Department of the Treasury
Internal Revenue Service (99)

Tax on Lump-Sum Distributions

(From Qualified Plans of Participants Born Before January 2, 1936)

▶ **Attach to Form 1040, Form 1040NR, or Form 1041.**

OMB No. 1545-0193

2009

Attachment Sequence No. **28**

Name of recipient of distribution: Mary Brown

Identifying number: 005-00-6789

Part I Complete this part to see if you can use Form 4972

			Yes	No
1	Was this a distribution of a plan participant's entire balance (excluding deductible voluntary employee contributions and certain forfeited amounts) from all of an employer's qualified plans of one kind (pension, profit-sharing, or stock bonus)? If "No," **do not** use this form	1	✓	
2	Did you roll over any part of the distribution? If "Yes," **do not** use this form	2		✓
3	Was this distribution paid to you as a beneficiary of a plan participant who was born before January 2, 1936?	3		✓
4	Were you **(a)** a plan participant who received this distribution, **(b)** born before January 2, 1936, **and (c)** a participant in the plan for at least 5 years before the year of the distribution?	4	✓	
	If you answered "No" to both questions 3 **and** 4, **do not** use this form.			
5a	Did you use Form 4972 after 1986 for a previous distribution from your own plan? If "Yes," **do not** use this form for a 2009 distribution from your own plan	5a		✓
b	If you are receiving this distribution as a beneficiary of a plan participant who died, did you use Form 4972 for a previous distribution received for that participant after 1986? If "Yes," **do not** use the form for this distribution	5b		

Part II Complete this part to choose the 20% capital gain election (see instructions)

6	Capital gain part from Form 1099-R, box 3	6	
7	Multiply line 6 by 20% (.20) ▶	7	
	If you also choose to use Part III, go to line 8. Otherwise, include the amount from line 7 in the total on Form 1040, line 44, Form 1040NR, line 41, or Form 1041, Schedule G, line 1b, whichever applies.		

Part III Complete this part to choose the 10-year tax option (see instructions)

8	Ordinary income from Form 1099-R, box 2a minus box 3. If you did not complete Part II, enter the taxable amount from Form 1099-R, box 2a			8	160,000
9	Death benefit exclusion for a beneficiary of a plan participant who died before August 21, 1996			9	
10	Total taxable amount. Subtract line 9 from line 8			10	160,000
11	Current actuarial value of annuity from Form 1099-R, box 8. If none, enter -0-			11	10,000
12	Adjusted total taxable amount. Add lines 10 and 11. If this amount is $70,000 or more, **skip** lines 13 through 16, enter this amount on line 17, and go to line 18			12	170,000
13	Multiply line 12 by 50% (.50), but **do not** enter more than $10,000	13			
14	Subtract $20,000 from line 12. If line 12 is $20,000 or less, enter -0-	14			
15	Multiply line 14 by 20% (.20)	15			
16	Minimum distribution allowance. Subtract line 15 from line 13			16	
17	Subtract line 16 from line 12			17	170,000
18	Federal estate tax attributable to lump-sum distribution			18	
19	Subtract line 18 from line 17. If line 11 is zero, **skip** lines 20 through 22 and go to line 23			19	170,000
20	Divide line 11 by line 12 and enter the result as a decimal (rounded to at least three places)	20	.0588		
21	Multiply line 16 by the decimal on line 20	21			
22	Subtract line 21 from line 11	22	10,000		
23	Multiply line 19 by 10% (.10)			23	17,000
24	Tax on amount on line 23. Use the Tax Rate Schedule in the instructions			24	2,917
25	Multiply line 24 by ten (10). If line 11 is zero, **skip** lines 26 through 28, enter this amount on line 29, and go to line 30			25	29,170
26	Multiply line 22 by 10% (.10)	26	1,000		
27	Tax on amount on line 26. Use the Tax Rate Schedule in the instructions	27	110		
28	Multiply line 27 by ten (10)			28	1,100
29	Subtract line 28 from line 25. Multiple recipients, see instructions ▶			29	28,070
30	**Tax on lump-sum distribution.** Add lines 7 and 29. Also include this amount in the total on Form 1040, line 44, Form 1040NR, line 41, or Form 1041, Schedule G, line 1b, whichever applies ▶			30	28,070

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Rollovers

If you withdraw cash or other assets from a qualified retirement plan in an eligible rollover distribution, you can defer tax on the distribution by rolling it over to another qualified retirement plan or a traditional IRA. You do not include the amount rolled over in your income until you receive it in a distribution from the recipient plan or IRA without rolling over that distribution. (For information about rollovers from traditional IRAs, see chapter 1 of Publication 590.)

If you roll over the distribution to a traditional IRA, you cannot deduct the amount rolled over as an IRA contribution. When you later withdraw it from the IRA, you cannot use the optional methods discussed earlier under *Lump-Sum Distributions* to figure the tax.

Self-employed individuals are generally treated as employees for the rules on the tax treatment of distributions, including the rules for rollovers.

See *Designated Roth accounts*, later, for information on rollovers related to those accounts. Also, see *Rollovers to Roth IRAs*, later, for information on rollovers from a qualified retirement plan to a Roth IRA.

Qualified retirement plan. For this purpose, the following plans are qualified retirement plans.

- A qualified employee plan.
- A qualified employee annuity.
- A tax-sheltered annuity plan (403(b) plan).
- An eligible state or local government section 457 deferred compensation plan.

Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any part of the balance to your credit in a qualified retirement plan except:

1. Any of a series of substantially equal distributions paid at least once a year over:
   a. Your lifetime or life expectancy,
   b. The joint lives or life expectancies of you and your beneficiary, or
   c. A period of 10 years or more,
2. A required minimum distribution (discussed later under *Tax on Excess Accumulation*),
3. Hardship distributions,
4. Corrective distributions of excess contributions or excess deferrals, and any income allocable to these distributions, or of excess annual additions and any allocable gains (see *Corrective distributions of excess plan contributions*, at the beginning of *Taxation of Nonperiodic Payments,* earlier),
5. A loan treated as a distribution because it does not satisfy certain requirements either when made or later (such as upon default), unless the participant's accrued benefits are reduced (offset) to repay the loan (see *Loans Treated as Distributions*, earlier),
6. Dividends paid on employer securities, and
7. The cost of life insurance coverage.

In addition, a distribution to the plan participant's beneficiary generally is not treated as an eligible rollover distribution. However, see *Qualified domestic relations order (QDRO)*, *Rollover by surviving spouse*, and *Rollovers by nonspouse beneficiary*, later.

Waiver of required minimum distributions (RMDs) for 2009. For 2009, you are not required to take an RMD from your IRA or defined contribution retirement plan. This waiver applies to participants in these plans as well as beneficiaries. The waiver also applies to those individuals who turn 70½ in 2009 and delay their 2009 RMD until April 1, 2010. This waiver **does not** apply to RMDs for 2008, even for individuals who turned 70½ in 2008 and chose to take the 2008 RMD by April 1, 2009.

If you received a distribution in 2009 that would otherwise be an RMD, you generally can roll over that amount into an eligible retirement plan within 60 days of the distribution. The plan administrator is permitted, but not required to offer a direct rollover of that amount. Also, the distribution is not subject to the 20% income tax withholding requirement.

For 2009 RMDs, the 60-day rollover period was extended so that it ended on November 30, 2009, or 60 days after the distribution was received, whichever was later.

Rollover of nontaxable amounts. You may be able to roll over the nontaxable part of a distribution (such as your after-tax contributions) made to another qualified retirement plan that is a qualified employee plan or a 403(b) plan, or to a traditional or Roth IRA. The transfer must be made either through a direct rollover to a qualified plan or 403(b) plan that separately accounts for the taxable and nontaxable parts of the rollover or through a rollover to a traditional or Roth IRA.

If you roll over only part of a distribution that includes both taxable and nontaxable amounts, the amount you roll over is treated as coming first from the taxable part of the distribution.

Any after-tax contributions that you roll over into your traditional IRA, become part of your basis (cost) in your IRAs. To recover your basis when you take distributions from your IRA, you must complete Form 8606, Nondeductible IRAs, for the year of the distribution. For more information, see the Form 8606 instructions.

Withholding requirements. If an eligible rollover distribution is paid to you, the payer must withhold 20% of it. This applies even if you plan to roll over the distribution to another qualified retirement plan or to an IRA. However, you can avoid withholding by choosing the direct rollover option, discussed later. Also, see *Choosing the right option* at the end of this discussion.

Exceptions. An eligible rollover distribution is not subject to withholding to the extent it consists of net unrealized appreciation from employer securities that can be excluded from your gross income. (For a discussion of the tax treatment of a distribution of employer securities, see *Figuring the Taxable Amount* under *Taxation of Nonperiodic Payments*, earlier.)

In addition, withholding from an eligible rollover distribution paid to you is not required if:

- The distribution and all previous eligible rollover distributions you received during the tax year from the same plan (or, at the payer's option, from all your employer's plans) total less than $200, or
- The distribution consists solely of employer securities, plus cash of $200 or less in lieu of fractional shares.

