



Instructions for Form 1120-ND (Revised November 1993)

Return for Nuclear Decommissioning Funds and Certain Related Persons

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

Paperwork Reduction Act Notice

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

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

- Recordkeeping 23 hr., 26 min.
- Learning about the law
or the form 3 hr., 12 min.
- Preparing the form 5 hr., 23 min.
- Copying, assembling, and
sending the form to the IRS. 32 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**, Attention: Reports Clearance Officer, PC:FP, Washington, DC 20224; and the **Office of Management and Budget**, Paperwork Reduction Project (1545-0954), Washington, DC 20503. **DO NOT** send the tax form to either of these offices. Instead, see **Where To File** on this page.

General Instructions

Changes To Note

The Energy Policy Act of 1992 ("1992 Act") and the Revenue Reconciliation Act of 1993 ("1993 Act") changed the tax rate for nuclear decommissioning funds. The 1992 Act reduced the tax rate for tax years beginning after 1993. See the instructions for line 13 on page 3. The 1992 Act also removed the requirement that nuclear decommissioning funds invest the portion of the fund's assets not currently needed to pay expenses and administer the fund into investments described in section 501(c)(21)(B)(ii). This change is effective for investments made after 1992.

The 1993 Act increased the tax rate for nuclear decommissioning funds for tax

years beginning in 1993. See the instructions for line 13 on page 3.

Purpose of Form

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

Who Must File

All section 468A nuclear decommissioning funds must file Form 1120-ND. A disqualified person engaging in self-dealing must file Form 1120-ND to report the initial tax under section 4951.

Initial Taxes on Self-Dealing.—A disqualified person or a trustee who participates in an act of self-dealing must file Form 1120-ND. See the instructions on page 4 for computing the amount of tax for trustees and disqualified persons. Follow the rules below when computing tax due to acts of self-dealing.

- The heading (omitting the check boxes for final return and change in address);
- The signature and, if applicable, the paid preparer's section;
- Items 5a(i), (ii), (iii), (iv), and (v); and
- The appropriate lines in Part II, Sections A and B.

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

When To File

In general, a fund must file its income tax return by the 15th day of the third month after the close of the fund's tax year. The return of a trustee or self-dealer who owes tax under section 4951 must be filed by the 15th day of the third month after the close of the tax year of the trustee or self-dealer.

If the due date falls on a Saturday, Sunday, or legal holiday, file on the next business day.

Extension.—Funds must file **Form 7004**, Application for Automatic Extension of

Time To File Corporation Income Tax Return, to request a 6-month extension of time to file. A self-dealer or trustee filing to report section 4951 taxes must file **Form 2758**, Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns, to request an extension of time to file Form 1120-ND. An extension of time to file does not extend the time for payment of tax.

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

Also, report acts of self-dealing based on the tax year of the self-dealer. See Rev. Rul. 75-391, 1975-2 C.B. 446, for details.

Where To File

If the fund's principal office is located in	Use the following Internal Revenue Service Center address
New Jersey, New York (New York City and counties of Nassau, Rockland, Suffolk, and Westchester)	Holtsville, NY 00501
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Andover, MA 05501
Florida, Georgia, South Carolina	Atlanta, GA 39901
Indiana, Kentucky, Michigan, Ohio, West Virginia	Cincinnati, OH 45999
Kansas, New Mexico, Oklahoma, Texas	Austin, TX 73301
Alaska, Arizona, California (counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba), Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden, UT 84201
California (all other counties), Hawaii	Fresno, CA 93888
Illinois, Iowa, Minnesota, Missouri, Wisconsin	Kansas City, MO 64999
Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Tennessee	Memphis, TN 37501
Delaware, District of Columbia, Maryland, Pennsylvania, Virginia	Philadelphia, PA 19255

Who Must Sign

The return must be signed and dated by an authorized trustee. The return of any

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

If a trustee completes Form 1120-ND, the Paid Preparer's space should remain blank. Anyone who prepares Form 1120-ND but does not charge the fund should not sign the return. Generally, anyone who is paid to prepare the return must sign it and fill in the Paid Preparer's Use Only area.

The paid preparer must complete the required preparer information and:

- Sign the return, by hand, in the space provided for the preparer's signature (signature stamps and labels are not acceptable).
- Give a copy of the return to the taxpayer.

Accounting Method

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

Rounding Off to Whole Dollars

The fund may show the money items on the return and accompanying schedules as whole dollars. 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 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 **Form 8109**, Federal Tax Deposit Coupon. Do not send deposits directly to an IRS office. Mail or deliver the completed Form 8109 with the payment to a qualified depository for Federal taxes or to the Federal Reserve bank (FRB) servicing the fund's geographical area. Make checks and money orders payable to that depository or FRB.

To help ensure proper crediting, write the fund's employer identification number, the tax period to which the deposit applies, and "Form 1120-ND" on the check or money order. Be sure to darken the "1120" box on the coupon. These records of deposits will be sent to the IRS.

