

STATE OF HAWAII — DEPARTMENT OF TAXATION
2008 INSTRUCTIONS FOR FORM N-152
TAX ON LUMP-SUM DISTRIBUTIONS
From Qualified Retirement Plans
(Section references are to the Internal Revenue Code.)

Note: Any lump-sum distribution representing a pension for past services should not be included in the amount reportable for Hawaii income tax purposes. Complete Schedule J (Form N-11/N-15/N-40) to determine the taxable portion of your lump-sum distribution. See the instructions for Part I, line 2 for more information.

Important

- The 5-year tax option is no longer available. The capital gain election and the 10-year tax option are still available to those who were born before 1936.
- The \$5,000 exclusion for employer-provided death benefits has been repealed for plan participants dying after August 20, 1996. If you received death benefits from an employer as a beneficiary of a participant who died after August 20, 1996, you cannot take this death benefit exclusion.

Nonresidents and Part-Year Residents

Public Law 104-95 prohibits any state from imposing an income tax on the retirement income of any individual who is not a resident or domiciliary of that state. As a result, nonresidents and part-year residents who received their lump-sum distribution while they were a nonresident do not need to complete Form N-152. However, they must complete Schedule J (Form N-11/N-15/N-40) to determine the amount to include on Form N-15, line 16, Column A.

General Instructions

Purpose of Form

If you received a lump-sum distribution from a qualified profit-sharing or retirement plan, all or part of the distribution may be taxable. You can use Form N-152 to figure your tax by special methods. The capital gain election and the 10-year tax option are special formulas used to figure a separate tax on a qualified lump-sum distribution **ONLY** for the year in which the distribution is received.

You pay the tax **only once**. You do not pay the tax over the next 10 years. Once you choose your option and figure the tax, it is then added to the regular tax figured on your other income.

Who Can Use the Form

You can use Form N-152 if you received a qualified lump-sum distribution in 2008. To see if your distribution is a qualified lump-sum distribution, see the following discussion.

What is a Qualified Lump-Sum Distribution?

It is the distribution or payment in 1 tax year of a plan participant's entire balance from all of the employer's qualified plans of one kind (i.e., pension, profit-sharing, or stock bonus plans), in which the participant had funds. The participant's entire balance does not include deductible voluntary employee contributions or certain forfeited amounts. The participant must have been born before 1936.

Distributions upon death of the plan participant. If you received a qualifying distribution as a beneficiary after the participant's death, the participant must have been born before 1936 for you to use this form for that distribution.

Distributions to Alternate Payees.—If you are the spouse or former spouse of a plan participant who was born before 1936 and you received a qualifying lump-sum distribution as an alternate payee under a qualified domestic relations order, you can use Form N-152 to figure the tax on that distribution.

You can use Form N-152 to make the capital gain election and the 10-year averaging method to figure your tax on the distribution.

See **How To Report The Distribution** on this page.

Distributions That Do Not Qualify for the Capital Gain Election or for the 10-Year Averaging

The following distributions are not qualifying lump-sum distributions and **do not** qualify for the capital gain election or the 10-year averaging method:

1. The part of a distribution not rolled over if the distribution is partially rolled over to another qualified plan or an IRA.
2. Any distribution if an earlier election to use either the 5- or 10-year tax option had been made after 1986 for the same plan participant.
3. U.S. Retirement Plan Bonds distributed with the lump-sum.

4. Any distribution made before the participant had been in the plan for 5 tax years before the tax year of the distribution, **unless it was paid because the participant died**.

5. The current actuarial value of any annuity contract included in the lump sum (the payor's statement should show this amount, which you use only to figure tax on the ordinary income part of the distribution).

6. Any distribution to a 5% owner that is subject to federal penalties under section 72(m)(5)(A).

7. A distribution from an IRA.

8. A distribution of the redemption proceeds of bonds rolled over tax free to a qualified pension plan, etc., from a qualified bond purchase plan.

