

Announcement 2004-11

Changes to Reporting Requirements for Certain 2002 Forms Because of Changes in the Tax Rates and Holding Period Rules for Qualified Dividends

BACKGROUND

Under current law, qualified dividends received after 2002 are taxed to individuals, estates, and trusts at the new lower capital gain tax rates (5% or 15%). The new rates do not apply to dividends passed through from fiscal year partnerships, S corporations, or estates for their fiscal year beginning in 2002, even if the dividends were received in 2003.

Also, to qualify for the lower rates under current law, you must hold a stock for at least 61 days of a 120-day period. That period begins 60 days before the day a stock trades without its dividend (the "ex-dividend date"), and ends 59 days after the ex-dividend date. In the case of dividends attributable to periods of more than 366 days that were received on preferred stock, you must hold the stock for at least 91 days of a 180-day period. That period begins 90 days before the ex-dividend date, and ends 89 days after the ex-dividend date.

TECHNICAL CORRECTION

Section 2 of the Tax Technical Corrections Act of 2003 (H.R. 3654, S. 1984), which has not yet been enacted, would amend current law to allow partnerships, S corporations, and estates (including revocable trusts treated as part of an estate) with fiscal years beginning in 2002 to pass through dividends received in 2003 from domestic corporations and qualified foreign corporations as qualified dividends to their partners, shareholders, and beneficiaries (to the extent otherwise permitted by law). In addition, the legislation would amend the holding period rules for qualified dividends by changing the 120-day period to a 121-day period and the 180-day period to a 181-day period. These periods would end one day later than under current law. Both amendments would be treated as if included in section 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003. The Commissioner of Internal Revenue has agreed to allow taxpayers to apply section 2 of the Tax Technical Corrections Act of 2003 as if the legislation were presently enacted.

As a result, there are changes in the reporting requirements for the following 2002 forms (these forms and their instructions do not reflect this legislation) filed by entities with 2002-2003 fiscal years:

- Schedules K and K-1 for partnerships and S corporations and
- Schedule K-1 for estates.

Also, the tax computation (for both the regular tax and the alternative minimum tax) for estates with 2002-2003 fiscal years and qualified dividends received in 2003 is affected by this change.

Note: *Dividends received in a tax year beginning in 2002 and ending in 2003 are not qualified dividends for individuals with 2002-2003 fiscal years, even if the dividends are received during 2003.*

The necessary changes are described in the following sections.

FISCAL YEAR ESTATES: REPORTING QUALIFIED DIVIDENDS AND FIGURING TAX FOR 2002-2003

Estates with 2002-2003 fiscal years and qualified dividends received in 2003 must attach to their 2002 Form 1041 a computation similar to that shown in Part V of the 2003 Schedule D (Form 1041) or the Qualified Dividends Tax Worksheet on page 22 of the 2003 Instructions for Form 1041 and Schedules A, B, D, G, I, J, and K-1. These estates may use the 2003 Schedule D (Form 1041) or the Qualified Dividends Tax Worksheet to figure their 2002 tax. To do so, these filers must:

- Enter qualified dividends received in 2003 on line 20 of the 2003 Schedule D (Form 1041) or line 2 of the Qualified Dividends Tax Worksheet (whichever applies).
- Modify the computation in Part V of Schedule D (Form 1041) or the Qualified Dividends Tax Worksheet by using the 2002 Tax Rate Schedule instead of the 2003 Tax Rate Schedule.
- Substitute \$1,850 for \$1,900 on line 25 of the 2003 Schedule D (Form 1041) or line 6 of the Qualified Dividends Tax Worksheet.

Note: *This change also affects the computation of the alternative minimum tax. Estates should attach a computation similar to that shown in Part IV, Schedule I, of the 2003 Form 1041.*

Estates must continue to report each beneficiary's share of ordinary dividends for the entire tax year on line 2 of the 2002 Schedule K-1. In addition, the estate must report each beneficiary's share of qualified dividends received in 2003 on line 14 of the 2002 Schedule K-1.

Estates should advise beneficiaries filing Form 1040 to report qualified dividends on line 9b of the 2003 Form 1040.

FISCAL YEAR PARTNERSHIPS AND S CORPORATIONS: REPORTING QUALIFIED DIVIDENDS FOR 2002-2003

Partnerships and S corporations with 2002-2003 fiscal years must continue to report ordinary dividends for the entire tax year on the applicable lines shown below:

- Form 1065 (or 8865) filers: Schedule K, line 4b of the 2002 Form 1065 (or 8865) and each partner's share on line 4b of Schedule K-1 (Form 1065 or 8865).
- Form 1065-B filers: Part II, line 2 of the 2002 Form 1065-B.
- Form 1120S filers: Schedule K, line 4b of the 2002 Form 1120S and each shareholder's share on line 4b of Schedule K-1 (Form 1120S).

In addition, partnerships and S corporations with 2002-2003 fiscal years must report qualified dividends received in 2003 as an item of information on the applicable lines (or attachment) shown below:

- Form 1065 (or 8865) filers: Schedule K, line 24 of the 2002 Form 1065 (or 8865) and each partner's share on line 25 of Schedule K-1 (Form 1065 or 8865).
- Form 1065-B filers: Schedule K, line 16 of the 2002 Form 1065-B and each partner's share on an attachment to Schedule K-1 (Form 1065-B).
- Form 1120S filers: Schedule K, line 21 of the 2002 Form 1120S and each shareholder's share on line 23 of Schedule K-1 (Form 1065 or 8865).

Partnerships and S corporations should advise partners and shareholders filing Form 1040 to report qualified dividends on line 9b of the 2003 Form 1040.

EFFECT ON OTHER DOCUMENTS

Announcement 2003-56, 2003-39 I.R.B. 694, is modified.