Direct rollover option. You can choose to have any part or all of an eligible rollover distribution paid directly to another qualified retirement plan that accepts rollover distributions or to a traditional or Roth IRA.

There is an automatic rollover requirement for mandatory distributions. A mandatory distribution is a distribution made without your consent and before you reach age 62 or normal retirement age, whichever is later. The automatic rollover requirement applies if the distribution is more than $1,000 and is an eligible rollover distribution. You can choose to have the distribution paid directly to you or rolled over directly to your traditional or Roth IRA or another qualified retirement plan. If you do not make this choice, the plan administrator will automatically roll over the distribution into an IRA of a designated trustee or issuer.

No tax withheld. If you choose the direct rollover option, or have an automatic rollover, no tax will be withheld from any part of the distribution that is directly paid to the trustee of the other plan. If any part of the eligible rollover distribution is paid to you, the payer must generally withhold 20% of it for income tax.

Payment to you option. If an eligible rollover distribution is paid to you, 20% generally will be withheld for income tax. However, the full amount is treated as distributed to you even though you actually receive only 80%. You generally must include in income any part (including the part withheld) that you do not roll over within 60 days to another qualified retirement plan or to a traditional or Roth IRA.

If you are under age 59½ when a distribution is paid to you, you may have to pay a 10% tax (in addition to the regular income tax) on the taxable part (including any tax withheld) that you do not roll over. See *Tax on Early Distributions*, later.

Partial rollovers. If you receive a lump-sum distribution, it may qualify for special tax treatment. See *Lump-Sum Distributions*, earlier. However, if you roll over any part of the distribution, the part you keep does not qualify for special tax treatment.

CAUTION

Rolling over more than amount received. *If the part of the distribution you want to roll over exceeds (due to the tax withholding) the amount you actually received, you will have to get funds from some other source (such as your savings or borrowed amounts) to add to the amount you actually received.*

Example. You receive an eligible rollover distribution of $10,000 from your employer's qualified employee plan. The payer withholds $2,000, so you actually receive $8,000. If you want to roll over the entire $10,000 to postpone including that amount in your income, you will have to get $2,000 from some other source to add to the $8,000 you actually received.

If you roll over only $8,000, you must include the $2,000 not rolled over in your income for the distribution year. Also, you may be subject to the 10% additional tax on the $2,000 if it was distributed to you before you reached age 59½.

Time for making rollover. You generally must complete the rollover of an eligible rollover distribution paid to you by the 60th day following the day on which you receive the distribution from your employer's plan.

The IRS may waive the 60-day requirement where the failure to do so would be against equity or good conscience, such as in the event of a casualty, disaster, or other event beyond your reasonable control.

Example. In the previous example, you received the distribution on June 30, 2010. To postpone including it in your income, you must complete the rollover by August 29, 2010, the 60th day following June 30.

Frozen deposits. If an amount distributed to you becomes a frozen deposit in a financial institution during the 60-day period after you receive it, the rollover period is extended. An amount is a frozen deposit if you cannot withdraw it because of either:

- The bankruptcy or insolvency of the financial institution, or
- A restriction on withdrawals by the state in which the institution is located because of the bankruptcy or insolvency (or threat of it) of one or more financial institutions in the state.

The 60-day rollover period is extended by the period for which the amount is a frozen deposit and does not end earlier than 10 days after the amount is no longer a frozen deposit.

Retirement bonds. If you redeem retirement bonds purchased under a qualified bond purchase plan, you can roll over the proceeds that exceed your basis tax free into an IRA or qualified employer plan. Subsequent distributions of those proceeds, however, do not qualify for the 10-year tax option or capital gain treatment.

Annuity contracts. If an annuity contract was distributed to you by a qualified retirement plan, you can roll over an amount paid under the contract that is otherwise an eligible rollover distribution. For example, you can roll over a single sum payment you receive upon surrender of the contract to the extent it is taxable and is not a required minimum distribution.

Rollovers of property. To roll over an eligible rollover distribution of property, you must either roll over the actual property distributed or sell it and roll over the proceeds. You cannot keep the distributed property and roll over cash or other property.

If you sell the distributed property and roll over all the proceeds, no gain or loss is recognized on the sale. The sale proceeds (including any portion representing an increase in value) are treated as part of the distribution and are not included in your gross income.

If you roll over only part of the proceeds, you are taxed on the part you keep. You must allocate the proceeds you keep between the part representing ordinary income from the distribution (its value upon distribution) and the part

representing gain or loss from the sale (its change in value from its distribution to its sale).

Example 1. On September 4, 2009, Paul received an eligible rollover distribution from his employer's noncontributory qualified employee plan of $50,000 in nonemployer stock. On September 24, 2009, he sold the stock for $60,000. On October 3, 2009, he contributed $60,000 cash to a traditional IRA. Paul does not include either the $50,000 eligible rollover distribution or the $10,000 gain from the sale of the stock in his income. The entire $60,000 rolled over will be ordinary income when he withdraws it from his IRA.

Example 2. The facts are the same as in Example 1, except that Paul sold the stock for $40,000 and contributed $40,000 to the IRA. Paul does not include the $50,000 eligible rollover distribution in his income and does not deduct the $10,000 loss from the sale of the stock. The $40,000 rolled over will be ordinary income when he withdraws it from his IRA.

Example 3. The facts are the same as in Example 1, except that Paul rolled over only $45,000 of the $60,000 proceeds from the sale of the stock. The $15,000 proceeds he did not roll over includes part of the gain from the stock sale. Paul reports $2,500 ($10,000 ÷ $60,000 × $15,000) as capital gain and $12,500 ($50,000 ÷ $60,000 × $15,000) as ordinary income.

Example 4. The facts are the same as in Example 2, except that Paul rolled over only $25,000 of the $40,000 proceeds from the sale of the stock. The $15,000 proceeds he did not roll over includes part of the loss from the stock sale. Paul reports $3,750 ($10,000 ÷ $40,000 × $15,000) capital loss and $18,750 ($50,000 ÷ $40,000 × $15,000) ordinary income.

Property and cash distributed. If both cash and property were distributed and you did not roll over the entire distribution, you may designate what part of the rollover is allocable to the cash distribution and what part is allocable to the proceeds from the sale of the distributed property. If the distribution included an amount that is not taxable (other than the net unrealized appreciation in employer securities) as well as an eligible rollover distribution, you may also designate what part of the nontaxable amount is allocable to the cash distribution and what part is allocable to the property. Your designation must be made by the due date for filing your tax return, including extensions. You cannot change your designation after that date. If you do not make a designation on time, the rollover amount or the nontaxable amount must be allocated on a ratable basis.

Qualified domestic relations order (QDRO). You may be able to roll over tax free all or part of a distribution from a qualified retirement plan that you receive under a QDRO. (See *Qualified domestic relations order (QDRO)* under *General Information*, earlier.) If you receive the distribution as an employee's spouse or former spouse (not as a nonspousal beneficiary), the rollover rules apply to you as if you were the employee.

Rollover by surviving spouse. You may be able to roll over tax free all or part of a distribution from a qualified retirement plan you receive as the surviving spouse of a deceased employee. The rollover rules apply to you as if you were the employee. You can roll over the distribution into a qualified retirement plan or a traditional or Roth IRA. For a rollover to a Roth IRA, see *Rollovers to Roth IRAs*, later.

A distribution paid to a beneficiary other than the employee's surviving spouse is generally not an eligible rollover distribution. However, see *Rollovers by nonspouse beneficiary* next.

Rollovers by nonspouse beneficiary. If you are a designated beneficiary (other than a surviving spouse) of a deceased employee, you may be able to roll over tax free all or a portion of a distribution you receive from an eligible retirement plan of the employee. The distribution must be a direct trustee-to-trustee transfer to your traditional or Roth IRA that was set up to receive the distribution. The transfer will be treated as an eligible rollover distribution and the receiving plan will be treated as an inherited IRA. For information on inherited IRAs, see Publication 590.

How to report. Enter the total distribution (before income tax or other deductions were withheld) on Form 1040, line 16a; Form 1040A, line 12a; or Form 1040NR, line 17a. This amount should be shown in box 1 of Form 1099-R. From this amount, subtract any contributions (usually shown in box 5 of Form 1099-R) that were taxable to you when made. From that result, subtract the amount that was rolled over either directly or within 60 days of receiving the distribution. Enter the remaining amount, even if zero, on Form 1040, line 16b; Form 1040A, line 12b; or Form 1040NR, line 17b. Also, write "Rollover" next to the line.

However, if the distribution was rolled over to a Roth IRA, you must include the amount rolled over in income (other than after-tax amounts) on Form 1040, line 16b; Form 1040A, line 12b; or Form 1040NR, line 17b. For more information, see *Rollovers to Roth IRAs*, later.

Written explanation to recipients. The administrator of a qualified retirement plan must, within a reasonable period of time before making an eligible rollover distribution, provide you with a written explanation. It must tell you about all of the following.