9. A distribution from a qualified plan if the participant or his or her surviving spouse previously received an eligible roll over distribution from the same plan (or another plan of the employer required to be combined with that plan for the lump-sum distribution rules), and the previous distribution was rolled over tax free to another qualified plan or an IRA.

10. A corrective distribution of excess deferrals, excess contributions, or excess aggregate contributions or excess annual additions.

11. A distribution from a qualified plan that received a rollover after 2001 from an IRA (other than a conduit IRA), a governmental section 457 plan, or a section 403(b) tax-sheltered annuity on behalf of the plan participant.

12. A distribution from a qualified plan that received a rollover after 2001 from another qualified plan on behalf of that plan participant's surviving spouse.

13. A distribution from a qualified pension or annuity plan if any portion of the distribution is rolled over tax free to another qualified pension or annuity plan or IRA.

14. A distribution from a tax-sheltered annuity (section 403(b) plan).

How To Report the Distribution

If you qualify to use Form N-152 attach it to Form N-11, N-15, or N-40 (estates or trusts). The payor should have given you a federal Form 1099-R, Distributions From Pensions, Annuities, Retirement or

Profit-Sharing Plans, IRAs, Insurance Contracts, etc., or other statement that shows the amounts to use in completing the form. The following choices are available to you:

1. Capital Gain Election. If the plan participant was born before 1936, and there is an amount shown on Form 1099-R, Box 3 (capital gain), you can use Part II of this form to make the capital gain election. When you complete Part II, you are electing to report the capital gain portion as a long-term capital gain. See **Capital Gain Election** on this page and Part II, line 9, instructions on page 3 for details.

2. 10-year Tax Option. If the plan participant was born before 1936, you can use Part III to figure your tax on the lump-sum distribution. You can use this option whether or not you make the capital gain election described on this page.

Where to Report. — Depending on which parts of Form N-152 you choose to use, report amounts from your 1099-R either directly on your tax return (Form N-15 or Form N-40) or on Form N-152. (*Note: Form N-11 filers see Instructions for Form N-11 Filers on this page.*)

- If you choose **not** to use **any** part of Form N-152, report the taxable portion of the distribution from Schedule J (Form N-11/N-15/N-40), line 22 on Form N-15, line 16, Column A; or Form N-40, line 8.
- If you choose **not** to use Part III of Form N-152, but you do use Part II to make the capital gain election, report only the taxable ordinary income part of the distribution on Form N-15, line 16, Column A; or on Form N-40, line 8. The taxable ordinary income portion of the distribution is determined by subtracting the taxable capital gain portion from the total taxable distribution.
- If you choose to use Part III of Form N-152, do not include on Form N-15, line 16, Column A; or on Form N-40, line 8, the taxable ordinary income amount you use in the tax computation on this form.

In addition, if you make the capital gain election (Form N-152, Part II), do not include the capital gain amount from Form 1099-R, Box 3, or from Form N-152, line 11, on Form N-15, line 16, Column A; or Form N-40, line 8.

The entries in other boxes on Form 1099-R may also apply in completing Form N-152:

- Box 6, Net Unrealized Appreciation (NUA). See page 3 for details on how to treat this amount.

- Box 8, other, current actuarial value of an annuity.

If applicable, get the amount of Federal estate tax paid attributable to the taxable part of the lump-sum distribution from the administrator of the deceased's estate.

For more details, see federal Publication 575.

Instructions for Form N-11 Filers

- If you choose **not** to use **any** part of Form N-152, complete Schedule J (Form N-11/N-15/N-40) through line 24.
- If you choose not to use Part III of Form N-152, but you do use Part II to make the capital gain election, enter the taxable ordinary income portion on line B of the **Form N-11 Filers Worksheet** on page 4. The taxable ordinary income portion of the distribution is determined by subtracting the taxable capital gain portion from the total taxable distribution.
- If you choose to use Part III of Form N-152, **do not** enter the taxable ordinary income amount you use in the tax computation on this form on the **Form N-11 Filers Worksheet**.
- If you make the capital gain election (Form N-152, Part II), enter the capital gain amount from Form N-152, line 11, on line A of the **Form N-11 Filers Worksheet**.

