

Changes to Reporting Requirements for Certain 1996 and 1997 Forms Because of Changes in the Capital Gains Tax Rates

Announcement 97-109

Background

The Taxpayer Relief Act of 1997 (Public Law 105-34) amended section 1(h) of the Internal Revenue Code to change the capital gains tax rates. As a result, changes in the reporting requirements are required for the following forms:

- 1997 Form 1099-DIV, Dividends and Distributions
- 1997 Form 1099-B, Broker and Barter Exchange Transactions
- 1996 Form 2439 for 1996-1997 fiscal years ending after May 6, 1997
- 1996 Schedules K & K-1 for partnerships, S corporations, and estates with 1996-1997 fiscal years ending after May 6, 1997

The instructions for the forms listed above do not reflect these changes.

Also, the tax computation using maximum capital gains rates affects 1996-1997 fiscal year individuals and estates if the taxpayer's fiscal year ended after May 6, 1997.

The necessary changes are described in the following sections. Further guidance will be issued shortly regarding the computation of capital gain distributions by regulated investment companies and real estate investment trusts.

The following rules relate **only** to forms for the years listed above. For subsequent years, the reporting requirements will be included on the forms and/or stated in the instructions.

Form 1099-DIV: Reporting Capital Gain Distributions for 1997

Regulated investment companies, real estate investment trusts, brokers, and others reporting capital gain distributions on the 1997 Form 1099-DIV must provide additional information with their statements to recipients. Payers must continue to report the total capital gain distributions in box 1c. Payers should also advise recipients that they cannot report capital gain distributions on Form 1040, line 13, as stated in the official 1997 Form 1099-DIV. Rather, they must report the distributions on Schedule D (Form 1040), line 13, column (f).

In addition, payers must provide to recipients information sufficient to determine the following:

- The amount of 28% rate gain distributions. Payers should advise recipients to report this amount on Schedule D (Form 1040), line 13, column (g).
- The amount of unrecaptured section 1250 gain distributions. Payers should advise recipients to report this amount on Schedule D (Form 1040), line 25.

Payers may provide this additional information to recipients on a substitute statement or on a separate statement. Payers are not required to report the additional information to the IRS.

Form 2439: Reporting Undistributed Long-Term Capital Gains for 1996-1997

Regulated investment companies (RICs) and other filers completing the 1996 Form 2439 for fiscal years ending after May 6, 1997, must provide additional information with their notices to shareholders. Filers must continue to report the total undistributed long-term capital gains for the year on line 1 of Form 2439. Filers should also advise individual shareholders that they cannot report the amount on line 1 on Schedule D (Form 1040), Part II, line 12, as stated in the official 1996 Form 2439 instructions. Rather, they must report the amount on line 1 on the 1997 Schedule D (Form 1040), line 11, column (f).

In addition, filers must provide to shareholders information sufficient to determine the following:

- The amount of 28% rate gain included on line 1 of Form 2439. Filers should advise recipients to report this amount on Schedule D (Form 1040), line 11, column (g).
- The amount of unrecaptured section 1250 gain included on line 1 of Form 2439. Filers should advise recipients to report this amount on Schedule D (Form 1040), line 25.

Filers may provide this additional information to shareholders on a substitute statement or on a separate statement. Filers are not required to report this additional information on Forms 2439 filed with the IRS.

**Form 1099-B:
Reporting Aggregate
Profit or Loss From
Regulated Futures
or Foreign Currency
Contracts**

Brokers and others reporting the aggregate gain or loss on regulated futures or foreign currency contracts in box 9 of Form 1099-B must provide additional information with their statements to recipients. They must continue to report the total aggregate amount in box 9 and also report to the recipient the amount included in box 9 attributable to the profit or loss before May 7, 1997.

Payers may provide this additional information to recipients on a substitute statement or on a separate statement. Payers are not required to report the additional information to the IRS.

