IRS

IRS makes it easier to set up payment agreements; offers other relief to taxpayers struggling with tax debts

IR-2020-248, November 2, 2020

WASHINGTON — The Internal Revenue Service today announced a number of changes designed to help struggling taxpayers impacted by COVID-19 more easily settle their tax debts with the IRS.

The IRS assessed its collection activities to see how it could apply relief for taxpayers who owe but are struggling financially because of the pandemic, expanding taxpayer options for making payments and alternatives to resolve balances owed.

"The IRS understands that many taxpayers face challenges, and we're working hard to help people facing issues paying their tax bills," said IRS Commissioner Chuck Rettig. "Following up on our People First Initiative earlier this year, this next phase of our efforts will help with further taxpayer relief efforts."

"We want people to know our IRS employees are committed to continue helping taxpayers wherever possible, including offering many options for those struggling to pay their tax bills," said Darren Guillot, the IRS Small Business/Self-Employed Deputy Commissioner for Collection and Operations Support. Guillot discussed the new relief options in a new edition of IRS "A Closer Look."

Taxpayers who owe always had options to seek help through payment plans and other tools from the IRS, but the new IRS Taxpayer Relief Initiative is expanding on those existing tools even more.

The revised COVID-related collection procedures will be helpful to taxpayers, especially those who have a record of filing their returns and paying their taxes on time. Among the highlights of the Taxpayer Relief Initiative:

- Taxpayers who qualify for a short-term payment plan option may now have up to 180 days to resolve their tax liabilities instead of 120 days.
- The IRS is offering flexibility for some taxpayers who are temporarily unable to meet the payment terms of an accepted Offer in Compromise.
- The IRS will automatically add certain new tax balances to existing Installment Agreements, for individual and out of business taxpayers. This taxpayer-friendly approach will occur instead of defaulting the agreement, which can complicate matters for those trying to pay their taxes.
- To reduce burden, certain qualified individual taxpayers who owe less than $250,000 may set up Installment Agreements without providing a financial statement or substantiation if their monthly payment proposal is sufficient.

- Some individual taxpayers who only owe for the 2019 tax year and who owe less than $250,000 may qualify to set up an Installment Agreement without a notice of federal tax lien filed by the IRS.
- Additionally, qualified taxpayers with existing Direct Debit Installment Agreements may now be able to use the Online Payment Agreement system to propose lower monthly payment amounts and change their payment due dates.

Additional details on the Taxpayer Relief Initiative

The IRS offers options for short-term and long-term payment plans, including Installment Agreements via the Online Payment Agreement (OPA) system. In general, this service is available to individuals who owe $50,000 or less in combined income tax, penalties and interest or businesses that owe $25,000 or less combined that have filed all tax returns. The short-term payment plans are now able to be extended from 120 to 180 days for certain taxpayers.

Installment Agreement options are available for taxpayers who cannot full pay their balance but can pay their balance over time. The IRS expanded Installment Agreement options to remove the requirement for financial statements and substantiation in more circumstances for balances owed up to $250,000 if the monthly payment proposal is sufficient. The IRS also modified Installment Agreement procedures to further limit requirements for Federal Tax Lien determinations for some taxpayers who only owe for tax year 2019.

In addition to payment plans and Installment Agreements, the IRS offers additional tools to assist taxpayers who owe taxes:

Temporarily Delaying Collection — Taxpayers can contact the IRS to request a temporary delay of the collection process. If the IRS determines a taxpayer is unable to pay, it may delay collection until the taxpayer's financial condition improves.

Offer in Compromise — Certain taxpayers qualify to settle their tax bill for less than the amount they owe by submitting an Offer in Compromise. To help determine eligibility, use the Offer in Compromise Pre-Qualifier tool. Now, the IRS is offering additional flexibility for some taxpayers who are temporarily unable to meet the payment terms of an accepted offer in compromise.

Relief from Penalties — The IRS is highlighting reasonable cause assistance available for taxpayers with failure to file, pay and deposit penalties. First-time penalty abatement relief is also available for the first time a taxpayer is subject to one or more of these tax penalties.

All taxpayers can access important information on IRS.gov. Many taxpayers requesting payment plans, including Installment Agreements, can apply through IRS.gov without ever having to talk to a representative.

Other requests, including this new relief, can be made by contacting the number on the taxpayer's notice or responding in writing. However, to request relief, the IRS reminds taxpayers they must be responsive when they receive a balance due notice.

"If you're having a tax issue, don't go silent. Please don't ignore the notice arriving in your mailbox," Guillot said. "These problems don't get better with time. We understand tax issues and know that dealing with the IRS can be intimidating, but our employees really are here to help."

Throughout COVID-19, the IRS has continued to adjust operations to help ensure the health and safety of employees and taxpayers, including the extensive and temporary relief of the IRS People First Initiative. More information and background on the collection relief and procedures can be found in "A Closer Look."

"While it's been important for us and the nation to resume our critical tax compliance responsibilities, we continue to assess the wide-ranging impacts of COVID-19 and other difficulties people are experiencing," Guillot said.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9916]

RIN 1545–BP32

Additional First Year Depreciation Deduction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide guidance regarding the additional first year depreciation deduction under section 168(k) of the Internal Revenue Code (Code). These final regulations reflect and further clarify the increased deduction and the expansion of qualified property, particularly to certain classes of used property, authorized by the Tax Cuts and Jobs Act. These final regulations generally affect taxpayers who depreciate qualified property acquired and placed in service after September 27, 2017.

DATES: *Effective date:* These regulations are effective on January 11, 2021.

Applicability dates: For dates of applicability, see §§ 1.168(b)–1(b)(2)(iv), 1.168(k)–2(h), and 1.1502–68(e). See **SUPPLEMENTARY INFORMATION** for an in-depth discussion.

FOR FURTHER INFORMATION CONTACT: Concerning §§ 1.168(b)–1 and 1.168(k)–2, Elizabeth R. Binder at (202) 317–4869 or Kathleen Reed at (202) 317–4660 (not toll-free numbers); concerning § 1.1502–68, Samuel G. Trammell at (202) 317–6975 or Katherine H. Zhang at (202) 317–5363 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Applicability

A taxpayer may choose to apply §§ 1.168(k)–2 and 1.1502–68 of these final regulations, in their entirety, to depreciable property acquired and placed in service or certain plants planted or grafted, as applicable, after September 27, 2017, by the taxpayer during a taxable year ending on or after September 28, 2017, provided the taxpayer consistently applies all rules in these final regulations. However, once the taxpayer applies §§ 1.168(k)–2 and 1.1502–68 of these final regulations for a taxable year, the taxpayer must continue to apply §§ 1.168(k)–2 and 1.1502–68 of these final regulations for subsequent taxable years. Alternatively, a taxpayer may rely on the proposed regulations under section 168(k) in REG–106808–19 (84 FR 50152; 2019–41 I.R.B. 912), for depreciable property acquired and placed in service or certain plants planted or grafted, as applicable, after September 27, 2017, by the taxpayer during a taxable year ending on or after September 28, 2017, and ending before the taxpayer's first taxable year that begins on or after January 1, 2021, if the taxpayer follows the proposed regulations in their entirety, except for § 1.168(k)–2(b)(3)(iii)(B)(*5*), and in a consistent manner.

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under sections 168(k) and 1502.

Section 168(k) allows an additional first year depreciation deduction for qualified property in the property's placed-in-service year. On December 22, 2017, section 168(k) was amended by sections 12001(b)(13), 13201, and 13204 of Public Law 115–97 (131 Stat. 2054), commonly referred to as the Tax Cuts and Jobs Act (TCJA).

Section 13201 of the TCJA made several significant amendments to the additional first year depreciation deduction provisions in section 168(k) (additional first year depreciation deduction). First, the additional first year depreciation deduction percentage was increased from 50 to 100 percent. Second, the property eligible for the additional first year depreciation deduction was expanded, for the first time, to include certain used depreciable property and certain film, television, or live theatrical productions. Third, the placed-in-service date was extended from before January 1, 2020, to before January 1, 2027 (and from before January 1, 2021, to before January 1, 2028, for longer production period property or certain aircraft property described in section 168(k)(2)(B) or (C)). Fourth, the date on which a specified plant may be planted or grafted by the taxpayer was extended from before January 1, 2020, to before January 1, 2027. The provisions of section 168(k), as amended by the TCJA, are explained in greater detail in the preamble to the final regulations published by the Department of the Treasury (Treasury Department) and the IRS as TD 9874 on September 24, 2019 (2019 Final Regulations) in the **Federal Register** (84 FR 50108).

Section 13201(h) of the TCJA provides the effective dates of the amendments to section 168(k) made by section 13201 of the TCJA. Except as provided in section 13201(h)(2) of the TCJA, section 13201(h)(1) of the TCJA provides that these amendments apply to property acquired and placed in service after September 27, 2017. However, section 13201(h) of the TCJA also provides that property is not treated as acquired after the date on which a written binding contract is entered into for such acquisition. Section 13201(h)(2) provides that the amendments apply to specified plants planted or grafted after September 27, 2017.

Additionally, section 12001(b)(13) of the TCJA repealed section 168(k)(4), relating to the election to accelerate alternative minimum tax credits in lieu of the additional first year depreciation deduction, for taxable years beginning after December 31, 2017. Further, section 13204(a)(4)(B)(ii) repealed section 168(k)(3), so that qualified improvement property placed in service after December 31, 2017, was not eligible for the additional first year depreciation deduction. However, section 2307 of the Coronavirus Aid, Relief, and Economic Security Act, Public Law 116–136, 134 Stat. 281 (March 27, 2020) (CARES Act) amended section 168(e)(3)(E) to provide that qualified improvement property is classified as 15-year property, thereby providing a 15-year recovery period under section 168(c) and making qualified improvement property again eligible for the additional first year depreciation deduction, consistent with the original intent of the TCJA. Section 2307 of the CARES Act is discussed in greater detail in part II.B of the Summary of Comments and Explanation of Revisions section in this preamble.

Unless otherwise indicated, all references to section 168(k) hereinafter are references to section 168(k) as amended by the TCJA.

On August 8, 2018, the Treasury Department and the IRS published a notice of proposed rulemaking (REG–104397–18) in the **Federal Register** (83 FR 39292) containing proposed regulations under section 168(k) (2018 Proposed Regulations). After full consideration of the comments received on the 2018 Proposed Regulations and the testimony heard at the public hearing on November 28, 2018, the Treasury Department and the IRS published the 2019 Final Regulations adopting the 2018 Proposed Regulations with modifications in response to such comments and testimony.

Concurrently with the publication of the 2019 Final Regulations, the Treasury Department and the IRS published an additional notice of proposed rulemaking (REG–106808–19) in the **Federal Register** (84 FR 50152) withdrawing certain provisions of the 2018 Proposed Regulations and proposing additional guidance under section 168(k) (2019 Proposed

Regulations). The Summary of Comments and Explanation of Revisions section of this preamble summarizes the provisions of the 2019 Proposed Regulations, which are explained in greater detail in the preamble to the 2019 Proposed Regulations.

The Treasury Department and the IRS received written and electronic comments responding to the 2019 Proposed Regulations and held a public hearing on the 2019 Proposed Regulations on November 13, 2019. After full consideration of the comments received on the 2019 Proposed Regulations and the testimony heard at the public hearing, this Treasury decision adopts the 2019 Proposed Regulations with modifications in response to certain comments and testimony, as described in the Summary of Comments and Explanation of Revisions section.

Summary of Comments and Explanation of Revisions

The Treasury Department and the IRS received written comments from five commenters in response to the 2019 Proposed Regulations. In connection with these comments, some commenters also provided comments on aspects of the 2019 Final Regulations. All comments were considered and are available at *https://www.regulations.gov* or upon request. The comments addressing the 2019 Proposed Regulations and 2019 Final Regulations are summarized in this Summary of Comments and Explanation of Revisions section.