- Your right to have the distribution paid tax free directly to another qualified retirement plan or to a traditional or Roth IRA.
- The requirement to withhold tax from the distribution if it is not directly rolled over.
- The nontaxability of any part of the distribution that you roll over within 60 days after you receive the distribution.
- Other qualified retirement plan rules that apply, including those for lump-sum distributions, alternate payees, and cash or deferred arrangements.
- How the distribution rules of the plan to which you roll over the distribution may differ from the rules that apply to the plan making the distribution in their restrictions and tax consequences.

Reasonable period of time. The plan administrator must provide you with a written explanation no earlier than 90 days and no later than 30 days before the distribution is made. However, you can choose to have a distribution

made less than 30 days after the explanation is provided as long as the following two requirements are met.

- You must have the opportunity to consider whether or not you want to make a direct rollover for at least 30 days after the explanation is provided.
- The information you receive must clearly state that you have the right to have 30 days to make a decision.

Contact the plan administrator if you have any questions regarding this information.

Designated Roth accounts. You can roll over an eligible rollover distribution from a designated Roth account only into another designated Roth account or a Roth IRA. If you want to roll over the part of the distribution that is not included in income, you must make a direct rollover of the entire distribution (see *Direct rollover option*, earlier) or you can roll over the entire amount (or any portion) to a Roth IRA.

A qualified distribution from a designated Roth account is not includible in income. (A qualified distribution is defined earlier in the discussion of designated Roth accounts under *Taxation of Periodic Payments*). Generally, you cannot have a qualified distribution within the 5-tax-year period beginning with the first tax year for which the participant made a designated Roth contribution to the plan. If a direct rollover is made from a designated Roth account under another plan, the 5-tax-year period of participation begins on the first day of your tax year in which you first had designated Roth contributions made to either the account making the distribution or receiving the distribution, whichever was earlier.

If you roll over only part of an eligible rollover distribution that is not a qualified distribution and not paid as a direct rollover contribution, the part rolled over is considered to be first from the income portion of the distribution.

Example. You receive an eligible rollover distribution that is not a qualified distribution from your designated Roth account. The distribution consists of $11,000 (investment) and $3,000 (income earned). Within 60 days of receipt, you roll over $7,000 into a Roth IRA. The $7,000 consists of $3,000 of income and $4,000 of investment. Since you rolled over the part of the distribution that could be included in gross income (income earned), none of the distribution is included in gross income.

Rollovers to Roth IRAs. You can roll over distributions directly from a qualified retirement plan (other than a designated Roth account) to a Roth IRA if, for the tax year of the distribution, both of the following requirements are met.

- Your modified adjusted gross income for Roth IRA purposes (explained in chapter 2 of Publication 590) is not more than $100,000.
- You are not a married individual filing a separate return.

You must include in your gross income distributions from a qualified retirement plan (other than a designated Roth account) that you would have had to include in income if you had not rolled them over into a Roth IRA. You do not include in gross income any part of a distribution from a qualified retirement plan that is a return of contributions to the plan that were taxable to you when paid. In addition, the 10% tax on early distributions does not apply.

Any amount rolled over into a Roth IRA is subject to the same rules for converting a traditional IRA into a Roth IRA. For more information, see *Converting From Any Traditional IRA Into a Roth IRA* in chapter 1 of Publication 590.

How to report. Enter the total amount of the distribution before income tax or deductions were withheld on Form 1040, line 16a; Form 1040A, line 12a; or Form 1040NR, line 17a. This amount should be shown in box 1 of Form 1099-R. From this amount, subtract any contributions (usually shown in box 5 of Form 1099-R) that were taxable to you when made. Enter the remaining amount, even if zero, on Form 1040, line 16b; Form 1040A, line 12b; or Form 1040NR, line 17b.

New rules for rollovers to Roth IRAs. For tax years starting in 2010, the $100,000 modified AGI limit for rollovers to Roth IRAs is eliminated and married taxpayers filing a separate return can now roll over amounts to a Roth IRA. For any rollovers in 2010, any amounts that are required to be included in income are included in income in equal amounts in 2011 and 2012. If you elect otherwise, you can choose to include the entire amount in income in 2010.

Choosing the right option. Table 1 may help you decide which distribution option to choose. Carefully compare the effects of each option.

Table 1. **Comparison of Payment to You Versus Direct Rollover**

Affected item	Result of a payment to you	Result of a direct rollover
Withholding	The payer must withhold 20% of the taxable part.	There is no withholding.
Additional tax	If you are under age 59½, a 10% additional tax may apply to the taxable part (including an amount equal to the tax withheld) that is not rolled over.	There is no 10% additional tax. See *Tax on Early Distributions*, later.
When to report as income	Any taxable part (including the taxable part of any amount withheld) not rolled over is income to you in the year paid.	Any taxable part is not income to you until later distributed to you from the new plan or IRA. However, see *Rollovers to Roth IRAs*, earlier, for an exception.

Qualified settlement income. If you are a qualified taxpayer and you received qualified settlement income in connection with the Exxon Valdez litigation, you can contribute all or part of it to an eligible retirement plan. This includes a qualified retirement plan. The amount contributed cannot exceed $100,000 (reduced by the amount of

qualified settlement income contributed to an eligible retirement plan in prior tax years) or the amount of qualified settlement income received during the tax year. Contributions for the year can be made until the due date for filing your tax return, not including extensions.

Qualified settlement income that you contribute to a qualified retirement plan will be treated as having been rolled over in a direct trustee-to-trustee transfer within 60 days of the distribution. The amount contributed is not included in your taxable income and it is not considered to be investment in the contract.

You are a qualified taxpayer if you are:

- A plaintiff in the civil action *In re Exxon Valdez*, No. 89-095-CV (HRH) (Consolidated) (D.Alaska), or
- The beneficiary of the estate of a plaintiff who acquired the right to receive qualified settlement income from that plaintiff and who is the spouse or immediate relative of that plaintiff.

Qualified settlement income is any interest or punitive damage awards which are:

- Otherwise includible in income, and
- Received in connection with the Exxon Valdez civil action described (whether pre- or post-judgment and whether related to a settlement or a judgment).

Qualified settlement income can be received as periodic payments or as a lump-sum. See Publication 525, Taxable and Nontaxable Income, for information on how to report Exxon Valdez settlement income.

Special rule for Roth IRAs and designated Roth accounts. Qualified settlement income that is contributed to a Roth IRA or a designated Roth account will be:

- Included in your taxable income for the year the qualified settlement income was received, and
- Treated as part of your cost basis (investment in the contract) that is not taxable when distributed.

Special Additional Taxes

To discourage the use of pension funds for purposes other than normal retirement, the law imposes additional taxes on early distributions of those funds and on failures to withdraw the funds timely. Ordinarily, you will not be subject to these taxes if you roll over all early distributions you receive, as explained earlier, and begin drawing out the funds at a normal retirement age, in prorated amounts over your life expectancy. These special additional taxes are the taxes on:

- Early distributions, and
- Excess accumulation (not receiving minimum distributions).

These taxes are discussed in the following sections.

If you must pay either of these taxes, report them on Form 5329. However, you do not have to file Form 5329 if you owe only the tax on early distributions and your Form 1099-R correctly shows a “1” in box 7. Instead, enter 10% of the taxable part of the distribution on Form 1040, line 58 and enter “No” under the heading “Other Taxes” to the left of line 58. If you file Form 1040NR, enter 10% of the taxable part of the distribution on line 54 and enter “No” under the heading “Other Taxes” to the left of line 54.

Even if you do not owe any of these taxes, you may have to complete Form 5329 and attach it to your Form 1040 or Form 1040NR. This applies if you meet an exception to the tax on early distributions but box 7 of your Form 1099-R does not indicate an exception.

Tax on Early Distributions

Most distributions (both periodic and nonperiodic) from qualified retirement plans and nonqualified annuity contracts made to you before you reach age 59½ are subject to an additional tax of 10%. This tax applies to the part of the distribution that you must include in gross income. It does not apply to any part of a distribution that is tax free, such as amounts that represent a return of your cost or that were rolled over to another retirement plan. It also does not apply to corrective distributions of excess deferrals, excess contributions, or excess aggregate contributions (discussed earlier under *Taxation of Nonperiodic Payments*).

For this purpose, a qualified retirement plan is:

- A qualified employee plan (including a qualified cash or deferred arrangement (CODA) under Internal Revenue Code section 401(k)),
- A qualified employee annuity plan,
- A tax-sheltered annuity plan (403(b) plan), or
- An eligible state or local government section 457 deferred compensation plan (to the extent that any distribution is attributable to amounts the plan received in a direct transfer or rollover from one of the other plans listed here or an IRA).

5% rate on certain early distributions from deferred annuity contracts. If an early withdrawal from a deferred annuity is otherwise subject to the 10% additional tax, a 5% rate may apply instead. A 5% rate applies to distributions under a written election providing a specific schedule for the distribution of your interest in the contract if, as of March 1, 1986, you had begun receiving payments under the election. On line 4 of Form 5329, multiply the line 3 amount by 5% instead of 10%. Attach an explanation to your return.