How Often You Can Use Form N-152

After 1986, you may use Form N-152 only once for each plan participant. If you receive more than one lump-sum distribution for the same plan participant in 1 tax year, you must treat all those distributions in the same way. Combine them on a single Form N-152.

If you make an election as a beneficiary of a deceased participant, it does not affect any election you can make for qualifying lump-sum distributions from your own plan. You can also make an election as the beneficiary for more than one qualifying person.

Example: Your mother and father died and each was born before 1936. Each had a qualifying plan for which you are the beneficiary. You also received a qualifying lump-sum distribution from your own plan and you were born before 1936. You may make an election for each of the distributions; one for yourself, one as the beneficiary of your father, and one as the beneficiary of your mother. It does not matter if the distributions all occur in the same year or in different years. File a sep-

arate Form N-152 for each participant's distribution(s).

Note: *An election on Form N-152, or Form N-162 for distributions received before 1987, while you were under age 59½, does not preclude any election you can make for distributions received after 1986.*

When You Can File Form N-152

You can file Form N-152 with either an original or an amended return. Generally, you have 3 years from the later of the due date of your tax return or the date you filed your return to choose any part of Form N-152.

Capital Gain Election

If the plan participant was born before 1936 and the distribution includes capital gain, you can either (1) make the capital gain election in Part II, or (2) treat the capital gain as ordinary income.

Only the taxable amount of distributions resulting from pre-1974 participation qualifies for capital gain treatment. The capital gain amount should be shown on Form 1099-R, Box 3 (capital gain). If there is an amount on Form 1099-R, Box 6 (net unrealized appreciation), part of it may also qualify for capital gain treatment. Use the NUA Worksheet on page 3 to figure the taxable capital gain part of NUA if you make the election to include NUA in your taxable income.

You may report the ordinary income portion of the distribution on Form N-15, line 16, Column A; or Form N-40, line 8; or you may elect to figure the tax using the 10-year tax option. The ordinary income portion is the amount from Form 1099-R, box 2a, minus the amount from box 3 of that form.

Net Unrealized Appreciation (NUA). — Normally, NUA in employer securities received as part of a lump-sum distribution is not taxable until the securities are sold. However, you can elect to include NUA in taxable income in the year received.

The total amount to report as NUA should be shown in Form 1099-R, Box 6. Part of the amount in Box 6 will qualify for capital gain treatment if there is an amount in Form 1099-R, Box 3, and you elect to include the NUA in current income.

To figure the total taxable amount subject to capital gain treatment including the NUA, complete the NUA Worksheet on page 3.

See the **Specific Instructions** for more information on line entries.

Specific Instructions

Name of Recipient of Distribution and Identifying Number. — At the top of Form N-152, fill in the name and identifying number of the recipient of the distribution.

If you received more than one qualifying distribution in 2008 for the same plan participant, add them and figure the tax on the total amount. If you received qualified distributions in 2008 for more than one participant, file a separate Form N-152 for the distributions of each participant.

If you and your spouse are filing a joint return and each has received a lump-sum distribution, complete and file a separate Form N-152 for each spouse's election, and combine the tax on Form N-11, line 26; or Form N-15, line 44.

If you are filing for a trust that shared the distribution only with other trusts, figure the tax on the total lump sum first. The trusts then share the tax in the same proportion that they shared the distribution.

If the distribution is made to more than one beneficiary, follow the instructions under **Multiple Recipients of a Lump-Sum Distribution** on page 4.