Because of the amendments to section 168(k) by the TCJA, the 2019 Final Regulations updated existing regulations in § 1.168(k)–1 by providing a new section at § 1.168(k)–2 for property acquired and placed in service after September 27, 2017. The 2019 Final Regulations also made conforming amendments to the existing regulations. The 2019 Final Regulations described and clarified the statutory requirements that must be met for depreciable property to qualify for the additional first year depreciation deduction provided by section 168(k), and they provided guidance to taxpayers in determining the additional first year depreciation deduction and the amount of depreciation otherwise allowable for this property.

These final regulations provide taxpayers with guidance regarding issues relating to the application of section 168(k) that are not addressed in the 2019 Final Regulations, along with clarifying changes to the 2019 Final Regulations. Specifically, these final regulations provide (1) rules relevant to the definition of qualified property, (2) rules for consolidated groups, (3) rules regarding components acquired or self-constructed after September 27, 2017, for larger self-constructed property for which manufacture, construction, or production began before September 28, 2017, (4) rules regarding the application of the mid-quarter convention, as determined under section 168(d), and (5) changes to the definitions in the 2019 Final Regulations for the terms qualified improvement property, predecessor, and class of property. Also, the rules for consolidated groups have been moved from § 1.168(k)–2(b)(3)(v) of the 2019 Proposed Regulations to new § 1.1502–68 of these final regulations.

Part I of this Background section addresses operational rules. Part II of this Background section addresses definitions.

I. Operational Rules

A. Property Described in Section 168(k)(9)(B)

Section 1.168(k)–2(b)(2)(ii)(G) of the 2019 Proposed Regulations provides that, for purposes of section 168(k)(9)(B), floor plan financing interest is not taken into account for the taxable year by a trade or business that has had floor plan financing indebtedness if the sum of the amounts calculated under section 163(j)(1)(A) and (B) for the trade or business for the taxable year equals or exceeds the business interest (which includes floor plan financing interest), as defined in section 163(j)(5), of the trade or business for the taxable year. If the business interest, which includes floor plan financing interest, exceeds the sum of the amounts calculated under section 163(j)(1)(A) and (B) for the taxable year, the floor plan financing interest is taken into account for the taxable year for purposes of section 168(k)(9)(B). See *Example 7* in § 1.168(k)–2(b)(2)(iii)(G) of the 2019 Proposed Regulations. Floor plan financing indebtedness is defined in section 163(j)(9)(B) and § 1.163(j)–1(b)(18) as indebtedness that is (i) used to finance the acquisition of motor vehicles held for sale or lease; and (ii) secured by the motor vehicles so acquired. Floor plan financing interest expense is defined in section 163(j)(9)(A) and § 1.163(j)–1(b)(19) as interest paid or accrued on floor plan financing indebtedness.

A commenter on the 2019 Proposed Regulations requested that these final regulations allow a trade or business that has business interest expense, including floor plan financing interest expense, that exceeds the sum of the amounts calculated under section 163(j)(1)(A) and (B) for the taxable year, to choose to limit its interest expense deduction to the sum of the amounts under section 163(j)(1)(A) and (B), and not be precluded by section 168(k)(9)(B) from claiming the additional first year depreciation deduction. The Treasury Department and the IRS do not interpret section 163(j)(1) as allowing such an option. Consistent with the plain language of section 163(j)(1), § 1.163(j)–2(b)(1) provides that the amount allowed as a deduction for business interest expense for the taxable year generally cannot exceed the sum of (1) the taxpayer's business interest income for the taxable year, (2) 30 percent of the taxpayer's adjusted taxable income for the taxable year, and (3) the taxpayer's floor plan financing interest expense for the taxable year. Pursuant to section 2306(a) of the CARES Act, the adjusted taxable income percentage is increased from 30 to 50 percent for any taxable year beginning in 2019 or 2020, subject to certain exceptions. Because neither section 163(j)(1) nor § 1.163(j)–2(b) provide an option for a trade or business with floor plan financing indebtedness to include or exclude its floor plan financing interest expense in determining the amount allowed as a deduction for business interest expense for the taxable year, the Treasury Department and the IRS decline to adopt this comment.

The commenter also requested that the Treasury Department and the IRS provide transition relief for taxpayers that treated, on their 2018 Federal income tax returns, section 163(j)(1) as providing an option for a trade or business with floor plan financing indebtedness to include or exclude its floor plan financing interest expense in determining the amount allowed as a deduction for business interest expense for the taxable year. Further, the commenter requested transition relief for taxpayers with a trade or business with floor plan financing indebtedness that want to revoke their elections not to claim the additional first year depreciation for property placed in service during 2018 in order to rely on the 2019 Proposed Regulations. The Treasury Department and the IRS intend to issue published guidance that will address these requests.

B. Used Property

1. Depreciable Interest

a. Five-Year Safe Harbor

Section 1.168(k)–2(b)(3)(iii)(B)(*1*) of the 2019 Final Regulations provides that property is treated as used by the taxpayer or a predecessor at any time prior to acquisition by the taxpayer or predecessor if the taxpayer or the predecessor had a depreciable interest in the property at any time prior to such acquisition, whether or not the taxpayer or the predecessor claimed depreciation deductions for the property. To determine if the taxpayer or a predecessor had a depreciable interest in the property at any time prior to acquisition, the 2019 Final Regulations also provide that only the five calendar years immediately prior to the taxpayer's current placed-in-service year of the property are taken into account (Five-Year Safe Harbor). If the taxpayer and a predecessor have not been in existence for this entire five-year period, the 2019 Final Regulations provide that only the number of calendar years the taxpayer and the predecessor have been in existence are taken into account.

Commenters requested clarification that the Five-Year Safe Harbor applies for purposes of the special rules for consolidated groups in § 1.168(k)–2(b)(3)(v) of the 2019 Proposed Regulations. A commenter also requested clarification whether "the partnership's current year" in § 1.168(k)–2(b)(3)(iii)(B)(*5*) of the 2019 Proposed Regulations (Partnership Lookthrough Rule) is the taxable year or the calendar year. These comments are addressed later in this Summary of Comments and Explanation of Revisions section.

In connection with comments received on the Five-Year Safe Harbor and the Partnership Lookthrough Rule, the Treasury Department and the IRS reviewed the Five-Year Safe Harbor and determined that clarification of this safe harbor would be beneficial. One commenter requested clarification of the Five-Year Safe Harbor as to: (1) Whether the "placed-in-service year" is the taxable year or the calendar year; and (2) whether the portion of the calendar year covering the period up to the placed-in-service date of the property is taken into account. The commenter also requested clarification regarding the application of the Five-Year Safe Harbor to situations where the taxpayer or a predecessor was not in existence during the entire 5-year lookback period. Specifically, the commenter pointed out that the safe harbor in the 2019 Final Regulations could be read to apply only to those periods in the 5-year lookback period that both the taxpayer and a predecessor are in existence, and not to those periods in the 5-year lookback period during which the taxpayer or a predecessor, or both, were in existence and had a depreciable interest in the property later acquired and placed in service by the taxpayer. The commenter suggested that the Five-Year Safe Harbor be clarified to say that the taxpayer and each predecessor is subject to a separate lookback period that begins no earlier than the date such person came into existence.

The Treasury Department and the IRS intended the "placed-in-service year" to be the current calendar year in which the property is placed in service by the taxpayer. Also, the Treasury Department and the IRS intended the portion of that calendar year covering the period up to the placed-in-service date of the property to be considered in determining whether the taxpayer or a predecessor previously had a depreciable interest. This approach is consistent with an exception to the de minimis use rule in § 1.168(k)–2(b)(3)(iii)(B)(*4*) of the 2019 Proposed Regulations, which is discussed in greater detail in part I.B.1.b of this Summary of Comments and Explanation of Revisions section. Pursuant to that exception, when a taxpayer places in service eligible property in Year 1, disposes of that property to an unrelated party in Year 1 within 90 calendar days of that placed-in-service date, and then reacquires the same property later in Year 1, the taxpayer is treated as having a prior depreciable interest in the property upon the taxpayer's reacquisition of the property in Year 1. This rule would be superfluous if the Five-Year Safe Harbor did not consider the portion of the calendar year covering the period up to the placed-in-service date of the property.

Accordingly, § 1.168(k)–2(b)(3)(iii)(B)(*1*) is amended to clarify that the five calendar years immediately prior to the current calendar year in which the property is placed in service by the taxpayer, and the portion of such current calendar year before the placed-in-service date of the property determined without taking into account the applicable convention, are taken into account to determine if the taxpayer or a predecessor had a depreciable interest in the property at any time prior to acquisition (lookback period). Section 1.168(k)–2(b)(3)(iii)(B)(*1*) also is amended to adopt the suggestion of the commenter that each of the taxpayer and the predecessor be subject to a separate lookback period. These final regulations clarify that if the taxpayer or a predecessor, or both, have not been in existence during the entire lookback period, then only the portion of the lookback period during which the taxpayer or a predecessor, or both, have been in existence is taken into account to determine if the taxpayer or the predecessor had a depreciable interest in the property. More examples have been added to clarify the application of the Five-Year Safe Harbor.

b. De Minimis Use

Section 1.168(k)–2(b)(3)(iii)(B)(*4*) of the 2019 Proposed Regulations provides an exception to the prior depreciable interest rule in the 2019 Final Regulations when the taxpayer disposes of property to an unrelated party within 90 calendar days after the taxpayer originally placed such property in service (De Minimis Use Rule). The 2019 Proposed Regulations also provide that the De Minimis Use Rule does not apply if the taxpayer reacquires and again places in service the property during the same taxable year the taxpayer disposed of the property. A commenter on the 2019 Proposed Regulations asked for clarification regarding the application of the De Minimis Use Rule in the following situations:

(1) The taxpayer places in service property in Year 1, disposes of that property to an unrelated party in Year 1 within 90 calendar days of that original placed-in-service date, and then reacquires and again places in service the same property later in Year 1 and does not dispose of the property again in Year 1;

(2) The taxpayer places in service property in Year 1, disposes of that property to an unrelated party in Year 2 within 90 calendar days of that original placed-in-service date, and then reacquires and again places in service the same property in Year 2 or later; and

(3) The taxpayer places in service property in Year 1 and disposes of that property to an unrelated party in Year 1 within 90 calendar days of that original placed-in-service date, then the taxpayer reacquires and again places in service the same property later in Year 1 and disposes of that property to an unrelated party in Year 2 within 90 calendar days of the subsequent placed-in-service date in Year 1, and the taxpayer reacquires and again places in service the same property in Year 4.

In situation 1, the additional first year depreciation deduction is not allowable for the property when it was initially placed in service in Year 1 by the taxpayer pursuant to § 1.168(k)–2(g)(1)(i) of the 2019 Final Regulations. The additional first year depreciation deduction also is not allowable when the same property is subsequently placed in service in Year 1 by the same taxpayer under the De Minimis Use Rule in the 2019 Proposed Regulations. The commenter asserted that the additional first year depreciation deduction should be allowable for the property when it is placed in service again in Year 1 and is not disposed of again in Year 1, because the additional first year depreciation deduction is not allowable for the property when it initially was placed in service in Year 1 by the taxpayer. The Treasury Department and the IRS agree with this comment if the property is originally acquired by the taxpayer after September 27, 2017. The Treasury Department and the IRS decline to adopt this comment with respect to property that was originally acquired by the taxpayer before September 28, 2017, as the exception to the De Minimis Use Rule was intended to prevent certain churning transactions involving such property. The Treasury Department and the IRS believe that property that is placed in service, disposed of, and reacquired in the same taxable year is more likely to be part of a predetermined churning plan.

In situation 2, the additional first year depreciation deduction is allowable for the same property by the same taxpayer twice (in Year 1 when the property is initially placed in service, and in Year 2 when the property is placed in service again). This result is consistent with the De Minimis Use Rule in the 2019 Proposed Regulations, and this result is not changed in these final regulations.