Exceptions to tax. Certain early distributions are excepted from the early distribution tax. If the payer knows that an exception applies to your early distribution, distribution code “2,” “3,” or “4” should be shown in box 7 of your Form 1099-R and you do not have to report the distribution on Form 5329. If an exception applies but distribution code “1” (early distribution, no known exception) is shown in box 7, you must file Form 5329. Enter the taxable amount of the distribution shown in box 2a of your Form 1099-R on line 1 of Form 5329. On line 2, enter the amount that can be excluded and the exception number shown in the Form 5329 instructions.

If distribution code "1" is incorrectly shown on your Form 1099-R for a distribution received when you were age 59½ or older, include that distribution on Form 5329. Enter exception number "12" on line 2.

General exceptions. The tax does not apply to distributions that are:

- Made as part of a series of substantially equal periodic payments (made at least annually) for your life (or life expectancy) or the joint lives (or joint life expectancies) of you and your designated beneficiary (if from a qualified retirement plan, the payments must begin after separation from service). See *Substantially equal periodic payments*, later,
- Made because you are totally and permanently disabled, or
- Made on or after the death of the plan participant or contract holder.

Additional exceptions for qualified retirement plans. The tax does not apply to distributions that are:

- From a qualified retirement plan (other than an IRA) after your separation from service in or after the year you reached age 55 (age 50 for qualified public safety employees),
- From a qualified retirement plan (other than an IRA) to an alternate payee under a qualified domestic relations order,
- From a qualified retirement plan to the extent you have deductible medical expenses (medical expenses that exceed 7.5% of your adjusted gross income), whether or not you itemize your deductions for the year,
- From an employer plan under a written election that provides a specific schedule for distribution of your entire interest if, as of March 1, 1986, you had separated from service and had begun receiving payments under the election,
- From an employee stock ownership plan for dividends on employer securities held by the plan,
- From a qualified retirement plan due to an IRS levy of the plan, or
- From elective deferral accounts under 401(k) or 403(b) plans, or similar arrangements, that are qualified reservist distributions.

Qualified public safety employees. If you are a qualified public safety employee, distributions made from a governmental defined benefit pension plan are not subject to the additional tax on early distributions. You are a qualified public safety employee if you provided police protection, firefighting services, or emergency medical services for a state or municipality, and you separated from service in or after the year you attained age 50.

Qualified reservist distributions. A qualified reservist distribution is not subject to the additional tax on early distributions. A qualified reservist distribution is a distribution (a) from elective deferrals under a section 401(k) or 403(b) plan, or a similar arrangement, (b) to an individual ordered or called to active duty (because he or she is a member of a reserve component) for a period of more than 179 days or for an indefinite period, and (c) made during the period beginning on the date of the order or call and ending at the close of the active duty period. You must be ordered or called to active duty after September 11, 2001.

You can choose to re-contribute part or all of the distributions to an IRA. These additional contributions must be made within 2 years after your active-duty period ends. Any amount recontributed must be reported on Form 8606 as a nondeductible contribution. You cannot take a deduction for these contributions. However, the normal dollar limitations for contributions to IRAs do not apply to these special contributions, and you can make regular contributions to your IRA, up to the amount otherwise allowable.

Additional exceptions for nonqualified annuity contracts. The tax does not apply to distributions that are:

- From a deferred annuity contract to the extent allocable to investment in the contract before August 14, 1982,
- From a deferred annuity contract under a qualified personal injury settlement,
- From a deferred annuity contract purchased by your employer upon termination of a qualified employee plan or qualified employee annuity plan and held by your employer until your separation from service, or
- From an immediate annuity contract (a single premium contract providing substantially equal annuity payments that start within one year from the date of purchase and are paid at least annually).

Substantially equal periodic payments. Payments are substantially equal periodic payments if they are made in accordance with one of the following methods.

1. ***Required minimum distribution method.*** Under this method, the resulting annual payment is redetermined for each year.
2. ***Fixed amortization method.*** Under this method, the resulting annual payment is determined once for the first distribution year and remains the same amount for each succeeding year.
3. ***Fixed annuitization method.*** Under this method, the resulting annual payment is determined once for the first distribution year and remains the same amount for each succeeding year.

For information on these methods, see Revenue Ruling 2002-62, which is on page 710 of Internal Revenue Bulletin 2002-42 at *www.irs.gov/pub/irs-irbs/irb02-42.pdf*.

A change from method (2) or (3) to method (1) is not treated as a modification to which the recapture tax (discussed next) applies.

Recapture tax for changes in distribution method under equal payment exception. An early distribution recapture tax may apply if, before you reach age 59½, the

distribution method under the equal periodic payment exception changes (for reasons other than your death or disability). The tax applies if the method changes from the method requiring equal payments to a method that would not have qualified for the exception to the tax. The recapture tax applies to the first tax year to which the change applies. The amount of tax is the amount that would have been imposed had the exception not applied, plus interest for the deferral period.

The recapture tax also applies after you reach age 59½ if your payments under a distribution method that qualifies for the exception are modified within 5 years of the date of the first payment. In that case, the tax applies only to payments distributed before you reach age 59½.

Report the recapture tax and interest on line 4 of Form 5329. Attach an explanation to the form. Do not write the explanation next to the line or enter any amount for the recapture on lines 1 or 3 of the form.

Tax on Excess Accumulation

To make sure that most of your retirement benefits are paid to you during your lifetime, rather than to your beneficiaries after your death, the payments that you receive from qualified retirement plans must begin no later than your required beginning date (defined later). The payments each year cannot be less than the minimum required distribution.

If the actual distributions to you in any year are less than the minimum required distribution (RMD) for that year, you are subject to an additional tax. The tax equals 50% of the part of the required minimum distribution that was not distributed.

For this purpose, a qualified retirement plan includes:

- A qualified employee plan,
- A qualified employee annuity plan,
- An eligible section 457 deferred compensation plan, or
- A tax-sheltered annuity plan (403(b) plan) (for benefits accruing after 1986).

Waiver of RMDs for 2009. For 2009, you are not required to take an RMD from your IRA or defined contribution retirement plan. This waiver applies to participants in these plans as well as beneficiaries. The waiver also applies to those individuals who turn 70½ in 2009 and delay taking their 2009 RMD until April 1, 2010. This waiver **did not** apply to RMDs for 2008, even for individuals who turned 70½ in 2008 and chose to take their 2008 RMD by April 1, 2009. See *Required beginning date*, later.

Waiver. The tax may be waived if you establish that the shortfall in distributions was due to reasonable error and that reasonable steps are being taken to remedy the shortfall. If you believe you qualify for this relief, you must file Form 5329 and attach a letter of explanation. In Part VIII of that form, enter "RC" and the amount you want waived in parentheses on the dotted line next to line 52. Subtract this amount from the total shortfall you figured without regard to the waiver and enter the result on line 52.

State insurer delinquency proceedings. You might not receive the minimum distribution because assets are invested in a contract issued by an insurance company in state insurer delinquency proceedings. If your payments are reduced below the minimum because of these proceedings, you should contact your plan administrator. Under certain conditions, you will not have to pay the 50% excise tax.

Required beginning date. Unless the rule for 5% owners applies, you generally must begin to receive distributions from your qualified retirement plan by April 1 of the year that follows the later of:

- The calendar year in which you reach age 70½, or
- The calendar year in which you retire from employment with the employer maintaining the plan.

However, your plan may require you to begin to receive distributions by April 1 of the year that follows the year in which you reach age 70½, even if you have not retired.

If you reach age 70½ in 2009, you are not required to receive your first distribution by April 1, 2010. Your first required distribution however must be made for 2010 by December 31, 2010.

5% owners. If you are a 5% owner, you must begin to receive distributions from the plan by April 1 of the year that follows the calendar year in which you reach age 70½. This rule does not apply if your retirement plan is a government or church plan.

You are a 5% owner if, for the plan year ending in the calendar year in which you reach age 70½, you own (or are considered to own under section 318 of the Internal Revenue Code) more than 5% of the outstanding stock (or more than 5% of the total voting power of all stock) of the employer, or more than 5% of the capital or profits interest in the employer.

Age 70½. You reach age 70½ on the date that is 6 calendar months after the date of your 70th birthday. For example, if your 70th birthday was on June 30, 2009, you reached age 70½ on December 30, 2009. If your 70th birthday was on July 1, 2009, you reached age 70½ on January 1, 2010.

Required distributions. By the required beginning date, you must either:

- Receive your entire interest in the plan (for a tax-sheltered annuity, your entire benefit accruing after 1986), or
- Begin receiving periodic distributions in annual amounts calculated to distribute your entire interest (for a tax-sheltered annuity, your entire benefit accruing after 1986) over your life or life expectancy or over the joint lives or joint life expectancies of you and a designated beneficiary (or over a shorter period).