A penalty may be imposed if the deposits are mailed or delivered to an IRS office rather than an authorized depository or FRB.

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

Caution: *If the fund owes tax when it files Form 1120-ND, do not include the payment with the tax return. Instead, mail or deliver the payment with Form 8109 to a qualified depository or FRB.*

Estimated Tax Payments

Generally, a fund must make installment payments of estimated tax if it expects its estimated tax to be \$500 or more. The

installments are due by the 15th day of the 4th, 6th, 9th, and 12th month of the tax year. If any date falls on a Saturday, Sunday, or legal holiday, the installment is due on the next regular business day. Use **Form 1120-W**, Corporation Estimated Tax, as a worksheet to compute estimated tax. The following instructions refer to the 1994 Form 1120-W. Skip lines 2 through 20. Then multiply the expected modified gross income for the tax year by the applicable tax rate and enter the result on line 21. See the instructions for line 13 on page 3 for the applicable tax rate. Use deposit coupons (Form 8109) to make deposits of estimated tax. For more information on estimated tax payments, including penalties that apply if the fund fails to make required payments, see the instructions for line 15 on page 3.

If the fund overpaid estimated tax, it may be able to get a "quick" refund by filing **Form 4466**, Corporation Application for Quick Refund of Estimated Tax. The overpayment must be at least 10% of the expected income tax liability and at least \$500. To apply for a quick refund, file Form 4466 before the 16th day of the 3rd month after the end of the tax year, but before the fund files its income tax return. Do not file Form 4466 before the end of the fund's tax year.

Interest and Penalties

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

Late Filing of Return.—A fund that does not file its return by the due date, including extensions, 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 fund can show that the failure to file on time was due to reasonable cause. Funds that file late must attach a statement explaining the reasonable cause.

Late payment of tax.—A fund that does not pay the tax when due may have to pay a penalty of 1/2 of 1% of the unpaid tax for each month or part of a month the tax is not paid, up to a maximum of 25% of the unpaid tax. This penalty may also apply to any additional taxes not paid within 10 days of the date of the notice and demand for payment. The penalty may not be imposed if the fund can show that the failure to pay was due to reasonable cause.

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

Other Forms, Returns, Schedules, and Statements That May Be Required

The fund may have to file the following:

Form 1096, Annual Summary and Transmittal of U.S. Information Returns.

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

Form 1099-MISC.—Statement for Recipients of Miscellaneous Income. For more information, see **Pub. 937**, Business Reporting.

Attachments.—Attach schedules in alphabetical order and other forms in numerical order after Form 1120-ND.

To assist us in processing the return, please complete every applicable entry space on Form 1120-ND. Do not write "See attached" instead of completing the entry spaces. If you need more space on the forms or schedules, attach separate sheets. Use the same size and format as on the printed forms. But show your totals on the printed forms. Attach these separate sheets after all the schedules and forms. Be sure to put the fund's name and EIN on each sheet.

Specific Instructions

Period covered.—Fill in the spaces at the top of the form to show the fund's tax year. For a calendar tax year, enter the last two digits of the calendar year in the first entry space in the entry for tax year. For a fiscal tax year, fill in the tax year space at the top of the form.

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

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

Item A—Employer identification number (EIN).—Show the correct EIN in the space provided for the EIN on page 1 of Form 1120-ND. If the fund does not have an EIN, it should apply for one on **Form SS-4**, Application for Employer Identification Number. Form SS-4 may be obtained from most IRS and Social Security Administration (SSA) offices. If the EIN has not been received by the filing time for the fund's tax return, write "Applied for" in the space for the EIN. See **Pub. 583** for additional information.

Item B—Identifying number of trustee or disqualified person.—If the return is filed by a trustee or disqualified person to report section 4951 taxes, enter the identifying number of the trustee or

disqualified person. For an individual trustee or disqualified person, enter the individual's social security number. If the trustee or disqualified person is not an individual, enter the employer identification number. Do not complete item B if Form 1120-ND is filed to report the income, deductions, and income tax liability of the fund.

Item C—Return filed for section.—

Check only the box that applies:

1. When filed to report the income, deductions, and income tax liability of the fund, check the "Fund" box.

2. When filed by a trustee who is liable for taxes under section 4951, check the "Trustee" box.

3. When filed by a disqualified person who is liable for section 4951 tax, check the "Disqualified person" box.

Item D—Final return, Change of address, Amended return.—If the fund ceases to exist, file Form 1120-ND and check the "Final return" box. If the fund has changed its address since it last filed its return, check the box for "Change of address."

If the fund is filing to correct a previously filed return, check the box for "Amended return."

Part I.—Computation of Fund Income Tax

Income

Line 1—Taxable interest.—Enter the total taxable interest income received or accrued for the year, including any original issue discount. Do not include tax-exempt interest; report it as an item of information in Item 2e, page 2.