In situation 3, the De Minimis Use Rule provides only one 90-day period that is disregarded in determining whether the taxpayer had a depreciable interest in the property prior to its reacquisition. That 90-day period is measured from the original placed-in-service date of the property by the taxpayer. As a result, the second 90-day period in situation 3 (during which the taxpayer reacquired the property in Year 1, again placed it in service in Year 1, and then disposed of it in Year 2) is taken into account in determining whether the taxpayer previously used the property when the taxpayer again places in service the property in Year 4.

The De Minimis Use Rule in these final regulations is clarified to reflect these results. These final regulations also include additional examples to illustrate the application of the De Minimis Use Rule in these situations and conforming changes to § 1.168(k)–2(g)(1)(i) of the 2019 Final Regulations.

2. Application to Partnerships

The Treasury Department and the IRS received several comments regarding the Partnership Lookthrough Rule in § 1.168(k)–2(b)(3)(iii)(B)(*5*) of the 2019 Proposed Regulations, which addresses the extent to which a partner is deemed to have a depreciable interest in property held by a partnership. The Partnership Lookthrough Rule provides that a person is treated as having a depreciable interest in a portion of property prior to the person's acquisition of the property if the person was a partner in a partnership at any time the partnership owned the property. The Partnership Lookthrough Rule further provides that the portion of property in which a partner is treated as having a depreciable interest is equal to the total share of depreciation deductions with respect to the property allocated to the partner as a percentage of the total depreciation deductions allocated to all partners during the current calendar year and the five calendar years immediately prior to the partnership's current year.

One commenter requested that the Treasury Department and the IRS withdraw the Partnership Lookthrough Rule and replace it with a rule that treats a taxpayer as having a depreciable interest in an item of property only if the taxpayer was a controlling partner in a partnership at any time the partnership owned the property during the applicable lookback period. The Treasury Department and the IRS agree with the commenter that the Partnership Lookthrough Rule should be withdrawn. The Treasury Department and the IRS have determined that the complexity of applying the Partnership Lookthrough Rule would place a significant administrative burden on both taxpayers and the IRS. For this reason, these final regulations do not retain the Partnership Lookthrough Rule. Therefore, under these final regulations, a partner will not be treated as having a depreciable interest in partnership property solely by virtue of being a partner in the partnership. The Treasury Department and the IRS have determined that a replacement rule that applies only to controlling partners is not necessary because the related party rule in section 179(d)(2)(A) applies to a direct purchase of partnership property by a current majority partner, and the series of related transactions rules in § 1.168(k)–2(b)(3)(iii)(C) prevents avoidance of the related party rule through the use of intermediary parties.

The same commenter recommended a number of changes to the Partnership Lookthrough Rule if it were to be retained. It is not necessary to address these comments, because these final regulations do not retain the Partnership Lookthrough Rule.

Additionally, one commenter recommended that the Treasury Department and the IRS clarify the operation of the section 168(k) regulations with respect to section 743(b) adjustments after transfers of partnership interests in section 168(i)(7) transactions, as described in the 2019 Final Regulations. The Treasury Department and the IRS have determined that this comment is outside of the scope of these final regulations.

3. Series of Related Transactions

Section 1.168(k)–2(b)(3)(iii)(C) of the 2019 Proposed Regulations provides special rules for a series of related transactions (Proposed Related Transactions Rule). The Proposed Related Transactions Rule generally provides that the relationship between the parties under section 179(d)(2)(A) or (B) in a series of related transactions is tested immediately after each step in the series, and between the original transferor and the ultimate transferee immediately after the last transaction in the series. The Proposed Related Transactions Rule also provides that the relationship between the parties in a series of related transactions is not tested in certain situations. For example, a party in the series that is neither the original transferor nor the ultimate transferee is disregarded in applying the relatedness test if the party placed in service and disposed of the property in the party's same taxable year or did not place the property in service. The relationship between the parties also is not tested if the step is a transaction described in § 1.168(k)–2(g)(1)(iii) (that is, a transfer of property in a transaction described in section 168(i)(7) in the same taxable year that the property is placed in service by the transferor). Finally, the 2019 Proposed Regulations provide that the Proposed Related Transactions Rule does not apply to syndication transactions or when all transactions in the series are described in § 1.168(k)–2(g)(1)(iii).

A commenter stated that the Proposed Related Transactions Rule may disregard significant relationships that existed before the series, or that are formed as a result of the series. The commenter also stated that the rule does not address how relatedness should be tested when the relationship between the parties changes over the course of the series or when a party ceases to exist.

The commenter recommended that the final regulations test relatedness immediately before the first step in the series of related transactions and immediately after the last step in the series, similar to § 1.197–2(h)(6)(ii)(B). The commenter also recommended simplifying the Proposed Related Transactions Rule and alleviating knowledge burdens imposed on transferees and the IRS as to whether a transfer is pursuant to a series of related transactions, the date that a transferee in a series placed the asset in service, and whether a transferee is related to a transferor.

The Treasury Department and the IRS have determined that the rule in § 1.197–2(h)(6)(ii)(B) is not appropriate for testing relatedness for purposes of the additional first year depreciation deduction. Section 1.197–2(h)(6)(ii)(B) provides that relatedness is tested immediately before the first step in a series of related transactions and immediately after the last step in the series. The purpose of this rule is to prevent the churning of assets, and the relationship that is of importance is that of the first and last acquisition. In contrast, the purpose of the Proposed Related Transactions Rule is to determine whether each transferee in the series qualifies to claim the additional first year depreciation deduction for the assets and, therefore, testing for relatedness is done immediately after each step in the series. Testing for relatedness at no point in time other than immediately before the first step and immediately after the last step in the series would preclude all intermediaries in the series from claiming the additional first year depreciation deduction. Accordingly, the Treasury Department and the IRS do not adopt this recommendation.

The commenter also recommended several alternative approaches to testing relatedness: (1) Any transferee in a series of related transactions tests its relatedness to every prior transferor in the series; or (2) a transferee tests its relatedness only to its immediate transferor if the transferee demonstrated that it did not know, or have reason to know, that the transfer occurred pursuant to a series of related transactions.

The Treasury Department and the IRS have determined that requiring each transferee in a series of related transactions to test its relatedness to every prior transferor in the series would impose a significant administrative burden. Therefore, these final regulations do not adopt the commenter's first alternative approach.

The Treasury Department and the IRS also have determined that, because a series of related transactions generally is undertaken among the relevant parties pursuant to a preconceived plan, the rule in the commenter's second alternative approach would have limited application. Because the application of this approach would depend upon the taxpayer's demonstration that it did not know, and did not have reason to know, that a transfer occurred pursuant to a series, this rule also may be difficult for both taxpayers and the IRS to administer. Furthermore, this approach fails to adequately address situations where the parties other than the original transferor and the ultimate transferee in a series may be related or may become related pursuant to the series. Thus, these final regulations do not adopt the commenter's second alternative approach.

However, the Treasury Department and the IRS agree that the Proposed Related Transactions Rule should be simplified. The Treasury Department and the IRS also agree that this rule should be modified to take into account changes in the relationship between the parties, including a party ceasing to exist, over the course of a series of related transactions. For example, assume that, pursuant to a series of related transactions, A transfers property to B, B transfers property to C, and C transfers property to D. Under the Proposed Related Transactions Rule, relatedness is tested after each step and between D and A. Assume further that, at the beginning of the series, C was related to A but, prior to acquiring the property, C ceases to be related to A, or A ceases to exist. The Proposed Related Transactions Rule does not address how to treat such changes.

Accordingly, these final regulations provide that each transferee in a series of related transactions tests its relationship under section 179(d)(2)(A) or (B) with the transferor from which the transferee directly acquires the depreciable property (immediate transferor) and with the original transferor of the depreciable property in the series. The transferee is treated as related to the immediate transferor or the original transferor if the relationship exists either immediately before the first transfer of the depreciable property in the series or when the transferee acquires the property. Any transferor in a series of related transactions that ceases to exist during the series is deemed to continue to exist for purposes of testing relatedness.

These final regulations also provide a special rule that disregards certain transitory relationships created pursuant to a series of related transactions. More specifically, if a party acquires depreciable property in a series of related transactions in which the acquiring party acquires stock, meeting the requirements of section 1504(a)(2), of a corporation in a fully taxable transaction, followed by a liquidation of the acquired corporation under section 331, any relationship created as part of such series of transactions is disregarded in determining whether any party is related to such acquired corporation for purposes of testing relatedness. This rule is similar to § 1.197–2(h)(6)(iii) and properly reflects the change in ownership of depreciable property in a series of related transactions without taking into account certain transitory relationships the purpose of which is unrelated to the additional first year depreciation deduction.

Finally, these final regulations provide that, if a transferee in a series of related transactions acquires depreciable property from a transferor that was not in existence immediately prior to the first transfer of the property in the series (new transferor), the transferee tests its relationship with the party from which the new transferor acquired the depreciable property. Examples illustrating these revised rules are provided in these final regulations.

4. Application to Members of a Consolidated Group

a. The 2019 Proposed Regulations

The 2019 Proposed Regulations provide special rules addressing the availability of the additional first year depreciation deduction upon the acquisition of depreciable property by a member of a consolidated group, as defined in § 1.1502–1(b) and (h), respectively. Under the 2019 Proposed Regulations, if a member acquires property in which the consolidated group had a depreciable interest at any time prior to the member's acquisition of such property, then the member is treated as previously having a depreciable interest in such property (Group Prior Use Rule). This rule was first included in the 2018 Proposed Regulations to address situations in which property is disposed of by one member of a consolidated group and subsequently is acquired by another member of the same consolidated group, because the Treasury Department and the IRS had determined that allowing the additional first year depreciation deduction in such situations would not clearly reflect the income of the consolidated group. See 83 FR 39292, 39295 (Aug. 8, 2018). For purposes of the Group Prior Use Rule, a consolidated group is treated as having a depreciable interest in property during the time any current or former member of the group had a depreciable interest while a member of the group. See § 1.168(k)–2(b)(3)(v)(A) of the 2019 Proposed Regulations.

Further, when members of a consolidated group acquire both depreciable property and the stock of a corporation that previously had a depreciable interest in such property

IRS

Closing a sole proprietorship

FS-2020-16, September 2020

A sole proprietor - someone who owns an unincorporated business by themselves – must take certain actions if they want to close their business. They must file final forms and schedules whether they've been in business a few months or many years. Here's information on typical final forms and schedules that a sole proprietor needs to file when ceasing operations.

Income tax returns

Sole proprietors must file Schedule C (Form 1040 or Form 1040-SR), Profit or Loss From Business, with their Form 1040, U.S. Individual Income Tax Return, or Form 1040-SR, U.S. Tax Return for Seniors, for the year in which they go out of business. Also, with their Forms 1040, sole proprietors may need to file:

- Form 4797, Sales of Business Property, if they sell or exchange property used in their business. They also need to file this form if business use of certain Section 179 or listed property drops to 50% or less.
- Form 8594, Asset Acquisition Statement, if they sell their business.
- Schedule SE (Form 1040), if they're liable for self-employment tax.

Employment taxes

Sole proprietors with one or more employees must make final federal tax deposits. If sole proprietors don't withhold or deposit income, Social Security and Medicare taxes, the Trust Fund Recovery Penalty may apply. The penalty is the full amount of the unpaid trust fund tax. The IRS may impose it on all persons who the Service determines is responsible for collecting, accounting for and paying these taxes; and who acted willfully in not doing so. A responsible person can be an employee of a sole proprietorship, an accountant or someone who signs checks for the sole proprietorship or has authority to cause the spending of business funds.

Sole proprietors need to file Form 941, Employer's Quarterly Federal Tax Return (or Form 944, Employer's Annual Federal Tax Return), for the calendar quarter in which they make final wage payments. They check the box and enter the date final wages were paid on line 17 of Form 941 or line 14 of Form 944. They must attach a statement to their return showing the name of the person keeping the payroll records and the address where those records will be kept.

Sole proprietors must file Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, for the calendar year in which final wages were paid. They need to check box d in the Type of Return section to show that the form is final.