After the starting year for periodic distributions, you must receive at least the minimum required distribution for each year by December 31 of that year. (The starting year is the year in which you reach age 70½ or retire, whichever applies in determining your required beginning date.) If no distribution is made in your starting year, the minimum

required distributions for 2 years must be made the following year (one by April 1 and one by December 31). For 2009, no RMD is required from your IRA or employer-provided qualified retirement plan.

Example 1. You retired under a qualified employee plan in 2008. You reached age 70½ on August 20, 2009. For 2009 (your starting year), no RMD would be required. Your next RMD for 2010 should be made by December 31, 2010.

Example 2. You retired under a qualified plan in 2009. You reached age 70½ on February 1, 2010. For 2010 (your starting year), you must receive a minimum amount from your retirement plan by April 1, 2011. You must receive the minimum required distribution for 2011 by December 31, 2011.

Distributions after the employee's death. If the employee was receiving periodic distributions before his or her death, any payments not made as of the time of death must be distributed at least as rapidly as under the distribution method being used at the date of death.

If the employee dies before the required beginning date, the entire account must be distributed under one of the following rules.

- Rule 1. The distribution must be completed by December 31 of the fifth year following the year of the employee's death. For 2009, the distribution can be waived, effectively taking distributions over a 6-year period.
- Rule 2. The distribution must be made in annual amounts over the life or life expectancy of the designated beneficiary. For 2009, the distribution can be waived.

The terms of the plan may determine which of these two rules applies. If the plan permits the employee or the beneficiary to choose the rule that applies, this choice must be made by the earliest date a distribution would be required under either of the rules. Generally, this date is December 31 of the year following the year of the employee's death.

If the employee or the beneficiary did not choose either rule and the plan does not specify the rule that applies, distribution must be made under Rule 2 if the employee has a designated beneficiary or under Rule 1 if the employee does not have a designated beneficiary.

Distributions under Rule 2 generally must begin by December 31 of the year following the year of the employee's death. However, if the surviving spouse is the beneficiary, distributions need not begin until December 31 of the year the employee would have reached age 70½, if later.

If the surviving spouse is the designated beneficiary and distributions are to be made under Rule 2, a special rule applies if the spouse dies after the employee but before distributions are required to begin. In this case, distributions may be made to the spouse's beneficiary under either Rule 1 or Rule 2, as though the beneficiary were the employee's beneficiary and the employee died on the spouse's date of death. However, if the surviving spouse remarries after the employee's death and the new spouse is designated as the spouse's beneficiary, this special rule applicable to surviving spouses does not apply to the new spouse.

Minimum distributions from an annuity plan. Special rules may apply if you receive distributions from your retirement plan in the form of an annuity. Your plan administrator should be able to give you information about these rules.

Minimum distributions from an individual account plan. Your plan administrator should be able to give you information about how the amount of your required distribution was figured.

If there is an account balance to be distributed from your plan (not as an annuity), your plan administrator must figure the minimum amount that must be distributed from the plan each year.

What types of installments are allowed? The minimum amount that must be distributed for any year may be made in a series of installments (for example, monthly or quarterly) as long as the total payments for the year made by the date required are not less than the minimum amount required for the year.

More than minimum. Your plan can distribute more in any year than the minimum amount required for that year but, if it does, you will not receive credit for the additional amount in determining the minimum amount required for future years. However, any amount distributed in your starting year will be credited toward the amount required to be distributed by April 1 of the following year.

Combining multiple accounts to satisfy the minimum distribution requirements. Generally, the required minimum distribution must be figured separately for each account. Each qualified employee retirement plan and qualified annuity plan must be considered individually in satisfying its distribution requirements. However, if you have more than one tax-sheltered annuity account, you can total the required distributions and then satisfy the requirement by taking distributions from any one (or more) of the tax-sheltered annuities.

Survivors and Beneficiaries

Generally, a survivor or beneficiary reports pension or annuity income in the same way the plan participant would have reported it. However, some special rules apply, and they are covered elsewhere in this publication as well as in this section.

Estate tax deduction. You may be entitled to a deduction for estate tax if you receive amounts included in your income as income in respect of a decedent under a joint and survivor annuity that was included in the decedent's estate. You can deduct the part of the total estate tax that was based on the annuity, provided that the decedent died after his or her annuity starting date. (For details, see section 1.691(d)-1 of the regulations.) Deduct it in equal amounts over your remaining life expectancy.

If the decedent died before the annuity starting date of a deferred annuity contract and you receive a death benefit under that contract, the amount you receive (either in a

lump sum or as periodic payments) in excess of the decedent's cost is included in your gross income as income in respect of a decedent for which you may be able to claim an estate tax deduction.

You can take the estate tax deduction as an itemized deduction on Schedule A, Form 1040. This deduction is not subject to the 2%-of-adjusted-gross-income limit on miscellaneous deductions. See Publication 559, Survivors, Executors, and Administrators, for more information on the estate tax deduction.

Survivors of employees. Distributions the beneficiary of a deceased employee gets may be accrued salary payments; distributions from employee profit-sharing, pension, annuity, or stock bonus plans; or other items. Some of these should be treated separately for tax purposes. The treatment of these distributions depends on what they represent.

Salary or wages paid after the death of the employee are usually the beneficiary's ordinary income. If you are a beneficiary of an employee who was covered by any of the retirement plans mentioned, you can exclude from income nonperiodic distributions received that totally relieve the payer from the obligation to pay an annuity. The amount that you can exclude is equal to the deceased employee's investment in the contract (cost).

If you are entitled to receive a survivor annuity on the death of an employee, you can exclude part of each annuity payment as a tax-free recovery of the employee's investment in the contract. You must figure the tax-free part of each payment using the method that applies as if you were the employee. For more information, see *Taxation of Periodic Payments*, earlier.

Survivors of retirees. Benefits paid to you as a survivor under a joint and survivor annuity must be included in your gross income. Include them in income in the same way the retiree would have included them in gross income. See *Partly Taxable Payments* under *Taxation of Periodic Payments,* earlier.

If the retiree reported the annuity under the Three-Year Rule and recovered all of the cost tax free, your survivor payments are fully taxable.

If the retiree was reporting the annuity under the General Rule, you must apply the same exclusion percentage to your initial survivor annuity payment called for in the contract. The resulting tax-free amount will then remain fixed for the initial and future payments. Increases in the survivor annuity are fully taxable. See Publication 939 for more information on the General Rule.

If the retiree was reporting the annuity under the Simplified Method, the part of each payment that is tax free is the same as the tax-free amount figured by the retiree at the annuity starting date. This amount remains fixed even if the annuity payments are increased or decreased. See *Simplified Method* under *Taxation of Periodic Payments*, earlier.

Guaranteed payments. If you receive guaranteed payments as the decedent's beneficiary under a life annuity contract, do not include any amount in your gross income until your distributions plus the tax-free distributions received by the life annuitant equal the cost of the contract. All later distributions are fully taxable. This rule does not apply if it is possible for you to collect more than the guaranteed amount. For example, it does not apply to payments under a joint and survivor annuity.

Hurricane-Related Relief

Special rules regarding withdrawals and repayments from certain retirement plans provided relief to taxpayers who suffered an economic loss as a result of Hurricane Katrina, Rita, or Wilma and applied to distributions received before 2007 as qualified hurricane distributions. Although, qualified hurricane distributions had to be included in income before 2009, certain 2006 distributions could be repaid through 2009.

If you received a qualified hurricane distribution, the taxable amount is figured in the same manner as other distributions (see the sections on *Cost*, *Taxation of Periodic Payments*, and *Taxation of Nonperiodic Payments*, earlier). However, the distribution was included in income ratably over 3 years beginning with the year you received the distribution, unless you elected to report the entire amount in the year of distribution. You can repay the distribution and not be taxed on the distribution.

Form 8915, Qualified Hurricane Retirement Plan Distributions and Repayments, is used to report repayments of qualified hurricane distributions.

For information on other tax provisions related to these hurricanes, see Publication 4492, Information for Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma.

Repayment of Qualified Hurricane Distributions

Most 2006 qualified hurricane distributions are eligible for repayment to an eligible retirement plan (defined later). Payments received as a beneficiary (other than a surviving spouse), periodic payments (other than from IRAs), and required minimum distributions are not eligible for repayment. Periodic payments, for this purpose, are payments that are for (a) a period of 10 years or more, (b) your life or life expectancy, or (c) the joint lives or joint life expectancies of you and your beneficiary. For distributions eligible for repayment, you have 3 years from the day after the date you received the distribution to repay all or part to any plan, annuity, or IRA to which a rollover can be made. Within the time allowed, you may make as many repayments as you choose. The total amount repaid cannot be more than the amount of your qualified hurricane distributions. Amounts repaid are treated as a qualified rollover and are not included in income. The way you report repayments depends on whether you reported the distributions under the 3-year ratable method, or you elected to report the distributions in the year of distribution.