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

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

Deductions

Note: A deduction is not allowed for certain expenses that are allocable to tax-exempt income. See section 265. In addition, a deduction is not allowed for distributions made to the electing taxpayer. Such payments, however, must be reported as an item of information in Item 2d, Form 1120-ND, page 2. Liabilities are not treated as incurred prior to the time economic performance occurs. See section 461(h).

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

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

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

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

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

Line 13.—The tax rate on modified gross income of a nuclear decommissioning fund will change for tax years beginning after 1992. Use the following table to determine the proper tax rate.

For tax years beginning:	Tax Rate
After 1992	35%
After 1994	22%
After 1995	20%

Note: The tax rate for 1992 is 34%. Fiscal year 1992-93 filers must use the blended rate tax computation described in section 15. However, section 15 does not apply to the tax rate changes for tax years beginning after 1992.

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

Backup withholding.—If the fund had income tax withheld from any payments it received, because, for example, it failed to give its employer identification number, include the amount withheld in the total for line 14. This type of withholding is called "backup withholding." Show the amount withheld above line 14f and label the amount as "backup withholding." Include this amount, if any, in the total for line 14f.

Line 15—Estimated tax penalty.—A fund that does not make estimated tax payments when due may be subject to an underpayment penalty for the period of underpayment. Generally, a fund is subject to the penalty if its tax liability is \$500 or more, and it did not timely pay the smaller of (a) 100% of its tax liability or (b) 100% of its prior year's tax. See section 6655 for details and exceptions, including special rules for large funds.

Note: The estimated tax penalty is waived for underpayments of estimated tax for any period before March 16, 1994, to the extent that the underpayment is attributable to changes made by the Revenue Reconciliation Act of 1993.

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 the IRS can figure the amount of any penalty and bill the fund for it. However, you must complete and attach Form 2220 even if the fund does not owe the penalty if:

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

If you attach Form 2220, check the box on line 15, and enter the amount of the penalty on that line.

Schedule L—Balance Sheets

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

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

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

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

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

Definitions

Self-Dealing.—Except as provided under "Special Rule" below, the term "self-dealing" means any direct or indirect—

- Sale, exchange, or leasing of real or personal property between the fund and a disqualified person;
- Lending of money or other extensions of credit between the fund and a disqualified person;
- Furnishing of goods, services, or facilities between the fund and a disqualified person;
- Payment of compensation (or payment or reimbursement of expenses) by the fund to a disqualified person; and
- Transfers to, or use by or for the benefit of, a disqualified person of the income or assets of the fund.

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

- The payment by the fund for the purpose of satisfying, in whole or part, the liability of the electing taxpayer for decommissioning costs of the nuclear power plant;
- The withdrawal of excess contributions by the electing taxpayer in accordance with Regulations section 1.468A-5(c)(2);
- The withdrawal of amounts that have been treated as distributions by the electing taxpayer under Regulations section 1.468A-5(c)(3);
- The payment of amounts remaining in the fund to the electing taxpayer after the termination of the fund upon the substantial completion of decommissioning;
- The furnishing of goods, services, or facilities by a disqualified person to the fund if the furnishing is without charge and if the goods, services, or facilities so furnished are exclusively used for the purposes specified in section 468A(e)(4);
- The payment of compensation (and the payment or reimbursement of expenses) by the fund to a disqualified person for personal services that are reasonable and necessary to carry out the purposes of the fund and the compensation (or payment or reimbursement) is not excessive; and
- A payment by the fund for the performance of trust functions and certain general banking services by a bank or trust company that is a disqualified person, if the banking services are reasonable and necessary to carry out the purposes of the fund and the compensation paid to the bank or trust company is not excessive (considering the fair market interest rate for the use of the funds by the bank or trust company).

The allowable general banking services are:

- Checking accounts, as long as the bank does not charge interest on any overwithdrawals;

- Savings accounts, as long as the fund may withdraw its money after giving no more than 30 days notice, without losing interest for the period the money was on deposit; and

- Safekeeping activities (for example, rental of a safe deposit box).

Special Rule.—When determining if an act is an act of self-dealing, the transfer of personal property by a disqualified person to the fund is treated as a sale or exchange if the property is subject to a mortgage or similar lien.

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

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

Amount Involved.—The term “amount involved” means the greater of the amount of money given (or received) and the fair market value of the other property given (or received). When services described in section 4951(d)(2)(C), the amount involved is only the excess compensation.

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

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

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

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

For purposes of items 3(a) and 6, indirect stockholdings would be taken into account under section 267(c), except that, for purposes of this paragraph, section 267(c)(4) will be treated as providing that the members of the family of an individual are only those individuals described in item 5. For purposes of items 3(b), 3(c), 7, and 8, the ownership of profits or beneficial interests will be determined by the rules of constructive ownership of stock provided in section 267(c) (other than paragraph (3) thereof), except that section 267(c)(4) will be treated as providing that the members of the family of an individual are only those individuals described in item 5.

