



# Instructions for Form 1120-DF

(Rev. July 1991)

## U.S. Income Tax Return for Designated Settlement Funds

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

### Paperwork Reduction Act Notice

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

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

**Recordkeeping** . . . . . 16 hr., 1 min.

**Learning about the law or the form** . . . . . 1 hr., 54 min.

**Preparing the form** . . . . . 5 hr., 2 min.

**Copying, assembling, and sending the form to IRS** . . . . . 48 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP; and the **Office of Management and Budget**, Paperwork Reduction Project (1545-0986), Washington, DC 20503. **DO NOT** send the tax return to either of these offices. Instead, see the instructions below for information on where to file.

## General Instructions

### Purpose of Form

Form 1120-DF is used by designated settlement funds to report contributions received, income earned, the administrative expenses of operating the fund, and the tax on its investment earnings.

### Definitions

**A. Designated Settlement Fund.**—The term “designated settlement fund” means any fund that is established pursuant to a court order and which completely extinguishes the taxpayer’s tort liability with respect to claims against the taxpayer. The fund is established for the principal purpose of settling and paying claims against the electing taxpayer, and certain related persons, arising out of personal injury, death, or property damage. Under the terms of the election, no amounts may be transferred to the fund other than in the form of qualified payments defined below, the electing taxpayer (or any related person) may not hold any beneficial interest in the income or corpus of the fund, and a majority of the persons administering the fund must be independent of the electing taxpayer.

**Note:** An election to create a designated settlement fund under section 468B is made by attaching a statement to the income tax return, e.g., Form 1120, etc., filed by the taxpayer that established the fund for the year in which the election is made. The statement should outline the facts and reasons for making the election, including the court order number under which the election is being made.

**B. Qualified Payment.**—A qualified payment is any transfer under a court order of money or property to a designated settlement fund by an electing taxpayer, other than: (1) any amount that may be transferred from the fund to the electing taxpayer (or any related person), or (2) the transfer of any stock or indebtedness of the electing taxpayer (or any related person as defined in section 267(b)).

### Filing Form 1120-DF

**Who Must File.**—All section 468B designated settlement funds must file an annual income tax return on Form 1120-DF. All parts of the return must be completed.

**Method of Accounting.**—The fund must use the same method of accounting as the electing taxpayer that created it.

**When To File.**—File the fund’s return by the 15th day of the third month after the end of the fund’s tax year.

### Where To File

If the fund’s principal office is located in	Use the following Internal Revenue Service Center address
New Jersey, New York (New York City and counties of Nassau, Rockland, Suffolk, and Westchester)	Holtsville, NY 00501
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Andover, MA 05501
Florida, Georgia, South Carolina	Atlanta, GA 39901
Indiana, Kentucky, Michigan, Ohio, West Virginia	Cincinnati, OH 45999
Kansas, New Mexico, Oklahoma, Texas	Austin, TX 73301

Alaska, Arizona, California (counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba), Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming

Ogden, UT 84201

California (all other counties), Hawaii Fresno, CA 93888

Illinois, Iowa, Minnesota, Missouri, Wisconsin Kansas City, MO 64999

Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Tennessee Memphis, TN 37501

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, foreign countries and U.S. possessions Philadelphia, PA 19255

**Extension of Time To File.**—File Form 7004, Application for Automatic Extension of Time to File Corporation Income Tax Return, to request an automatic 6-month extension of time to file Form 1120-DF.

**Identifying Number.**—Use social security numbers to identify individuals. Use employer identification numbers to identify trusts, corporations, and similar nonindividual persons.

### Signature

The return must be signed and dated by an authorized trustee/administrator.

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

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

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

- Sign it, by hand, in the space provided for the preparer’s signature. (Signature stamps or labels are not acceptable.)
- Give a copy of Form 1120-DF to the taxpayer in addition to the copy filed with IRS.

### Rounding Off to Whole-Dollar Amounts

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

### Depository Method of Tax Payment

The fund must pay the tax due in full when the return is filed but no later than the 15th day of the 3rd month after the end of the tax year.

Deposit fund income tax payments (and estimated tax payments) with a Federal Tax Deposit Coupon (Form 8109). Do not submit deposits directly to an IRS office. Mail or deliver the completed Federal Tax Deposit Coupon (Form 8109) and the payment to a qualified depository for Federal taxes or to the Federal Reserve bank (FRB) servicing your geographic area. Make checks and money orders payable to that depository or FRB. To help ensure proper crediting to your account, write your employer identification number, "Form 1120-DF" and the tax period to which the deposit applies on your check or money order. Be sure to darken the "1120" box on the coupon. Records of deposits will be sent to IRS for crediting to the fund's account.

A penalty may be imposed for failure to deposit the required amount of tax. See section 6656.

This penalty may also apply if you mail or deliver deposits to IRS offices rather than to authorized depositories or FRBs.

For more information about deposits, see the instructions contained in the coupon book (Form 8109) and Pub. 583, Taxpayers Starting a Business.

## Estimated Tax

Generally, a fund must make estimated tax payments if it can expect its income tax (tax on modified gross income minus credits) to be \$500 or more for the year.