Sole proprietors also need to provide Forms W-2, Wage and Tax Statement, to their employees for the calendar year in which they make final wage payments. Generally, they furnish copies B, C and 2 to the employees. They file Form W-3, Transmittal of Income and Tax Statements, to transmit Copy A to the Social Security Administration.

Reporting due dates

Visit IRS.gov for information on employment tax due dates.

Other reporting for sole proprietorships with employees

If employees receive tips, the sole proprietor must file Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, to report final tip income and allocated tips.

If the sole proprietor provides employees with a pension or benefit plan, they need to file a final Form 5500, Annual Return/Report of Employee Benefit Plan.

Sole proprietorships that pay contract workers

Sole proprietors report payments to contract workers who they've paid at least $600 for services (including parts and materials) during the calendar year in which they go out of business on Form 1099-NEC, Nonemployee Compensation.

Some filers must file Forms 1099 electronically. Those who file paper forms must also file Form 1096, Annual Summary and Transmittal of U.S. Information Returns, to transmit paper copies of Forms 1099 to the IRS.

Recordkeeping

How long a business owner should keep a document depends on several factors. These factors include the action, expense and event recorded in the document. Businesses should keep records relating to property until the period of limitations expires for the year in which they dispose of the property in a taxable disposition.

Business owners should keep all records of employment taxes for at least four years.

Employer identification numbers

Once the IRS has assigned an employer identification number to a sole proprietor, it becomes the permanent federal taxpayer identification number for that business. To close their business account, a sole proprietor needs to send the IRS a letter that includes the complete legal name of their business, the EIN, the business address and the reason they wish to close their account. If they have a copy of the notice that the IRS issued with the EIN assignment, they should include that with the letter. They should write to the IRS at: Internal Revenue Service, Cincinnati, Ohio 45999.

Sole proprietors who:

1. made a federal tax deposit or other federal tax payment,
2. are liable for any business taxes, or
3. are notified by the IRS that a business tax return is due,

must file the appropriate tax returns before the IRS can close their account.

More information:

- Publication 334, Tax Guide for Small Business (For Individuals Who Use Schedule C)
- Closing a Business*
- Closing a Business video
- Small Business and Self-Employed Tax Center*
- Publication 3402, Taxation of Limited Liability Companies PDF
- IRS provides guidance under the CARES Act to taxpayers with net operating losses

*available in multiple languages

Page Last Reviewed or Updated: 30-Sep-2020

IRS

Closing a partnership

FS-2020-15, September 2020

A partnership is a relationship between two or more partners to do a trade or business. Each person contributes money, property, labor or skill and shares in the profits and losses of the business.

Partners who want to close their partnership must take certain actions whether they've been in business a few months or many years. They must file final forms and schedules. Here's information on typical final forms and schedules that a partnership needs to file when ceasing operations.

Return of partnership income

A partnership must file Form 1065, U.S. Return of Partnership Income, for the year it ceases operations. It reports capital gains and losses on Schedule D (Form 1065).

For the tax year in which the partnership ceases to exist, filers need to check the "final return" box, which is near the top of the front page of the return below the entity information. They should do the same on Schedule K-1, Partner's Share of Income, Deductions, Credits, etc.

Also, partnerships may need to file these forms with their final Form 1065:

- Form 4797, Sales of Business Property, if they sell or exchange property used in their business. They also need to file this form if business use of certain Section 179 or listed property drops to 50% or less.
- Form 8594, Asset Acquisition Statement, if they sell their business.

Employment taxes

Partnerships with one or more employees must make final federal tax deposits. If partnerships don't withhold or deposit income, Social Security and Medicare taxes, the Trust Fund Recovery Penalty may apply. The penalty is the full amount of the unpaid trust fund tax. The IRS may impose it on all persons who the Service determines is responsible for collecting, accounting for and paying these taxes and who acted willfully in not doing so. A responsible person can be a partner in a limited partnership or limited liability company, employee of a partnership, an accountant or someone who signs checks for the partnership or has authority to cause the spending of business funds. General partners are fully liable for unpaid employment taxes, not just the trust fund amounts.

Partnerships need to file Form 941, Employer's Quarterly Federal Tax Return (or Form 944, Employer's Annual Federal Tax Return), for the calendar quarter in which they make final wage payments. They check the box and enter the date final wages were paid on line 17 of Form 941 or line 14 of Form 944. They must attach a statement to their return showing the name of the person keeping the payroll records and the address where those records will be kept.

Partnerships must file Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, for the calendar year in which final wages were paid. They need to check box d in the Type of Return section to show that the form is final.

Partnerships also need to provide Forms W-2, Wage and Tax Statement, to their employees for the calendar year in which they make final wage payments. Generally, they furnish copies B, C and 2 to the employees. They file Form W-3, Transmittal of Income and Tax Statements to transmit Copy A to the Social Security Administration.

Reporting due dates

Visit IRS.gov for information on employment tax due dates.

Other reporting for partnerships with employees

If employees receive tips, the partnership must file Form 8027, Employer's Annual Information Return of Tip Income and Allocated Tips, to report final tip income and allocated tips.

If the partnership provides employees with a pension or benefit plan, they need to file a final Form 5500, Annual Return/Report of Employee Benefit Plan.

Partnerships that pay contract workers

Partnerships report payments to contract workers who they've paid at least $600 for services (including parts and materials) during the calendar year in which they go out of business on Form 1099-NEC, Nonemployee Compensation.

Some filers must file Forms 1099 electronically. Those who file paper forms must file Form 1096, Annual Summary and Transmittal of U.S. Information Returns, to transmit paper copies of Forms 1099 to the IRS.

Recordkeeping

How long a business owner should keep a document depends on several factors. These factors include the action, expense and event recorded in the document. Businesses should keep records relating to property until the period of limitations expires for the year in which they dispose of the property in a taxable disposition.

Business owners should keep all records of employment taxes for at least four years.

Employer identification numbers

Once the IRS has assigned an employer identification number to a partnership, it becomes the permanent federal taxpayer identification number for that business. To close their business account, partnerships need to send the IRS a letter that includes the complete legal name of their business, the EIN, the business address and the reason they wish to close their account. If they have a copy of the notice that the IRS issued with the EIN assignment, they should include that with the letter. They should write to the IRS at: Internal Revenue Service, Cincinnati, Ohio 45999.

Partnerships that:

1. made a federal tax deposit or other federal tax payment,
2. are liable for any business taxes, or
3. are notified by the IRS that a business tax return is due,

must file the appropriate tax returns before the IRS can close their account.

More information:

- Publication 541, Partnerships
- Closing a Business*
- Closing a Business video
- Small Business and Self-Employed Tax Center*
- Paying Yourself
- Publication 3402, Taxation of Limited Liability Companies
- IRS provides guidance under the CARES Act to taxpayers with net operating losses

***available in multiple languages**

Page Last Reviewed or Updated: 30-Sep-2020

IRS

Closing a corporation

FS-2020-14, September 2020

A corporation is a separate taxpaying entity with shareholders that exchange money, property or both, for the corporation's capital stock. A corporation conducts business, realizes net income or loss, pays taxes and distributes profits to shareholders.

S corporations are corporations that elect to pass corporate income, losses, deductions, and credits through to their shareholders for federal tax purposes. Shareholders of S corporations report the flow-through of income and losses on their personal tax returns and are assessed tax at their individual income tax rates.

Corporations must take certain actions when ceasing operations whether they've been in business a few months or many years. Here's information on typical final forms and schedules that a corporation going out of business file.

Income tax returns

A C corporation must file Form 1120, U.S. Corporation Income Tax Return. They report capital gains and losses on Schedule D (Form 1120).

An S corporation must file Form 1120-S, U.S. Income Tax Return for an S Corporation. They report capital gains and losses on Schedule D (Form 1120-S).

For the tax year in which the corporation ceases to exist, filers need to check the "final return" box, which is near the top of the front page of the return below the entity information. They do the same on Schedule K-1, Shareholder's Share of Income, Deductions, Credits, etc.

They must file Form 966, Corporate Dissolution or Liquidation, if they adopt a resolution or plan to dissolve the corporation or liquidate any of its stock.

Also, corporations may need to file these forms with their Forms 1120 or 1120-S:

- Form 4797, Sales of Business Property, if they sell or exchange property used in their business. They also need to file this form if business use of certain Section 179 or listed property drops to 50% or less.
- Form 8594, Asset Acquisition Statement, if they sell their business.

Employment taxes

Corporations with one or more employees must make final federal tax deposits. If corporations don't withhold or deposit income, Social Security and Medicare taxes, the Trust Fund Recovery Penalty may apply. The penalty is the full amount of the unpaid trust fund tax. The IRS may impose it on all persons who the Service determines is responsible for collecting, accounting for and paying these taxes and who acted willfully in not doing so. A responsible person can be an officer or employee of a corporation, an accountant, a volunteer director/trustee, or someone who signs checks for the corporation or has authority to cause the spending of business funds.

Corporations need to file Form 941, Employer's Quarterly Federal Tax Return (or Form 944, Employer's Annual Federal Tax Return), for the calendar quarter in which they make final wage payments. They check the box and enter the date final wages were paid on line 17 of Form 941 or line 14 of Form 944. They must attach a statement to their return showing the name of the person keeping the payroll records and the address where those records will be kept.

Corporations must file Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return, for the calendar year in which final wages were paid. They need to check box d in the Type of Return section to show that the form is final.

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Reporting due dates

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Other reporting for corporations with employees

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1. made a federal tax deposit or other federal tax payment,
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must file the appropriate tax returns before the IRS can close their account.

More information:

- Publication 542, Corporations
- Closing a Business*
- Closing a Business video
- Small Business and Self-Employed Tax Center*
- Paying Yourself
- Publication 3402, Taxation of Limited Liability Companies
- IRS provides guidance under the CARES Act to taxpayers with net operating losses

***available in multiple languages**

Page Last Reviewed or Updated: 30-Sep-2020

Partnerships and S Corporations Exempted From Limits on State and Local Tax Deduction

November 16, 2020 - AlertsBy Eric J. Michaels and Adam R. Young

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The IRS intends to issue proposed regulations to permit a partnership or an S corporation to deduct specified income tax payments made to a domestic state or local jurisdiction.

In Notice 2020-75, the IRS clarifies that state and local income taxes imposed on and paid by a partnership or S corporation with respect to its income are allowed as a deduction by the partnership or S corporation in computing its non-separately stated taxable income or loss for the taxable year of payment, and are not subject to the state and local tax deduction limitation for partners and shareholders who itemize deductions.

IRS

Businesses have Feb. 1 deadline to provide Forms 1099-MISC and 1099-NEC to recipients

IR-2021-14, January 14, 2021

WASHINGTON — The Internal Revenue Service today reminded businesses and other payors that the revised Form 1099-MISC, Miscellaneous Income PDF, and the new Form 1099-NEC, Nonemployee Compensation PDF, must be furnished to most recipients by February 1, 2021.

Redesigned Form 1099-MISC

The IRS revised Form 1099-MISC for the 2020 tax year to accommodate the creation of a new Form 1099-NEC. The redesigned 1099-MISC has different box numbers for reporting certain income. Businesses must send Form 1099-MISC to recipients by February 1, 2021, and file it with the IRS by March 1 (March 31 if filing electronically).

If businesses are using Forms 1099-MISC to report amounts in box 8, Substitute Payments in Lieu of Dividends or Interest, or box 10, Gross Proceeds Paid to An Attorney, there is an exception to the normal due date. Those forms are due to recipients by February 16, 2021.

New Form 1099-NEC

Form 1099-NEC is a new form for tax year 2020 for nonemployee compensation of $600 or more to a payee. This form should be filed with the IRS, on paper or electronically, and sent to recipients by February 1, 2021.

There is no automatic 30-day extension to file Form 1099-NEC. However, an extension to file may be available under certain hardship conditions. Also, nonemployee compensation may be subject to backup withholding if a payee has not provided a taxpayer identification number to the payer or the IRS notifies the payer that the Taxpayer Identification Number provided was incorrect.