Repayment of distributions if reporting under the 1-year election. If you elected to include all of your qualified hurricane distributions received in a year in income for that year and then repay any portion of the distributions during the allowable 3-year period, the amount repaid will reduce the amount included in income for the year of distribution. If the repayment is made after the due date

(including extensions) for your return for the year of distribution, you will need to file a revised Form 8915 with an amended return. See *Amending Form 8915*, later.

Example. Maria received a $15,000 qualified hurricane distribution on November 10, 2006, from a section 457(b) plan. She elected out of the 3-year ratable method for reporting distributions on Form 8915 and included the entire $15,000 in gross income for 2006. On October 31, 2009, she repays $15,000 to the plan. She must file an amended return for 2006 to reduce her gross income by the $15,000 repayment amount and a revised Form 8915 to report the repayment.

Repayment of distributions if reporting under the 3-year ratable method. If you reported the distribution in income ratably over the 3-year period and you repay any portion of the distribution to an eligible retirement plan, the repayment may be carried back to reduce the amount included in income in previous years. After 2008, qualified hurricane distributions are no longer required to be included in income.

Example. John received a $90,000 qualified hurricane distribution from his pension plan on November 15, 2006. He did not elect to include the entire distribution in his 2006 income. He included $30,000 of the distribution in income on his 2006, 2007, and 2008 returns. On November 8, 2009, John repays $45,000 to an eligible retirement plan. He makes no other repayments during the allowable 3-year period. John may carry back the repayment and reduce the amount previously included in income by amending his 2006, 2007, or 2008 return.

Eligible retirement plan. An eligible retirement plan could have been any of the following.

- A qualified pension, profit-sharing, or stock bonus plan (including a 401(k) plan).
- A qualified annuity plan.
- A tax-sheltered annuity contract.
- A governmental section 457 deferred compensation plan.
- A traditional, SEP, SIMPLE, or Roth IRA.

For more information, including information about a distribution limit and a definition of main home, see the Form 8915 instructions.

Amending Form 8915

If you make a repayment in 2009, the repayment may reduce the amount of your qualified hurricane distributions that were previously included in income. You will need to file an amended tax return to refigure your taxable income.

Include the repayment on your 2009 Form 8915. You can file an amended return for 2006, 2007, or 2008 if either of the following applies.

- You elected to include all of your qualified hurricane distributions in income for 2006 (not over 3 years) on your original return.
- You received a qualified hurricane distribution in 2006 and included it in income over 3 years. You can only make a repayment if it is made within 3 years after the distribution was received. You can amend your 2006, 2007, or 2008 return, if applicable, to carry the repayment back.

File Form 1040X to amend a return you have already filed. Generally, Form 1040X must be filed within 3 years after the date the original return was filed, or within 2 years after the date the tax was paid, whichever is later.

Relief for Kansas Disaster Area

Special rules provided for tax-favored withdrawals, repayments, and loans from certain retirement plans for individuals who suffered economic losses as a result of the May 4, 2007, Kansas storms and tornadoes and applied to distributions received before 2009 as qualified recovery assistance distributions (defined later). While qualified recovery assistance distributions cannot be made after 2008, the special rules explain how much of a qualified distribution has to be included in income after 2008, and when an amended return must be filed to reduce the amount of a qualified distribution previously included in income as a result of a repayment after 2008.

Qualified Recovery Assistance Distribution

Except as provided below, a qualified recovery assistance distribution is any distribution you received and designated as such from an eligible retirement plan (see *Eligible retirement plan* on this page) if all of the following apply.

1. The distribution was made after May 3, 2007, and before January 1, 2009.
2. Your main home was located in the Kansas disaster area on May 4, 2007. For a definition of main home, see Publication 4492-A, Information for Taxpayers Affected by the May 4, 2007, Kansas Storms and Tornadoes.
3. You sustained an economic loss because of the storms and tornadoes. Examples of an economic loss include, but are not limited to:
   a. Loss, damage to, or destruction of real or personal property from fire, flooding, looting, vandalism, theft, wind, or other cause;
   b. Loss related to displacement from your home; or
   c. Loss of livelihood due to temporary or permanent layoffs.

If (1) through (3) above apply, you can generally designate any distribution (including periodic payments and required minimum distributions) from an eligible retirement plan as a qualified recovery assistance distribution, regardless of whether the distribution was made on account of the storms and tornadoes. Qualified recovery assistance distributions are permitted without regard to your need or the actual amount of your economic loss.

The total of your qualified recovery assistance distributions from all plans is limited to $100,000. If you have

distributions in excess of $100,000 from more than one type of plan, such as a 401(k) plan and an IRA, you may allocate the $100,000 limit among the plans any way you choose.

A reduction or offset after May 3, 2007, of your account balance in an eligible retirement plan in order to repay a loan can also be designated as a qualified recovery assistance distribution.

Taxation of Qualified Recovery Assistance Distributions

Qualified recovery assistance distributions are included in income in equal amounts over three years. However, if you elect, you can include the entire distribution in your income in the year it was received.

Qualified recovery assistance distributions are not subject to the additional 10% tax (or the additional 25% tax for certain distributions from SIMPLE IRAs) on early distributions from qualified retirement plans (including IRAs). However, any distributions you receive in excess of the $100,000 qualified recovery assistance distribution limit may be subject to the additional tax on early distributions.

Repayment of Qualified Recovery Assistance Distributions

If you choose, you generally can repay any portion of a qualified recovery assistance distribution that is eligible for tax-free rollover treatment to an eligible retirement plan (defined earlier under *Hurricane-Related Relief*). Also, you can repay a qualified recovery assistance distribution made on account of a hardship from a retirement plan. However, see *Exceptions* below for qualified recovery assistance distributions you cannot repay.

You have three years from the day after the date you received the distribution to make a repayment. Amounts that are repaid are treated as a qualified rollover and are not included in income. Also, for purposes of the one-rollover-per-year limitation for IRAs, a repayment to an IRA is not considered a qualified rollover. See Form 8915 for more information on how to report repayments.

Exceptions. You cannot repay the following types of distributions.

1. Qualified recovery assistance distributions received as a beneficiary (other than a surviving spouse).
2. Required minimum distributions.
3. Periodic payments (other than from an IRA) that are for:
   a. A period of 10 years or more,
   b. Your life or life expectancy, or
   c. The joint lives or joint life expectancies of you and your beneficiary.

Amending Your Return

If you make a repayment in 2009, the repayment may reduce the amount of your qualified recovery assistance distributions that were previously included in income. You may need to file an amended return to refigure your taxable income if:

- You elected to include all of your qualified recovery assistance distributions in income in the year of the distributions (not over 3 years) on your original return, and
- The amount of the repayment exceeds the portion of the qualified recovery assistance distributions that are includible in income for 2009, and you choose to carry the excess back to your 2008 (or if applicable, 2007) tax return.

File Form 1040X to amend a return you have already filed. Generally, Form 1040X must be filed within 3 years after the date the original return was filed, or within 2 years after the date the tax was paid, whichever is later.

Relief for Midwestern Disaster Areas

See Tables 1 and 2 in Publication 4492-B, Information for Affected Taxpayers in the Midwestern Disaster Areas, for a list of the Midwestern disaster areas and the applicable disaster dates.

Special rules provide for tax-favored withdrawals, repayments, and loans from certain retirement plans for taxpayers who suffered economic losses as a result of the Midwestern severe storms, tornadoes, or flooding.

If you receive a qualified disaster recovery assistance distribution, it is taxable but is not subject to the 10% additional tax on early distributions (see the sections on *Cost*, *Taxation of Periodic Payments*, and *Taxation of Nonperiodic Payments*, earlier). However, the distribution is included in income ratably over 3 years unless you elect to report the entire amount in the year of distribution. You can repay the distribution and not be taxed on the distribution. See *Qualified disaster recovery assistance distribution*, later.

Form 8930, Qualified Disaster Recovery Assistance Retirement Plan Distributions and Repayments, is used to report qualified disaster recovery assistance distributions and repayments.

For information on other tax provisions related to these storms, tornadoes, or flooding, see Publication 4492-B.

Qualified Disaster Recovery Assistance Distribution

A qualified disaster recovery assistance distribution is any distribution you received from an eligible retirement plan (see *Eligible retirement plan* earlier) if all of the following apply.

1. The distribution was made on or after the applicable disaster date and before January 1, 2010.

2. Your main home was located in a Midwestern disaster area on the applicable disaster date. For a definition of main home, see the Form 8930 instructions.
3. You sustained an economic loss because of the severe storms, tornadoes, or flooding and your main home was in a Midwestern disaster area on the applicable disaster date. Examples of an economic loss include, but are not limited to:
   a. Loss, damage to, or destruction of real or personal property from fire, flooding, looting, vandalism, theft, wind, or other cause;
   b. Loss related to displacement from your home; or
   c. Loss of livelihood due to temporary or permanent layoffs.