Use Form 1120-W, Corporation Estimated Tax, as a worksheet to compute estimated tax. Skip lines 1 through 16 of Form 1120-W, and on the line for total tax (line 17 of the 1991 Form 1120-W), enter 31% of the estimated modified gross income for the year. Complete the rest of the form in accordance with its instructions. Use the payment coupons (Form 8109) when making deposits of estimated tax.

If the fund overpaid estimated tax, it may get a "quick refund" by filing Form 4466, Corporation Application for Quick Refund of Overpayment of Estimated Tax. The overpayment must be at least 10% of the expected tax on modified gross income and at least \$500. To apply for a quick refund, file Form 4466 by the 15th of the third month after the end of the tax year, but before the fund files its income tax return.

## Interest and Penalties

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

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

**Late filing of return.**—A fund that fails to file its return when due (including extensions of time for filing) may be subject to a penalty of 5% of the unpaid tax for each month or part of a month the return is late, up to a maximum of 25% of the unpaid tax. The minimum penalty for a return that is more than 60 days late is the smaller of the tax due or \$100. The penalty will not be imposed if the taxpayer can show that the failure to timely file a return is due to reasonable cause.

**Late payment of tax.**—The penalty for late payment of taxes is usually  $\frac{1}{2}$  of 1% of the unpaid tax for each month or part of a month the tax is unpaid. The penalty cannot exceed 25% of the amount due. This penalty may also apply to an additional tax not paid within 10 days of the date of the notice and demand for payment.

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

**Form 2220, Underpayment of Estimated Tax by Corporations,** is used to see if the fund owes a penalty and to figure the amount of the penalty. Generally, the fund does not have to file this form because IRS can figure the amount of any penalty and bill the fund for it. However, you must complete and attach Form 2220 even if the fund does not owe the penalty if:

- the annualized income installment method is used, or
- the fund is a "large" corporation computing its first required installment based on the prior year's tax.

If you attached Form 2220, be sure to check the box on line 16, Form 1120-DF, and enter the amount of any penalty on this line.

**Other penalties.**—Other penalties can be imposed for negligence, substantial understatement of tax, and fraud. See sections 6662 and 6663.

## Other Forms That May Be Required

The fund may have to file the following:

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

**Forms 1096 and 1099-MISC.**—Annual Summary and Transmittal of U.S. Information Returns; and Statement for Recipients of Miscellaneous Income. For more information, see Pub. 937, Business Reporting.

**Attachments.**—Use the entry spaces contained on the form unless there are not enough entry spaces for your needs. Attachments must: (1) show the form number and tax year, (2) contain the name and employer identification number of the fund, (3) include the information required by the form, (4) follow the format and line sequence of the form, and (5) be on the same size paper as the form.

## Specific Instructions

**A. Employer Identification Number.**—A fund that does not have an EIN should apply for one on Form SS-4, Application for Employer Identification Number. Obtain this form at most IRS or Social Security Administration offices. Send Form SS-4 to the same Internal Revenue Service Center to which Form 1120-DF is mailed. If the EIN has not been received by the filing time for Form 1120-DF, write "Applied for" in the space for the EIN.

For more information concerning an EIN, see Pub. 583.

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

## Part I.—Income and Deductions of Fund

**Note:** Do not include qualified payments received from the electing taxpayer in Part I; include them as an item of information under Additional Information, line 1a.

**Line 1—Taxable interest.**—Enter the total taxable interest income received or accrued for the year including any original issue discount. Do not include any tax-exempt interest here; report it under Additional Information, line 1c, as an item of information.

**Line 2—Dividends.**—Enter the total amount of dividends received or accrued during the tax year.

**Line 4—Other income.**—Enter the total taxable income from other sources not listed above. Attach a schedule showing the amounts and sources of any other income.

## Deductions

**Note:** No deduction is allowed for certain expenses that are allocable to tax-exempt income (see section 265).

No deduction is allowed for payments of claims made by the fund.

**Line 6—Trustees/ administrators fees.**—Enter the total amount of compensation paid or incurred to the trustees/ administrators during the year.

**Line 8—Accounting and legal services.**—Enter the total amount paid or incurred for accounting and legal services during the year. Attach a schedule detailing the amounts for each kind of service.

**Line 9—Other deductions.**—Enter the total amount of other deductions on this line. Attach a schedule listing the deductions claimed.

**Line 12—Net operating loss deduction.**—Enter the amount of any net operating loss deduction. See Regulations section 1.468A-4(b)(4) for rules that apply to nuclear decommissioning funds. The same principles apply to net operating losses of designated settlement funds. If this deduction is taken, explain its computation on an attached schedule.

## Part II.—Tax Computation

**Line 14—Total tax.**—For tax years beginning after 1990, the rate of tax is 31%. For tax years beginning before 1991, the rate of tax is 28%.

**Line 15—Credits and payments.**—No credits are allowed other than those on lines 15a through 15e.

## Schedule L—Balance Sheet

Complete this part of the return on the basis of the accounting method regularly used by the fund in keeping its books and records.

## Additional Information

Except for line 1, which generally requires entries of certain amounts representing cash or fair market value of property received, every question should be answered "Yes" or "No" and any required explanations should be attached.