Deadlines help fraud detection

The due dates for information returns, like Forms 1099-MISC and 1099-NEC help the IRS more easily detect refund fraud by verifying income that individuals report on their tax returns. Payors can help support that process, and avoid penalties, by filing the forms on time and without errors. The IRS recommends e-file as the quickest, most accurate and convenient way to file these forms.

For more information, the instructions for Forms 1099-MISC and 1099-NEC are available on IRS.gov.

Page Last Reviewed or Updated: 14-Jan-2021

Final Regulations Modify Tables for Computing RMDs, Effective Beginning in 2022

NOVEMBER 07, 2020 BY ED ZOLLARS, CPA

The various tables used to compute required minimum distributions from retirement plans have been updated, taking effect beginning in 2022, as the IRS has issued revised regulations under IRC §401(a)(9).[1]

In August 2018, Executive Order 13847, 83 FR 45321, directed the IRS to review the life expectancy and distribution tables to determine if they should be updated to reflect current mortality data, and how often such tables should be updated. In November 2019 the IRS released proposed regulations containing proposed updated tables.

Longer Life Expectancy Tables

In the preamble to the final regulations, the IRS provides the following description of the changes that were made:

> *The life expectancy tables and applicable distribution period tables in these regulations generally reflect longer life expectancies than the tables in formerly applicable §1.401(a)(9)-9. For example, a 72-year-old IRA owner who applied the Uniform Lifetime Table under formerly applicable §1.401(a)(9)-9 to calculate required minimum distributions used a life expectancy of 25.6 years. Applying the Uniform Lifetime Table set forth in these regulations, a 72-year-old IRA owner will use a life expectancy of 27.4 years to calculate required minimum distributions. As another example, a 75-year-old surviving*

spouse who is the employee's sole beneficiary and applied the Single Life Table under formerly applicable §1.401(a)(9)-9 to compute required minimum distributions used a life expectancy of 13.4 years. Under these regulations, a 75-year-old surviving spouse will use a life expectancy of 14.8 years. The effect of these changes is to reduce required minimum distributions generally, which will allow participants to retain larger amounts in their retirement plans to account for the possibility they may live longer.[2]

The updated Uniform Lifetime Table,[3] used to calculate the required minimum distributions, is provided below:

Age of employee	Distribution period
72	27.4
73	26.5
74	25.5
75	24.6
76	23.7
77	22.9
78	22.0
79	21.1
80	20.2
81	19.4
82	18.5
83	17.7
84	16.8
85	16.0
86	15.2
87	14.4
88	13.7
89	12.9
90	12.2
91	11.5
92	10.8
93	10.1
94	9.5
95	8.9
96	8.4
97	7.8
98	7.3
99	6.8
100	6.4

Age of employee	Distribution period
101	6.0
102	5.6
103	5.2
104	4.9
105	4.6
106	4.3
107	4.1
108	3.9
109	3.7
110	3.5
111	3.4
112	3.3
113	3.1
114	3.0
115	2.9
116	2.8
117	2.7
118	2.5
119	2.3
120	2.0

This table is described by the IRS as follows in the preamble to the regulations:

> *The Uniform Lifetime Table in these regulations sets forth joint and last survivor life expectancies for each age beginning with age 72, based on a hypothetical beneficiary. Pursuant to §1.401(a)(9)-5, Q&A-4(a), the Uniform Lifetime Table is used for determining the distribution period for lifetime distributions to an employee in situations in which the employee's surviving spouse either is not the sole designated beneficiary or is the sole designated beneficiary but is not more than 10 years younger than the employee. The joint and last survivor life expectancy of an employee is taken from the Joint and Last Survivor Table using a hypothetical beneficiary who is assumed to be 10 years younger than the employee.*[4]

In a footnote, the IRS reminds readers why the revised table starts at age 72 rather than 70:

The proposed regulations included Uniform Lifetime Table entries beginning with age 70. These regulations do not include Uniform Lifetime Table entries for ages 70 and 71 because section 114 of the SECURE Act changed the minimum age for receiving required minimum distributions from age 70½ to age 72.[5]

The regulation also provides updates to the following tables:
Single life table;[6]
Joint and last survivor life table;[7] and
Mortality rates table.[8]

Upcoming Ruling on Substantially Equal Periodic Payments

The preamble notes that the agency will be issuing a ruling on applying these new provisions to substantially equal periodic payments:

The Treasury Department and the IRS anticipate issuing guidance that would update Rev. Rul. 2002-62. This update would apply the life expectancy, distribution period, and mortality tables set forth in these regulations for purposes of determining substantially equal periodic payments once these regulations become effective.[9]

Applicability Dates

The regulations provide details on how and when the new regulations will apply to distributions:
The life expectancy tables and Uniform Lifetime Table set forth in this section apply for distribution calendar years beginning on or after January 1, 2022. For life expectancy tables and the Uniform Lifetime Table applicable for earlier distribution calendar years, see §1.401(a)(9)-9, as set forth in 26 CFR part 1 revised as of April 1, 2020 (formerly applicable §1.401(a)(9)-9).[10]

The regulations contain additional guidance on the use of these tables for life expectancies that may be recalculated:

> *If an employee died before January 1, 2022, and, under the rules of §1.401(a)(9)-5, the distribution period that applies for a calendar year following the calendar year of the employee's death is equal to a single life expectancy calculated as of the calendar year of the employee's death (or, if applicable, the following calendar year), reduced by 1 for each subsequent year, then that life expectancy is reset as provided in paragraph (f)(2)(ii) of this section.*[11]

The redetermination under this provision is to be handled via these rules

> *With respect to a life expectancy described in paragraph (f)(2)(i) of this section, the distribution period that applies for a distribution calendar year beginning on or after January 1, 2022, is determined by using the Single Life Table in paragraph (b) of this section to determine the initial life expectancy for the age of the relevant individual in the relevant calendar year and then reducing the resulting distribution period by 1 for each subsequent year. However, see section 401(a)(9)(H)(ii) and (iii) for rules limiting the availability of a life expectancy distribution period.*[12]

The regulation provides the following example of applying this rule:

Example, Reg. §1.409(a)(9)-9(f)(2)(ii)(B), Redetermination
Assume that an employee died at age 80 in 2019 and the employee's designated beneficiary (who was not the employee's spouse) was age 75 in the year of the employee's death. For 2020, the distribution period that would have applied for the beneficiary was 12.7 years (the period applicable for a 76- year-old under the Single Life Table in formerly applicable §1.401(a)(9)-9), and for 2021, it would have been 11.7 years (the original distribution period, reduced by 1 year). For 2022, if the designated beneficiary is still alive, then the applicable distribution period would be 12.1 years (the 14.1-year life expectancy for a 76-year-old under the Single Life Table

in paragraph (b) of this section, reduced by 2 years). However, see section 401(a)(9)(H)(iii) for rules regarding how to apply the required distribution rules to defined contribution plans if the eligible designated beneficiary dies prior to distribution of the employee's entire interest.

The regulation provides for the following if the employee's sole beneficiary was the employee's surviving spouse:

> *Similarly, if an employee's sole beneficiary is the employee's surviving spouse, and the spouse dies before January 1, 2022, then the spouse's life expectancy for the calendar year of the spouse's death (which is used to determine the applicable distribution period for later years) is reset as provided in paragraph (f)(2)(ii) of this section.[13]*

The proposed regulations originally would have had these regulations apply for 2021—so why do the final regulations push this liberalization back to 2022? The IRS explains this change in the effective date in the preamble:

> *A number of commenters also requested that the effective date of the final regulations be delayed to 2022 (instead of 2021). They noted that plan sponsors and IRA providers are currently working to update their systems for the SECURE Act changes to section 401(a)(9) and recommended that the effective date of these regulations be delayed in order to allow administrators sufficient additional time to update systems for these regulations. As described in the Effective/Applicability Date section of this preamble, these regulations will apply to distribution calendar years beginning on or after January 1, 2022.[14]*

[1] TD 9930, November 5, 2020, https://public-inspection.federalregister.gov/2020-24723.pdf (retrieved November 6, 2020)
[2] TD 9930, Summary of Comments and Explanation of Provisions, I. Overiew
[3] Reg. §1.401(a)(9)-9(c)

[4] TD 9930, Summary of Comments and Explanation of Provisions, III. Updated Life Expectancy and Distribution Period Tables

[5] TD 9930, Summary of Comments and Explanation of Provisions, III. Updated Life Expectancy and Distribution Period Tables, Footnote 14

[6] Reg. §1.409(a)(9)-9(b)

[7] Reg. §1.409(a)(9)-9(d)

[8] Reg. §1.409(a)(9)-9(e)

[9] [9] TD 9930, Summary of Comments and Explanation of Provisions, V. Use of Revised Tables to Determine Substantially Equal Periodic Payments

[10] Reg. §1.409(a)(9)-9(f)(1)

[11] Reg. §1.409(a)(9)-9(f)(2)(i)

[12] Reg. §1.409(a)(9)-9(f)(2)(ii)(A)

[13] Reg. §1.409(a)(9)-9(f)(2)(i)

[14] TD 9930, SUPPLEMENTARY INFORMATION, Background, II. Regulations under Section 401(a)(9)

Form **8915-E**

Department of the Treasury
Internal Revenue Service

Qualified 2020 Disaster Retirement Plan Distributions and Repayments

(Use for Coronavirus-Related Distributions)

▶ Go to *www.irs.gov/Form8915E* for instructions and the latest information.

▶ Attach to 2020 Form 1040, 1040-SR, or 1040-NR.

OMB No. 1545-0074

2020

Attachment Sequence No. **915**

Name. If married, file a separate form for each spouse required to file 2020 Form 8915-E. See instructions.	Your social security number

Fill in Your Address Only if You Are Filing This Form by Itself and Not With Your Tax Return ▶

Home address (number and street, or P.O. box if mail is not delivered to your home)		Apt. no.
City, town or post office, state, and ZIP code. If you have a foreign address, also complete the spaces below (see instructions).		If this is an amended return, check here ▶ ☐
Foreign country name	Foreign province/state/county	Foreign postal code

Before you begin:

- Complete 2020 Form 8915-**D**, Qualified 2019 Disaster Retirement Plan Distributions and Repayments, and 2020 Form 8915-**C**, Qualified 2018 Disaster Retirement Plan Distributions and Repayments, if applicable.
- If you completed Part I of 2020 Form 8915-**D**, or of 2020 Form 8915-**C**, see the Caution in *Column (a)* in the instructions to figure the amounts for column (a).

Part I Total Distributions From All Retirement Plans (Including IRAs).

CAUTION *Form 8915-E only covers 2020 coronavirus-related distributions. The distribution must be made before December 31, 2020. See instructions.*

Complete lines 1 through 4 of one column before going to the next column.

	(a) Total distributions in 2020 (see instructions)	**(b) Qualified 2020 disaster distributions made in 2020** (see instructions)	**(c) Allocation of column (b)** (see instructions)
1 Distributions from retirement plans (other than IRAs)			
2 Distributions from traditional, SEP, and SIMPLE IRAs			
3 Distributions from Roth IRAs			
4 Totals. Add lines 1 through 3 in columns (a) and (b). Complete column (c) if line 4, column (b), is more than $100,000. Otherwise, leave column (c) blank			*100,000*

5 If you completed column (c), enter the excess of the amount on line 4, column (a), over $100,000. Otherwise, enter the excess of the amount on line 4, column (a), over the amount on line 4, column (b). Report these distributions under the normal rules in accordance with the instructions for your tax return	**5**	

Part II Qualified 2020 Disaster Distributions From Retirement Plans (Other Than IRAs)

6 If you completed line 1, column (c), enter that amount. Otherwise, enter the amount from line 1, column (b)	**6**	
7 Enter the applicable cost of distributions, if any. See instructions	**7**	
8 Subtract line 7 from line 6	**8**	
9 If you elect NOT to spread the taxable amount over 3 years, check this box ▶ ☐ and enter the amount from line 8 (see instructions). You must check this box if you check the box on line 17. Otherwise, divide line 8 by 3.0	**9**	
10 Enter the total amount of any repayments you made before filing your 2020 tax return. But don't include repayments made later than the due date (including extensions) for that return. Do not use this form to report repayments of qualified 2016, 2017, 2018, or 2019 disaster distributions. See instructions	**10**	
11 **Amount subject to tax in 2020.** Subtract line 10 from line 9. If zero or less, enter -0-. Include this amount in the total on 2020 Form 1040, 1040-SR, or 1040-NR, line 5b	**11**	

Before you begin: Complete 2020 Form 8606, Nondeductible IRAs, if required.