If (1) through (3) above apply, you can generally designate any distribution (including periodic payments and required minimum distributions) from an eligible retirement plan as a qualified disaster recovery assistance distribution, regardless of whether the distribution was made on account of the severe storms, tornadoes, or flooding. Qualified disaster recovery assistance distributions are permitted without regard to your need or the actual amount of your economic loss.

A reduction or offset (on or after the applicable disaster date) of your account balance in an eligible retirement plan in order to repay a loan can also be designated as a qualified disaster recovery assistance distribution.

Distribution limit. The total of your qualified disaster recovery assistance distributions from all plans is limited to $100,000. If you have distributions in excess of $100,000 from more than one type of plan, such as a 401(k) plan and an IRA, you may allocate the $100,000 limit among the plans any way you choose.

Example. In August 2008, you received a distribution of $50,000. In 2009, you receive a distribution of $125,000. Both distributions meet the requirements for a qualified disaster recovery assistance distribution. If you decide to treat the entire $50,000 received in 2008 as a qualified disaster recovery assistance distribution, only $50,000 of the 2009 distribution could be treated as a qualified disaster recovery assistance distribution.

Taxation of Qualified Disaster Recovery Assistance Distributions

Qualified disaster recovery assistance distributions are included in income in equal amounts over three years. However, if you elect, you can include the entire distribution in your income in the year it was received.

Qualified disaster recovery assistance distributions are not subject to the additional 10% tax (or the additional 25% tax for certain distributions from SIMPLE IRAs) on early distributions from qualified retirement plans (including IRAs). However, any distributions you receive in excess of the $100,000 qualified disaster recovery assistance distribution limit may be subject to the additional tax on early distributions.

For more information, see Form 8930.

Repayment of Qualified Disaster Recovery Assistance Distributions

If you choose, you generally can repay any portion of a qualified disaster recovery assistance distribution that is eligible for tax-free rollover treatment to an eligible retirement plan. Also, you can repay a qualified disaster recovery assistance distribution made on account of a hardship from a retirement plan. However, see *Exceptions* later for qualified disaster recovery assistance distributions you cannot repay.

You have three years from the day after the date you received the distribution to make a repayment. Amounts that are repaid are treated as a qualified rollover and are not included in income. Also, for purposes of the one-rollover-per-year limitation for IRAs, a repayment to an IRA is not considered a qualified rollover. See Form 8930 for more information on how to report repayments.

Repayment of distributions if reporting under the 1-year election. If you elect to include all of your qualified disaster recovery assistance distributions received in a year in income for that year and then repay any portion of the distributions during the allowable 3-year period, the amount repaid will reduce the amount included in income for the year of distribution. If the repayment is made after the due date (including extensions) for your return for the year of distribution, you will need to file a revised Form 8930 with an amended return. See *Amending Your Return*, later.

Example. Alice received a $45,000 qualified disaster recovery assistance distribution on September 1, 2009. After receiving reimbursement from her insurance company for a casualty loss, Alice repays $45,000 to an IRA on March 31, 2010. She reports the distribution and the repayment on Form 8930, which she files with her timely filed 2009 tax return. As a result, no portion of the distribution is included in income on her return.

Repayment of distributions if reporting under the 3-year method. If you are reporting the distribution in income over the 3-year period and you repay any portion of the distribution to an eligible retirement plan before filing your 2009 tax return by the due date (including extensions) for that return, the repayment will reduce the portion of the distribution that is included in income in 2009. If you repay a portion after the due date (including extensions) for filing your 2009 return, the repayment will reduce the portion of your distribution that is includible in income for the year it was repaid, the excess may be carried forward or back to reduce the amount included in income for the year to which it was carried.

Example. Brian received a $90,000 qualified disaster recovery assistance distribution from his pension plan on October 15, 2009. He does not elect to include the entire distribution in his 2009 income. Without any repayments, he would include $30,000 of the distribution in income on each of his 2009, 2010, and 2011 returns. On October 30, 2010, Brian repays $45,000 to an eligible retirement plan. He makes no other repayments during the 3-year period. Brian may report the distribution and repayment in either of the following ways.

- Report $0 in income on his 2010 return, and carry the $15,000 excess repayment ($45,000 - $30,000) forward to 2011 and reduce the amount reported in that year to $15,000, or
- Report $0 in income on his 2010 return, report $30,000 on his 2011 return, and file an amended return for 2009 to reduce the amount previously included in income to $15,000 ($30,000 - $15,000).

Exceptions. You cannot repay the following types of distributions.

1. Qualified disaster recovery assistance distributions received as a beneficiary (other than a surviving spouse).
2. Required minimum distributions.
3. Periodic payments (other than from an IRA) that are for:
   a. A period of 10 years or more,
   b. Your life or life expectancy, or
   c. The joint lives or joint life expectancies of you and your beneficiary.

Amending Your Return

If after filing your original return, you make a repayment, the repayment may reduce the amount of your qualified disaster recovery assistance distributions that were previously included in income. Depending on when a repayment is made, you may need to file an amended tax return to refigure your taxable income.

If you make a repayment by the due date of your original return (including extensions), include the repayment on your amended return.

If you make a repayment after the due date of your original return (including extensions), include it on your amended return only if either of the following apply.

- You elected to include all of your qualified disaster recovery assistance distributions in income in the year of the distributions (not over 3 years) on your original return.
- The amount of the repayment exceeds the portion of the qualified disaster recovery assistance distributions that are includible in income for 2010 and you choose to carry the excess back to your 2009 tax return.

Example. You received a qualified disaster recovery assistance distribution in the amount of $90,000 on September 15, 2009. You choose to spread the $90,000 over 3 years ($30,000 in income for 2009, 2010, and 2011). On October 15, 2010, you make a repayment of $45,000. For 2010, none of the qualified disaster recovery assistance distribution is includible in income. The excess repayment of $15,000 can be carried back to 2009. Also, rather than carry the excess repayment back to 2009, you can carry it forward to 2011.

File Form 1040X to amend a return you have already filed. Generally, Form 1040X must be filed within 3 years after the date the original return was filed, or within 2 years after the date the tax was paid, whichever is later.

Loans From Qualified Plans

The following benefits are available to qualified individuals.

- Increases to the limits for distributions treated as loans from employer plans.
- A one-year suspension for payments due on plan loans.

Qualified individual. You are a qualified individual if your main home was located in a Midwestern disaster area on the applicable disaster date and you had an economic loss because of the severe storms, tornadoes, or flooding. Examples of an economic loss include, but are not limited to:

- Loss, damage to, or destruction of real or personal property from fire, flooding, looting, vandalism, theft, wind, or other cause;
- Loss related to displacement from your home; or
- Loss of livelihood due to temporary or permanent layoffs.

Limits on plan loans. The $50,000 limit for distributions treated as plan loans is increased to $100,000. In addition, the limit based on 50% of your vested accrued benefit is increased to 100% of that benefit. If your main home was located in a Midwestern disaster area, the higher limits applied only to loans received during the period beginning on October 3, 2008, and before January 1, 2010.

One-year suspension of loan payments. Payments on plan loans outstanding on or after the applicable disaster date, may be suspended for one year by the plan administrator. To qualify for the suspension, the due date for any loan payment must have been during the period beginning on the applicable disaster date and ending on December 31, 2009.

How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

Contacting your Taxpayer Advocate. The Taxpayer Advocate Service (TAS) is an independent organization within the IRS whose employees assist taxpayers who are experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal channels, or who believe that an IRS system or procedure is not working as it should. Here are seven things every taxpayer should know about TAS:

- TAS is your voice at the IRS.

- Our service is free, confidential, and tailored to meet your needs.
- You may be eligible for TAS help if you have tried to resolve your tax problem through normal IRS channels and have gotten nowhere, or you believe an IRS procedure just isn't working as it should.
- TAS helps taxpayers whose problems are causing financial difficulty or significant cost, including the cost of professional representation. This includes businesses as well as individuals.
- TAS employees know the IRS and how to navigate it. We will listen to your problem, help you understand what needs to be done to resolve it, and stay with you every step of the way until your problem is resolved.
- TAS has at least one local taxpayer advocate in every state, the District of Columbia, and Puerto Rico. You can call your local advocate, whose number is in your phone book, in Pub. 1546, Taxpayer Advocate Service—Your Voice at the IRS, and on our website at www.irs.gov/advocate. You can also call our toll-free line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.
- You can learn about your rights and responsibilities as a taxpayer by visiting our online tax toolkit at www.taxtoolkit.irs.gov.

Low Income Taxpayer Clinics (LITCs). The Low Income Taxpayer Clinic program serves individuals who have a problem with the IRS and whose income is below a certain level. LITCs are independent from the IRS. Most LITCs can provide representation before the IRS or in court on audits, tax collection disputes, and other issues for free or a small fee. If an individual's native language is not English, some clinics can provide multilingual information about taxpayer rights and responsibilities. For more information, see Publication 4134, Low Income Taxpayer Clinic List. This publication is available at www.irs.gov, by calling 1-800-TAX-FORM (1-800-829-3676), or at your local IRS office.