**Fiscal Year
Estates and
Individuals: Reporting
Capital Gains and
Losses for 1996-1997**

Estates and individuals affected by the new capital gains rates who complete the 1996 Forms 1040 and 1041 for fiscal years ending after May 6, 1997, must attach a computation similar to that shown in Part IV of the 1997 Schedule D (Form 1040) or Part V of the 1997 Schedule D (Form 1041). These estates and individuals may use their 1997 Schedule D to figure their 1996 tax provided they use the applicable 1996 tax rate schedules or table in the computation. Also, when figuring the amount to enter on line 29 of the 1997 Schedule D, these filers must not use the dollar amounts shown on that line. Instead, they must substitute the dollar amounts shown on line 6 of the Capital Gain Tax Worksheet in the 1996 Form 1040 instructions (or line 39 of the 1996 Schedule D (Form 1041)).

Note: *The new capital gains rates also affect the computation of the alternative minimum tax. The above-mentioned filers should attach a computation similar to that shown in Part IV of the 1997 Form 6251 (or Part IV, Schedule I of the 1997 Form 1041).*

Estates also must continue to report each beneficiary's share of the net long-term capital gain on line 3b of Schedule K-1. In addition, the estate must provide the following information to its beneficiaries:

- 28% rate gain—the amount on line 3b attributable (after taking into account the netting rules described in Notice 97-59) to “collectibles gains and losses” AND to net gain from sales, exchanges, or conversions (including installment payments received) either:
 - (a) before May 7, 1997, or
 - (b) after July 28, 1997, for assets held more than 1 year but not more than 18 months.

Estates should advise individual beneficiaries to report this amount on the 1997 Schedule D (Form 1040), line 12, column (g).

- Unrecaptured section 1250 gain—the amount on line 3b attributable to unrecaptured section 1250 gain. Estates should advise individual beneficiaries to report this amount on the 1997 Schedule D (Form 1040), line 25.

Each beneficiary's share of the above amounts should be reported on line 13 of Schedule K-1.

**Forms 1065 and
1120S (Schedules K
and K-1): Reporting
Capital and Section
1231 Gains and Losses
for 1996-1997**

Partnerships and S corporations completing the 1996 Forms 1065 and 1120S for fiscal years ending after May 6, 1997, must provide additional information on Schedules K and K-1. The partnership or S corporation must continue to report the net long-term capital gain or loss on line 4e of Schedules K and K-1 of Form 1065 or 1120S, the net gain or loss under section 1231 (other than due to casualty or theft) on line 6 of Schedules K and K-1 of Form 1065 (line 5 of Schedules K and K-1 of Form 1120S), and other income on line 7 of Schedules K and K-1 of Form 1065 (line 6 of Schedules K and K-1 of Form 1120S). In addition, the partnership or S corporation must provide the following information:

- 28% rate gain or loss—the amount that would be entered on each of the above lines if they included only “collectibles gains and losses” AND gains and losses from sales, exchanges, or conversions (including installment payments received) either:
 - (a) before May 7, 1997, or
 - (b) after July 28, 1997, for assets held more than 1 year but not more than 18 months.

The total 28% rate gain or loss of the partnership or S corporation should be reported as an item of information on line 24 of Schedule K, Form 1065, or on line 21 of Schedule K, Form 1120S. Each partner's or shareholder's share should be reported in the “Supplemental Information” space on Schedule K-1.

Partnerships and S corporations should advise partners and shareholders to report this amount on the line of the form to which it relates in the separate column, if any, provided on that form for 28% rate gain or loss. For example, a long-term capital gain that is also a 28% rate gain should be reported on the 1997 Schedule D (Form 1040), line 12, column (g); a section 1231 gain that is also a 28% rate gain should be reported on the 1997 Form 4797, line 2, column (h).

- Unrecaptured section 1250 gain—the amount that would be entered on each of the above lines if they included only unrecaptured section 1250 gain. The total unrecaptured section 1250 gain of the partnership or S corporation should be reported as an item of information on line 24 of Schedule K, Form 1065, or on line 21 of Schedule K, Form 1120S. Each partner's or shareholder's share should be reported in the "Supplemental Information" space on Schedule K-1.

Partnerships and S corporations should advise partners and shareholders to report this amount on the 1997 Schedule D (Form 1040), line 25.