Part III Qualified 2020 Disaster Distributions From Traditional, SEP, SIMPLE, and Roth IRAs

12 Did you receive a qualified 2020 disaster distribution from a traditional, SEP, SIMPLE, or Roth IRA that is required to be reported on 2020 Form 8606?

☐ **Yes.** Go to line 13. ☐ **No.** Skip lines 13 and 14, and go to line 15.

13 Enter the amount, if any, from 2020 Form 8606, line 15b. But if you are entering amounts here and on 2020 Form 8915-**D**, line 22, or Form 8915-**C**, line 23, only enter on line 13 the amount on Form 8606, line 15b, attributable to Form 8915-**E** distributions. See the instructions for Form 8606, line 15b . . . **13**

14 Enter the amount, if any, from 2020 Form 8606, line 25b. But if you are entering amounts here and on 2020 Form 8915-**D**, line 23, or Form 8915-**C**, line 24, only enter on line 14 the amount on Form 8606, line 25b, attributable to Form 8915-**E** distributions. See the instructions for Form 8606, line 25b . . . **14**

15 If you completed line 2, column (c), enter that amount. Otherwise, enter the amount from line 2, column (b), if any. Don't include on line 15 any amounts reported on 2020 Form 8606 . . . . . **15**

16 Add lines 13, 14, and 15 . . . . **16**

17 If you elect NOT to spread the taxable amount over 3 years, check this box ▶ ☐ and enter the amount from line 16 (see instructions). You must check this box if you checked the box on line 9. Otherwise, divide line 16 by 3.0 . . . . **17**

18 Enter the total amount of any repayments you made before filing your 2020 tax return. But don't include any repayments made later than the due date (including extensions) for that return. Do not use this form to report repayments of qualified 2016, 2017, 2018, or 2019 disaster distributions. See instructions **18**

19 **Amount subject to tax in 2020.** Subtract line 18 from line 17. If zero or less, enter -0-. Include this amount in the total on 2020 Form 1040, 1040-SR, or 1040-NR, line 4b **19**

Part IV Qualified Distributions for the Purchase or Construction of a Main Home in Certain 2020 Disaster Areas

Reserved for future use. Leave Part IV blank. See instructions.

20 This line is reserved for future use. If needed in the future, this line would be used for qualified distributions both received from IRAs and required to be reported on 2020 Form 8606.

☐ **Yes.** Reserved for future use.

☐ **No.** Reserved for future use.

21 This line is reserved for future use. If needed in the future, this line would be used for qualified distributions received in 2020 for the purchase or construction of a main home. **21**

22 This line is reserved for future use. If needed in the future, this line would be used for the applicable cost of distributions **22**

23 This line is reserved for future use. If needed in the future, this line would be used to subtract line 22 from line 21 . . . . **23**

24 This line is reserved for future use. If needed in the future, this line would be used for the total amount of repayments made **24**

25 This line is reserved for future use. If needed in the future, this line would be used for the **Taxable amount** and will provide the Form 1040, 1040-SR, or 1040-NR line on which that amount should be placed **25**

Sign Here Only if You Are Filing This Form by Itself and Not With Your Tax Return

Under penalties of perjury, I declare that I have examined this form, including accompanying attachments, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN
Firm's name ▶			Firm's EIN ▶	
Firm's address ▶			Phone no.	

Note: *The draft you are looking for begins on the next page.*

Caution: *DRAFT—NOT FOR FILING*

This is an early release draft of an IRS tax form, instructions, or publication, which the IRS is providing for your information. **Do not file draft forms** and do **not** rely on draft forms, instructions, and publications for filing. We do **not** release draft forms until we believe we have incorporated all changes (except when explicitly stated on this coversheet). However, unexpected issues occasionally arise, or legislation is passed—in this case, we will post a new draft of the form to alert users that changes were made to the previously posted draft. Thus, there are never any changes to the last posted draft of a form and the final revision of the form. Forms and instructions generally are subject to OMB approval before they can be officially released, so we post only drafts of them until they are approved. Drafts of instructions and publications usually have some changes before their final release.

Early release drafts are at IRS.gov/DraftForms and remain there after the final release is posted at IRS.gov/LatestForms. All information about all forms, instructions, and pubs is at IRS.gov/Forms.

Almost every form and publication has a page on IRS.gov with a friendly shortcut. For example, the Form 1040 page is at IRS.gov/Form1040; the Pub. 501 page is at IRS.gov/Pub501; the Form W-4 page is at IRS.gov/W4; and the Schedule A (Form 1040/SR) page is at IRS.gov/ScheduleA. If typing in a link above instead of clicking on it, be sure to type the link into the address bar of your browser, not a Search box.

If you wish, you can submit comments to the IRS about draft or final forms, instructions, or publications at IRS.gov/FormsComments. We cannot respond to all comments due to the high volume we receive and may not be able to consider many suggestions until the subsequent revision of the product.

If you have comments on reducing paperwork and respondent (filer) burden, with respect to draft or final forms, please respond to the relevant information collection through the Federal Register process; for more info, click here.

2020 Instructions for Form 8915-E

Qualified 2020 Disaster Retirement Plan Distributions and Repayments (Use for Coronavirus-Related Distributions)

Department of the Treasury
Internal Revenue Service

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

General Instructions

Future Developments

For the latest information about developments related to Form 8915-E and its instructions, such as legislation enacted after they were published, go to *IRS.gov/Form8915E*.

What's New

Coronavirus-related distributions. The coronavirus is the only qualified 2020 disaster reportable on Form 8915-E. If you, your spouse, your dependent, or a member of your household was impacted by the coronavirus and you made withdrawals from your retirement plan in 2020 before December 31, you may have coronavirus-related distributions eligible for special tax benefits on Form 8915-E.

CAUTION *At the time these instructions went to print, Congress was considering legislation that would provide disaster relief for certain 2020 disasters other than coronavirus. To see if this legislation was enacted resulting in changes that affect your 2020 Form 8915-E, go to* Recent Developments *at IRS.gov/Form8915E.*

Purpose of Form

Use Form 8915-E if you were adversely affected by a qualified 2020 disaster and you received a distribution described in *Qualified 2020 Disaster Distribution Requirements*, later, that qualifies for favorable tax treatment.

Part I. Use Part I to figure your:
- Total distributions from all retirement plans (including IRAs),
- Qualified 2020 disaster distributions, and
- Distributions other than qualified 2020 disaster distributions.

CAUTION *If you need to complete Part I of 2020 Form 8915-C or Form 8915-D, complete those forms first.*

Parts II and III. Use Parts II and III to:
- Report your qualified 2020 disaster distributions;
- Report any repayments of qualified 2020 disaster distributions; and
- Figure the taxable amount, if any, of your qualified 2020 disaster distributions.

Note. Distributions from retirement plans (other than IRAs) are reported in Part II and distributions from IRAs are reported in Part III.

Part IV. Leave Part IV of Form 8915-E blank. See *Part IV* under *Specific Instructions*, later.

Who Must File

File 2020 Form 8915-E if you received a qualified 2020 disaster distribution from an eligible retirement plan, and the distribution was made in 2020 **before** December 31.

When and Where To File

File 2020 Form 8915-E with your 2020 Form 1040, 1040-SR, or 1040-NR. If you are not required to file an income tax return but are required to file Form 8915-E, fill in the address information on page 1 of Form 8915-E, sign the Form 8915-E, and send it to the Internal Revenue Service at the same time and place you would otherwise file Form 1040, 1040-SR, or 1040-NR.

The timing of your distributions and repayments will determine whether you need to file an amended return to claim them. If you need to amend your 2020 Form 8915-E, see *Amending Form 8915-E*, later.

What Is a Qualified Disaster Distribution?

For 2020, qualified disaster distributions are the qualified 2020 disaster distributions described in 2020 Form 8915-E and these instructions; the qualified 2019 disaster distributions described in 2020 Form 8915-D and its instructions; and the qualified 2018 disaster distributions described in 2020 Form 8915-C and its instructions.

Qualified 2020 Disaster Distribution

Coronavirus Is the Only Qualified 2020 Disaster

The coronavirus is currently the only qualified 2020 disaster reportable on Form 8915-E. Coronavirus-related distributions described in *Qualified 2020 Disaster Distribution Requirements*, later, are the only distributions eligible for treatment as qualified 2020 disaster distributions.

How Is a Qualified 2020 Disaster Distribution Taxed?

Generally, a qualified 2020 disaster distribution is included in your income in equal amounts over 3 years. However, if you elect, you can include the entire distribution in your income in the year of the distribution. If more than one distribution was made during the year, you must treat all distributions for that year the same way. Any repayments made before you file your return and by the due date (including extensions) reduce the amount of the distribution included in your income.

Also, qualified 2020 disaster distributions aren't subject to the additional 10% tax on early distributions.

CAUTION *If a taxpayer who received a qualified 2020 disaster distribution dies in 2020, the distribution may not be spread over 3 years. The entire distribution must be reported on the return of the deceased taxpayer.*

Qualified 2020 Disaster Distribution Requirements

In order to be a qualified 2020 disaster distribution, the distribution must be a coronavirus-related distribution, that is,

1. The distribution was made in 2020 **before** December 31, 2020; and
2. The distribution was made to a qualified individual. See *Qualified individuals* next for details.

If (1) and (2) apply, you can generally designate any distribution (including periodic payments and required minimum distributions) from an eligible retirement plan as a qualified 2020 disaster distribution, regardless of why the distribution was made. Qualified 2020 disaster distributions are permitted without regard to your need or the actual amount of your economic loss.

A reduction or offset (in 2020 before December 31st) of your account balance in an eligible retirement plan in order to repay a loan can also be designated as a qualified 2020 disaster distribution. See *Distribution of plan loan offsets*, later.

Qualified individuals. You are a qualified individual if you are an individual meeting any of the following criteria.

1. You were diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (referred to collectively in these instructions as coronavirus) by a test approved by the Centers for Disease Control and Prevention (including a test authorized under the Federal Food, Drug, and Cosmetic Act).
2. Your spouse or dependent (as defined in section 152) was diagnosed with coronavirus by a test approved by the Centers for Disease Control and Prevention

(including a test authorized under the Federal Food, Drug, and Cosmetic Act).

3. You, your spouse, or a member of your household (as defined next) experienced adverse financial consequences as a result of:

- Being quarantined, being furloughed or laid off, or having work hours reduced due to coronavirus;
- Being unable to work due to lack of childcare due to coronavirus;
- Having to close or reduce the hours of a business you owned or operated due to coronavirus; or
- Having a reduction in pay (or self-employment income) due to coronavirus or having a job offer rescinded or start date for a job delayed due to coronavirus.

Member of your household. For purposes of determining whether you are a qualified individual, anyone who shares your principal residence is a member of your household.

Limit. The total of your qualified 2020 disaster distributions from all plans is limited to $100,000. If you have distributions from more than one type of plan, such as a 401(k) plan and an IRA, and the total exceeds $100,000, you may allocate the $100,000 limit among the plans by any reasonable method.

Eligible retirement plan. An eligible retirement plan can be 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.

Distribution of plan loan offsets. A distribution of a plan loan offset is a distribution that occurs when, under the terms of a plan, the participant's accrued benefit is reduced (offset) in order to repay a loan. A distribution of a plan loan offset amount can occur for a variety of reasons, such as when a participant terminates employment or doesn't comply with the terms of repayment. Plan loan offsets are treated as actual distributions and are reported in Form 1099-R, box 1.