Free tax services. To find out what services are available, get Publication 910, IRS Guide to Free Tax Services. It contains lists of free tax information sources, including publications, services, and free tax education and assistance programs. It also has an index of over 100 TeleTax topics (recorded tax information) you can listen to on your telephone.

Accessible versions of IRS published products are available on request in a variety of alternative formats for people with disabilities.

Free help with your return. Free help in preparing your return is available nationwide from IRS-trained volunteers. The Volunteer Income Tax Assistance (VITA) program is designed to help low-income taxpayers and the Tax Counseling for the Elderly (TCE) program is designed to assist taxpayers age 60 and older with their tax returns. Many VITA sites offer free electronic filing and all volunteers will let you know about credits and deductions you may be entitled to claim. To find the nearest VITA or TCE site, call 1-800-829-1040.

As part of the TCE program, AARP offers the Tax-Aide counseling program. To find the nearest AARP Tax-Aide site, call 1-888-227-7669 or visit AARP's website at www.aarp.org/money/taxaide.

For more information on these programs, go to www.irs.gov and enter keyword "VITA" in the upper right-hand corner.

Internet. You can access the IRS website at www.irs.gov 24 hours a day, 7 days a week to:

- *E-file* your return. Find out about commercial tax preparation and *e-file* services available free to eligible taxpayers.
- Check the status of your 2009 refund. Go to www.irs.gov and click on *Where's My Refund*. Wait at least 72 hours after the IRS acknowledges receipt of your e-filed return, or 3 to 4 weeks after mailing a paper return. If you filed Form 8379 with your return, wait 14 weeks (11 weeks if you filed electronically). Have your 2009 tax return available so you can provide your social security number, your filing status, and the exact whole dollar amount of your refund.
- Download forms, instructions, and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- Use the online Internal Revenue Code, Regulations, or other official guidance.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Figure your withholding allowances using the withholding calculator online at www.irs.gov/individuals.
- Determine if Form 6251 must be filed by using our Alternative Minimum Tax (AMT) Assistant.
- Sign up to receive local and national tax news by email.
- Get information on starting and operating a small business.

Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call 1-800-TAX-FORM (1-800-829-3676) to order current-year forms, instructions, and publications, and prior-year forms and instructions. You should receive your order within 10 days.
- *Asking tax questions.* Call the IRS with your tax questions at 1-800-829-1040.
- *Solving problems.* You can get face-to-face help solving tax problems every business day in IRS Taxpayer Assistance Centers. An employee can explain IRS letters, request adjustments to your account, or

help you set up a payment plan. Call your local Taxpayer Assistance Center for an appointment. To find the number, go to *www.irs.gov/localcontacts* or look in the phone book under *United States Government, Internal Revenue Service*.

- *TTY/TDD equipment.* If you have access to TTY/TDD equipment, call 1-800-829-4059 to ask tax questions or to order forms and publications.
- *TeleTax topics.* Call 1-800-829-4477 to listen to pre-recorded messages covering various tax topics.
- *Refund information.* To check the status of your 2009 refund, call 1-800-829-1954 during business hours or 1-800-829-4477 (automated refund information 24 hours a day, 7 days a week). Wait at least 72 hours after the IRS acknowledges receipt of your e-filed return, or 3 to 4 weeks after mailing a paper return. If you filed Form 8379 with your return, wait 14 weeks (11 weeks if you filed electronically). Have your 2009 tax return available so you can provide your social security number, your filing status, and the exact whole dollar amount of your refund. Refunds are sent out weekly on Fridays. If you check the status of your refund and are not given the date it will be issued, please wait until the next week before checking back.
- *Other refund information.* To check the status of a prior year refund or amended return refund, call 1-800-829-1954.

Evaluating the quality of our telephone services. To ensure IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to listen in on or record random telephone calls. Another is to ask some callers to complete a short survey at the end of the call.

Walk-in. Many products and services are available on a walk-in basis.

- *Products.* You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, grocery stores, copy centers, city and county government offices, credit unions, and office supply stores have a collection of products available to print from a CD or photocopy from reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.
- *Services.* You can walk in to your local Taxpayer Assistance Center every business day for personal, face-to-face tax help. An employee can explain IRS letters, request adjustments to your tax account, or help you set up a payment plan. If you need to resolve a tax problem, have questions about how the tax law applies to your individual tax return, or you are more comfortable talking with someone in person, visit your local Taxpayer Assistance Center where you can spread out your records and talk with an IRS representative face-to-face. No appointment is necessary—just walk in. If you prefer, you can call your local Center and leave a message requesting an appointment to resolve a tax account issue. A representative will call you back within 2 business days to schedule an in-person appointment at your convenience. If you have an ongoing, complex tax account problem or a special need, such as a disability, an appointment can be requested. All other issues will be handled without an appointment. To find the number of your local office, go to *www.irs.gov/localcontacts* or look in the phone book under *United States Government, Internal Revenue Service*.

Mail. You can send your order for forms, instructions, and publications to the address below. You should receive a response within 10 days after your request is received.

Internal Revenue Service
1201 N. Mitsubishi Motorway
Bloomington, IL 61705-6613

DVD for tax products. You can order Publication 1796, IRS Tax Products DVD, and obtain:

- Current-year forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Tax Map: an electronic research tool and finding aid.
- Tax law frequently asked questions.
- Tax Topics from the IRS telephone response system.
- Internal Revenue Code—Title 26 of the U.S. Code.
- Fill-in, print, and save features for most tax forms.
- Internal Revenue Bulletins.
- Toll-free and email technical support.
- Two releases during the year.
  – The first release will ship the beginning of January 2010.
  – The final release will ship the beginning of March 2010.

Purchase the DVD from National Technical Information Service (NTIS) at *www.irs.gov/cdorders* for $30 (no handling fee) or call 1-877-233-6767 toll free to buy the DVD for $30 (plus a $6 handling fee).

Worksheet A. **Simplified Method**

Keep for Your Records

1. Enter the total pension or annuity payments received this year. Also, add this amount to the total for Form 1040, line 16a; Form 1040A, line 12a; or Form 1040NR, line 17a . . . . . **1.** _____

2. Enter your cost in the plan (contract) at the annuity starting date plus any death benefit exclusion.* See *Cost (Investment in the Contract)* earlier . . . . . **2.** _____

   Note: If your annuity starting date was before this year and you completed this worksheet last year, skip line 3 and enter the amount from line 4 of last year's worksheet on line 4 below (even if the amount of your pension or annuity has changed). Otherwise, go to line 3.

3. Enter the appropriate number from Table 1 below. But if your annuity starting date was after 1997 and the payments are for your life and that of your beneficiary, enter the appropriate number from Table 2 below. . . . . **3.** _____

4. Divide line 2 by the number on line 3 . . . . . **4.** _____

5. Multiply line 4 by the number of months for which this year's payments were made. If your annuity starting date was before 1987, enter this amount on line 8 below and skip lines 6, 7, 10, and 11. Otherwise, go to line 6 . . . . . **5.** _____

6. Enter any amounts previously recovered tax free in years after 1986. This is the amount shown on line 10 of your worksheet for last year . . . . . **6.** _____

7. Subtract line 6 from line 2 . . . . . **7.** _____

8. Enter the smaller of line 5 or line 7 . . . . . **8.** _____

9. **Taxable amount for year.** Subtract line 8 from line 1. Enter the result, but not less than zero. Also, add this amount to the total for Form 1040, line 16b; Form 1040A, line 12b; or Form 1040NR, line 17b. **Note**: If your Form 1099-R shows a larger taxable amount, use the amount figured on this line instead. If you are a retired public safety officer, see *Insurance Premiums for Retired Public Safety Officers* earlier before entering an amount on your tax return . . . . . **9.** _____

10. Was your annuity starting date before 1987?
    ☐ Yes. **STOP.** Do not complete the rest of this worksheet.
    ☐ No. Add lines 6 and 8. This is the amount you have recovered tax free through 2009. You will need this number if you need to fill out this worksheet next year . . . . . **10.** _____

11. **Balance of cost to be recovered.** Subtract line 10 from line 2. If zero, you will not have to complete this worksheet next year. The payments you receive next year will generally be fully taxable . . . . . **11.** _____

* A death benefit exclusion (up to $5,000) applied to certain benefits received by employees who died before August 21, 1996.

Table 1 for Line 3 Above

IF the age at annuity starting date was	AND your annuity starting date was— BEFORE November 19, 1996, enter on line 3	AND your annuity starting date was— AFTER November 18, 1996, enter on line 3 . . . . .
55 or under	300	360
56-60	260	310
61-65	240	260
66-70	170	210
71 or over	120	160

Table 2 for Line 3 Above

IF the combined ages at annuity starting date were	THEN enter on line 3 . . . . .
110 or under	410
111-120	360
121-130	310
131-140	260
141 or over	210

Index

To help us develop a more useful index, please let us know if you have ideas for index entries. See "Comments and Suggestions" in the "Introduction" for the ways you can reach us.

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