Main home. Generally, your main home is the home where you live most of the time. A temporary absence due to special circumstances, such as illness, education, business, military service, evacuation, or vacation, won't change your main home.

Additional tax. Qualified 2020 disaster distributions aren't subject to the additional 10% tax (or the 25% additional tax for certain distributions from SIMPLE IRAs) on early distributions and aren't required to be reported on Form 5329. However, any distributions you received in excess of the $100,000 qualified 2020 disaster distribution limit may be subject to the additional tax.

Note. If you choose to treat a distribution as a qualified 2020 disaster distribution, it is not eligible for the 20% Capital Gain Election or the 10-Year Tax Option. For information on those options, see the instructions for Form 4972.

Repayment of a Qualified 2020 Disaster Distribution

CAUTION *Do not use this form to report repayments of qualified 2016, 2017, 2018, or 2019 disaster distributions. Instead see Form 8915-A, 8915-B, 8915-C, or 8915-D, respectively, and their instructions.*

If you choose, you can generally repay any portion of a qualified 2020 disaster distribution that is eligible for tax-free rollover treatment to an eligible retirement plan. Also, you can repay a qualified 2020 disaster distribution made on account of hardship from a retirement plan. However, see *Exceptions*, later, for qualified 2020 disaster distributions you can't repay.

Your repayment can't be made any earlier than the day after the date you received the qualified 2020 disaster distribution. You have 3 years from the day after the date you received the distribution to make a repayment. The amount of your repayment cannot be more than the amount of the original distribution. Amounts that are repaid are treated as a trustee-to-trustee transfer 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 rollover.

Include on 2020 Form 8915-E any repayments you make before filing your 2020 return. Any repayments you make will reduce the amount of qualified 2020 disaster distributions reported on your return for 2020. Do not include on your 2020 Form 8915-E any repayments you make later than the due date (including extensions) for filing your 2020 return. If you make a repayment in 2021 after you file your 2020 return, the repayment will reduce the amount of your qualified 2020 disaster distributions included in income on your 2021 return if you have spread the income over 3 years, unless you are eligible to amend your 2020 return. See *Amending Form 8915-D*, later. Also, if you have spread the income over 3 years, any excess repayments you make for 2020 will be carried forward to your 2021 return.

Exceptions. You cannot repay the following types of distributions.

1. Qualified 2020 disaster distributions received as a beneficiary (other than a surviving spouse).

2. Required minimum distributions.

3. Any distribution (other than from an IRA) that is one of a series of substantially equal periodic payments made (at least annually) 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 Form 8915-E

File Form 1040-X, Amended U.S. Individual Income Tax Return, to amend a return you have already filed. Generally, Form 1040-X 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.

If, after filing your 2020 return, you make a repayment, the repayment may reduce the amount of your qualified 2020 disaster distributions reported on that return. 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 2020 return (including extensions), include the repayment on your amended 2020 Form 8915-E.

If you make a repayment after the due date of your 2020 return (including extensions) but before the due date of your 2021 return (including extensions) and you have spread the income over 3 years, include the repayment on your 2021 Form 8915-E. However, you may file an amended Form 8915-E for 2020 if either of the following applies.

- You elected on 2020 Form 8915-E, lines 9 and 17, as applicable, to include all of your qualified 2020 disaster distributions in income in 2020 (instead of over 3 years).
- You have spread the income over 3 years, the amount of the repayment exceeds the amount of your qualified 2020 disaster distributions that are included in income on your 2021 Form 8915-E and you choose to carry the excess back to your 2020 tax return. See the example below.

Example. You received a qualified 2020 disaster distribution in the amount of $90,000 in 2020. The distribution was made on October 16. You choose to spread the $90,000 over 3 years ($30,000 in income for 2020, 2021, and 2022). On November 19, 2021, you make a repayment of $45,000. For 2021, none of the qualified 2020 disaster distribution is included in income. The excess repayment of $15,000 ($45,000 - $30,000) can be carried back to 2020. Also, instead of carrying the excess repayment back to 2020, you can choose to carry it forward to 2022.

Specific Instructions

Married filers. If both you and your spouse are required to file Form 8915-E, file a separate Form 8915-E for each of you. If you and your spouse are both filing Forms 8915-E, the $100,000 limit on qualified 2020 disaster distributions and the election on lines 9 and 17 to include all qualified 2020 disaster distributions in income in 2020 (and not spread them over 3 years) are determined separately for each spouse.

Name and social security number (SSN). If you file a joint return, enter only the name and SSN of the spouse whose information is being reported on Form 8915-E.

Foreign address. If you have a foreign address, enter the city name on the appropriate line. Do not enter any other information on that line, but also complete the spaces below that line. Do not abbreviate the country name. Follow the country's practice for entering the postal code and the name of the province, county, or state.

Part I—Total Distributions From All Retirement Plans (Including IRAs)

Column (a). If you received a distribution from a retirement plan (including an IRA), you should receive a Form 1099-R. The amount of the distribution should be shown in Form 1099-R, box 1. Enter the amounts from all your Forms 1099-R, box 1, on the appropriate lines in column (a). For each disaster, include only distributions made on or after the date on which the disaster began.

CAUTION *If you are also filing 2020 Form 8915-**C** or 2020 Form 8915-**D** and have filled in Part I of either of those forms, you must do the following.*

- *If you completed Part I of Form 8915-**D**, you must reduce the total distributions for each type of plan in column (a) of Form 8915-**E** by the qualified 2019 disaster distributions for the corresponding plan on Form 8915-**D**, Part I, column (c) (or column (b) if column (c) has not been completed), if any.*
- *If you did **not** complete Part I of Form 8915-D, you must reduce the total distributions for each type of plan in column (a) of Form 8915-**E** by the qualified 2018 disaster distributions for the corresponding plan on Form 8915-**C**, Part I, column (c) (or column (b) if column (c) has not been completed), if any.*

See the Worksheet 1 examples below for guidance. A blank Worksheet 1 is at the end of the instructions under Worksheets.

Example 1. Arnell suffered economic losses as a result of Texas Severe Storms And Flooding in 2018 and Tropical Storm Imelda in 2019. His main home was in Texas during the disaster period for each disaster. These events were qualified 2018 and 2019 disasters, respectively. Arnell also experienced adverse financial consequences as a result of being laid off due to coronavirus. In 2020, he received a traditional IRA distribution of $140,000 and another traditional IRA distribution of $110,000 for a total of $250,000 in distributions. The distributions were made on May 26 and June 4, respectively. He received no other distributions in 2018, 2019, or 2020. He is completing 2020 Form 8915-**C**, 2020 Form 8915-D, and 2020 Form 8915-E. He must complete his Form 8915-C first. He reports $100,000 from the May distribution as a qualified 2018 disaster distribution on Form 8915-**C**. He reports the remaining $40,000 from the May distribution and $60,000 of the June distribution for a total of $100,000 in qualified 2019 disaster distributions on Form 8915-D. He reports the remaining $50,000 from the June distribution as available distributions under column (a) in the Form 8915-E portion of his Filled-in Worksheet 1 for *Example 1*. On lines 1 through 3 of column (a) in Part I of his 2020 Form 8915-E, Arnell enters the amounts shown in column (a), lines 1 through 3, of Form 8915-**E** on his Filled-in Worksheet 1 for *Example 1*.

Example 2. The facts are the same as in *Example 1*, except no distribution was made on June 4. Arnell must complete his Form 8915-**C** first. He reports $100,000 from the May distribution as a qualified 2018 disaster distribution on Form 8915-C. He reports the remaining $40,000 of the May distribution as a qualified 2019 disaster distribution on Form 8915-D. After applying the distribution to Form 8915-D, he has no available distributions left that could be designated as qualified 2020 disaster distributions on Form 8915-E. He cannot use Form 8915-E. See column (a), lines 1 through 3, of Form 8915-**E** on his Filled-in Worksheet 1 for *Example 2*.

Filled-in Worksheet 1. Use if you complete Part I of 2020 Form 8915-C and/or 2020 Form 8915-D. Example 1 for Arnell column (a).

Form 8915-C		column (a) Total available distributions in 2020	column (b) Qualified 2018 disaster distributions	column (c) Allocation of column (b)
1	Enter in columns (b) and (c) the amount, if any, from your 2019 Form 8915-C, line 5, column (b). If this amount is $100,000 or more, do not complete this worksheet, you have no qualified 2018 disaster distributions in 2020. If you used Worksheet 2 in the 2019 Instructions for Form 8915-C, substitute the product of $100,000 times the number of disasters for $100,000 in the prior sentence.		-0-	-0-
2	Distributions from retirement plans (other than IRAs) made in 2020	-0-	-0-	-0-
3	Distributions from traditional, SEP, and SIMPLE IRAs made in 2020	$140,000 May 26 $110,000 June 4	$100,000	-0-
4	Distributions from Roth IRAs made in 2020	-0-	-0-	-0-

Form 8915-D		column (a) Total available distributions in 2020	column (b) Qualified 2019 disaster distributions	column (c) Allocation of column (b)
1	Enter in columns (b) and (c) the amount, if any, from your 2019 Form 8915-D, line 4, column (b). If this amount is $100,000 or more, do not complete this worksheet, you have no qualified 2019 disaster distributions in 2020. If you used Worksheet 2 in the 2019 Instructions for Form 8915-D, substitute the product of $100,000 times the number of disasters for $100,000 in the prior sentence.		-0-	-0-
2	Distributions from retirement plans (other than IRAs) made in 2020	-0-	-0-	-0-
3	Distributions from traditional, SEP, and SIMPLE IRAs made in 2020	$40,000 May 26 $110,000 June 4	$100,000	-0-
4	Distributions from Roth IRAs made in 2020	-0-	-0-	-0-

Form 8915-E		column (a) **Total available distributions in 2020** (Form 8915-D, column (a) minus Form 8915-D, column (c), if completed (otherwise minus Form 8915-D, column (b)) but if you did not complete Part I of Form 8915-D, then use Form 8915-C, column (a), minus Form 8915-C, column (c), if completed (otherwise minus Form 8915-C, column (b))
1	Distributions from retirement plans (other than IRAs)	-0-
2	Distributions from traditional, SEP, and SIMPLE IRAs	$50,000
3	Distributions from Roth IRAs	-0-

Filled-in Worksheet 1. Use if you complete Part I of 2020 Form 8915-C and/or Form 8915-D. Example 2 for Arnell column (a).

Form 8915-C		column (a) Total available distributions in 2020	column (b) Qualified 2018 disaster distributions	column (c) Allocation of column (b)
1	Enter in columns (b) and (c) the amount, if any, from your 2019 Form 8915-C, line 5, column (b). If this amount is $100,000 or more, do not complete this worksheet, you have no qualified 2018 disaster distributions in 2020. If you used Worksheet 2 in the 2019 Instructions for Form 8915-C, substitute the product of $100,000 times the number of disasters for $100,000 in the prior sentence.		-0-	-0-
2	Distributions from retirement plans (other than IRAs) made in 2020	-0-	-0-	-0-
3	Distributions from traditional, SEP, and SIMPLE IRAs made in 2020	$140,000 May 26	$100,000	-0-
4	Distributions from Roth IRAs made in 2020	-0-	-0-	-0-

Form 8915-D		column (a) Total available distributions in 2020	column (b) Qualified 2019 disaster distributions	column (c) Allocation of column (b)
1	Enter in columns (b) and (c) the amount, if any, from your 2019 Form 8915-D, line 4, column (b). If this amount is $100,000 or more, do not complete this worksheet, you have no qualified 2019 disaster distributions in 2020. If you used Worksheet 2 in the 2019 Instructions for Form 8915-D, substitute the product of $100,000 times the number of disasters for $100,000 in the prior sentence.		-0-	-0-
2	Distributions from retirement plans (other than IRAs) made in 2020	-0-	-0-	-0-
3	Distributions from traditional, SEP, and SIMPLE IRAs made in 2020	$40,000 May 26	$40,000	-0-
4	Distributions from Roth IRAs made in 2020	-0-	-0-	-0-

Form 8915-E		column (a) **Total available distributions in 2020** (Form 8915-D, column (a) minus Form 8915-D, column (c), if completed (otherwise minus Form 8915-D, column (b)) but if you did not complete Part I of Form 8915-D, then use Form 8915-C, column (a), minus Form 8915-C, column (c), if completed (otherwise minus Form 8915-C, column (b))
1	Distributions from retirement plans (other than IRAs) made in 2020	-0-
2	Distributions from traditional, SEP, and SIMPLE IRAs made in 2020	-0-
3	Distributions from Roth IRAs made in 2020	-0-

Column (b). Follow the instructions in this section to complete Part I, column (b), if you have qualified 2020 disaster distributions.

Include only those distributions you wish to designate as qualified 2020 disaster distributions. See *Qualified 2020 Disaster Distribution*, earlier.

Column (c). Complete column (c) only if the total on line 4, column (b), is more than $100,000.

If the amount on line 4, column (b), is more than $100,000, you will need to make an allocation in column (c) of the distribution(s) included in column (b). This is because the total of your qualified 2020 disaster distributions cannot exceed the $100,000 limit. If you have distributions from more than one type of retirement plan, such as an IRA and a 401(k) plan, you may allocate the $100,000 limit among the plans by any reasonable method.

Example 1. You received a distribution from your Roth IRA in the amount of $130,000. The distribution was made on June 28, 2020. The distribution qualifies as a coronavirus-related distribution described earlier. This was your only distribution made in 2020. You entered $130,000 on line 3, columns (a) and (b). You would then enter $100,000 on line 3, column (c), since the distribution is in excess of the $100,000 limit.

Example 2. Assume the same facts as in *Example 1*, except you also received a distribution from your 401(k) plan in the amount of $20,000. This distribution was made on October 16, 2020. You entered $20,000 on line 1, columns (a) and (b). You will now need to make an allocation in column (c) between the two distributions because the total on line 4, column (b), is $150,000. You can choose to make the allocation by any reasonable method, as long as the total in column (c) does not exceed $100,000. You choose to allocate $80,000 to your Roth IRA distribution on line 3, column (c), and the entire $20,000 to your 401(k) plan distribution on line 1, column (c).

Example 3. In 2020, Arnell suffered economic losses as a result of only one qualified 2019 disaster: Texas Severe Storms And Flooding (beginning date June 24, 2019). In 2020, he received a traditional IRA distribution of $40,000 and another traditional IRA distribution of $70,000 for a total of $110,000 in distributions. These distributions were made on February 3 and December 31, respectively. He reported no qualified disaster distributions on any other 8915 form. No part of the December 2020 distribution can be a qualified 2019 disaster distribution (even though that entire $40,000 is unused) as that distribution was made after the December 30, 2020, cutoff date. He reports $70,000 on line 2 of column (b). He does not report $110,000 on that line, and he does not need to complete column (c).

Part II—Qualified 2020 Disaster Distributions From Retirement Plans (Other Than IRAs)

Complete Part II if you have an amount entered on line 1, column (b).

Line 7. Enter on line 7 your cost, if any. Your cost is generally your net investment in the plan. It does not include pre-tax contributions. If there is an amount in Form 1099-R, box 2a (taxable amount), the difference between Form 1099-R, box 1 and box 2a, is usually your cost. Enter the difference on line 7.

If there is no amount in Form 1099-R, box 2a, and the first box in box 2b is checked, the issuer of Form 1099-R may not have had all the facts needed to figure the taxable amount. You may want to get Pub. 575, Pension and Annuity Income, to help figure your taxable amount.

Also, see Pub. 575 if you use the Simplified Method Worksheet to figure the taxable amount of your periodic payments and you designated some of these payments as qualified 2020 disaster distributions.

CAUTION *If you have a Form 1099-R with both qualified 2020 disaster distributions and nonqualified distributions, you must separately figure the cost attributable to each distribution.*

Line 9. If you don't check the box on line 9, you must spread the amount on line 8 over 3 years. If you use this method to figure the taxable amount of your distributions, you cannot change it after the due date (including extensions) for your tax return. If you checked the box on line 17, you must check the box on line 9.

If the taxpayer died during 2020 after receiving a qualified 2020 disaster distribution, the taxable amount of the distribution may not be spread over 3 years. The entire distribution must be reported on the tax return of the deceased taxpayer.

Line 10. At any time during the 3-year period that begins the day after the date you received a qualified 2020 disaster distribution, you can repay any portion of the distribution to an eligible retirement plan that accepts rollover contributions. You cannot, however, repay more than the amount of the original distribution. See *Repayment of a Qualified 2020 Disaster Distribution*, earlier, for details.

Enter on line 10 the amount of any repayments you made before filing your 2020 return. Do not include any repayments made later than the due date (including extensions) for that return nor any repayments of nontaxable amounts. If you elected to repay the distribution over 3 years and you repaid more than the amount on line 9, the excess will be carried forward to your 2021 tax return. Repayments made after the due date of your 2020 return (including extensions) but before the due date of your 2021 return (including extensions) generally will be reported on your 2021 tax return if you elected to repay the distribution over 3 years. However, you may have to file an amended return in certain situations. See *Amending Form 8915-E*, earlier.

Example. You received a $90,000 qualified 2020 disaster distribution on November 7, 2020, from your 401(k) plan. On April 2, 2021, you repay $30,000 to an IRA. You file your return on April 10, 2021. Since the repayment was made before you filed your return, and not later than the due date (including extensions), you would enter the $30,000 repayment on line 10.

Part III—Qualified 2020 Disaster Distributions From Traditional, SEP, SIMPLE, and Roth IRAs

Complete Part III if you have an amount entered on line 2, column (b), or line 3, column (b).

Before completing this part, complete 2020 Form 8606 if either of the following applies.

- You received a qualified 2020 disaster distribution from a traditional, SEP, or SIMPLE IRA, and you have a basis in the IRA.
- You received a qualified 2020 disaster distribution from a Roth IRA.

For more information, see 2020 Form 8606 and its instructions.

Lines 13 and 14. Enter the amounts from Form 8606, lines 15b and 25b, as instructed. If you have both 2020 Form 8915-D and 2020 Form 8915-E taxable amounts computed on 2020 Form 8606, you may need to prorate the Form 8606 amounts on lines 15b and 25b to arrive at the amounts you will enter on lines 13 and 14 of Form 8915-E. See the example below.

Example. You received a $30,000 distribution, that was not a qualified disaster distribution, from your traditional IRA (that you did not roll over). Later, you received a qualified disaster distribution from your traditional IRA in the amount of $10,000. Both distributions were made in 2020. These distributions made January 10 and June 1 of 2020, respectively, were your only distributions in 2019 and 2020. You reported a qualified 2019 disaster distribution of $8,000 on 2020 Form 8915-D and a qualified 2020 disaster distribution of $2,000 on 2020 Form 8915-E. You will report total distributions of $40,000 on 2020 Form 8606, line 7. You then will complete Form 8606, lines 8 through 14, as instructed. 2020 Form 8606, line 15a, shows an amount of $36,000. You will enter $9,000 ($36,000 x $10,000/$40,000) on Form 8606, line 15b. You will place $7,200 ($36,000 x $8,000/$40,000) on 2020 Form 8915-D, line 22, and $1,800 ($36,000 x $2,000/$40,000) on 2020 Form 8915-E, line 13.

Line 17. If you do not check the box on line 17, you must spread the amount on line 16 over 3 years. If you use this method to figure the taxable amount of your distributions, you cannot change it after the due date (including extensions) for your tax return. If you checked the box on line 9, you must check the box on line 17.

If the taxpayer died during 2020 after receiving a qualified 2020 disaster distribution, the taxable amount of the distribution may not be spread over 3 years. The entire distribution must be reported on the tax return of the deceased taxpayer.

Line 18. At any time during the 3-year period that begins the day after the date you received a qualified 2020 disaster distribution, you can repay any portion of the distribution to an eligible retirement plan that accepts rollover contributions. You cannot, however, repay more than the amount of the original distribution. See *Repayment of a Qualified 2020 Disaster Distribution*, earlier, for details.

Enter on line 18 the amount of any repayments you made before filing your 2020 return. Do not include any repayments made later than the due date (including extensions) for that return nor any repayments of nontaxable amounts. If you elected to repay the distribution over 3 years and you repaid more than the amount on line 17, the excess will be carried forward to your 2021 tax return. Repayments made after the due date of your 2020 return (including extensions) but before the due date of your 2021 return (including extensions) generally will be reported on your 2021 tax return if you are spreading the income over 3 years. However, you may have to file an amended return in certain situations. See *Amending Form 8915-E*, earlier.

Example. You received a $90,000 qualified 2020 disaster distribution on October 20, 2020, from your traditional IRA. On April 2, 2021, you repay $30,000 to your traditional IRA. You file your return on April 10, 2021. Since the repayment was made before you filed your return, and not later than the due date (including extensions), you would enter the $30,000 repayment on line 18.

Part IV—Qualified Distributions for the Purchase or Construction of a Main Home in Qualified 2019 Disaster Areas

CAUTION *At the time these instructions went to print, Congress was considering legislation that would provide Part IV relief for certain 2020 disasters other than coronavirus. To see if legislation was enacted resulting in changes that affect your 2020 Form 8915-E, go to* Recent Developments *at IRS.gov/Form8915E.*

Leave Part IV on Form 8915-E blank. Do **not** check any boxes, and do **not** fill in any amounts. The entry spaces in Part IV have been greyed out. Part IV remains on the form in the event future legislation is passed requiring it.

Privacy Act and Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need this information to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information if you made certain contributions or received certain distributions from qualified plans, including IRAs, and other tax-favored accounts. Our legal right to ask for the information requested on this form is sections 6001, 6011, 6012(a), and 6109 and their regulations. If you don't provide this information, or you provide incomplete or false information, you may be subject to penalties. You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. However, we may give this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths and possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The average time and expenses required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.

Worksheet

A blank Worksheet 1 follows.

Worksheet 1: Use if you complete Part I of 2020 Form 8915-C and/or 2020 Form 8915-D.

Form 8915-C		column (a) Total available distributions in 2020	column (b) Qualified 2018 disaster distributions	column (c) Allocation of column (b)
1	Enter in columns (b) and (c) the amount, if any, from your 2019 Form 8915-C, line 5, column (b). If this amount is $100,000 or more, do not complete this worksheet, you have no qualified 2018 disaster distributions in 2020. If you used Worksheet 2 in the 2019 Instructions for Form 8915-C, substitute the product of $100,000 times the number of disasters for $100,000 in the prior sentence.			
2	Distributions from retirement plans (other than IRAs) made in 2020			
3	Distributions from traditional, SEP, and SIMPLE IRAs made in 2020			
4	Distributions from Roth IRAs made in 2020			

Form 8915-D		column (a) Total available distributions in 2020	column (b) Qualified 2019 disaster distributions	column (c) Allocation of column (b)
1	Enter in columns (b) and (c) the amount, if any, from your 2019 Form 8915-D, line 4, column (b). If this amount is $100,000 or more, do not complete this worksheet, you have no qualified 2019 disaster distributions in 2020. If you used Worksheet 2 in the 2019 Instructions for Form 8915-D, substitute the product of $100,000 times the number of disasters for $100,000 in the prior sentence.			
2	Distributions from retirement plans (other than IRAs) made in 2020			
3	Distributions from traditional, SEP, and SIMPLE IRAs made in 2020			
4	Distributions from Roth IRAs made in 2020			

Form 8915-E		column (a) **Total available distributions in 2020** (Form 8915-D, column (a) minus Form 8915-D, column (c), if completed (otherwise minus Form 8915-D, column (b)) but if you did not complete Part I of Form 8915-D, then use Form 8915-C, column (a), minus Form 8915-C, column (c), if completed (otherwise minus Form 8915-C, column (b))
1	Distributions from retirement plans (other than IRAs) made in 2020	
2	Distributions from traditional, SEP, and SIMPLE IRAs made in 2020	
3	Distributions from Roth IRAs made in 2020	