Part I

Line 2.— Income received as a pension for past services is not subject to Hawaii income tax. Only that portion of a retirement or profit-sharing plan that is received because of your retirement or the death of the employee and is paid for by the employer is considered a pension for this purpose. If you did not contribute to the cost of the plan, i.e., your employer paid the entire cost, check "Yes" on line 2. No part of the distribution is subject to Hawaii income tax. Do not complete the rest of the form. If you paid part of the cost of the plan and your employer paid part of the cost, that portion considered to have been paid by your employer is a pension. The portion that you are considered to have paid is not a pension and is subject to Hawaii income tax. If you paid part of the cost of your plan, check "No" on line 2. You will need to complete Schedule J (Form N-11/N-15/N-40) to determine the taxable portion of your distribution.

Complete Schedule J (Form N-11/N-15/N-40) If you qualify to use this form, you will need to complete Schedule J to determine the taxable portion of your distribution. If you elect to include NUA in taxable income, include the amount from Box 6 of federal Form 1099-R in the amount on Schedule J (Form N-11/N-15/N-40), line 1.

Part II

See **Capital Gain Election** on page 2 before completing Part II.

Line 9. — Leave this line blank if your distribution does not include a capital gain amount, **or** you do not make the capital gain election. Go to Part III.

To **make** the capital gain election enter on line 9 the entire capital gain amount from Form 1099-R, Box 3. However, if you elect to include NUA in your taxable income, enter on line 9 the amount from line G of the NUA Worksheet on this page instead of the amount from Form 1099-R, Box 3. On the dotted line to the left of the entry space for line 9, write "NUA" and the amount from line E of the NUA Worksheet.

To **make** the capital gain election when you **are taking a death benefit exclusion** (for a participant who died before August 21, 1996), figure the amount to enter on line 11 using the **Death Benefit Worksheet** on this page.

The remaining allowable death benefit exclusion should be entered on line 16 if you choose the 10-year tax option.

If any federal estate tax was paid on the lump-sum distribution, you must decrease the capital gain amount by the amount of estate tax applicable to it. To figure the amount, multiply the total federal estate tax paid on the lump-sum distribution by the decimal amount from line E of the Death Benefit Worksheet. The re-

sult is the portion of the federal estate tax applicable to the capital gain amount. Subtract that amount from the capital gain amount from line H of the Death Benefit Worksheet, and enter the result on line 11. If you elected to include NUA in taxable income, subtract the portion of federal estate tax applicable to the capital gain amount from the amount on line G of the NUA Worksheet. Enter the result on line 11. Enter the remainder of the federal estate tax on line 26.

Note: *If you take the death benefit exclusion AND federal estate tax was paid on the capital gain amount, the capital gain amount must be reduced by both the above procedures to figure the correct entry for line 11.*

Line 11. — Multiply the amount on line 9 by the factor on line 10. Enter this amount here. Form N-11 filers, enter this amount on the **Form N-11 Filers Worksheet**, line A, on page 4.

Lines 12a through 12k. — **Before** completing lines 12a through 12k, complete Part III, lines 14 through 17, even if you do not elect to use Part III.

Part III

Line 14.— Enter the amount from Schedule J (Form N-11/N-15/N-40), line 20. If you have elected to include NUA in your

NUA Worksheet (keep for your records)

Do not complete if you do not make a capital gain election

- A. Enter the amount from Form 1099-R, Box 3 **A.** _____
- B. Enter the amount from Form 1099-R, Box 2a **B.** _____
- C. Divide line A by line B and enter the result as a decimal (rounded to at least three places) **C.** _____
- D. Enter the amount from Form 1099-R, Box 6 **D.** _____
- E. Multiply line C by line D and enter the result (NUA subject to capital gain treatment) **E.** _____
- F. Subtract line E from line D (NUA that is ordinary income) **F.** _____
- G. Add lines A and E (total part of distribution that can receive capital gain treatment). Enter the total here and on Form N-152, Part II, line 9 **G.** _____

On the dotted line next to line 9, write "NUA" and the amount from line E above.

Death Benefit Worksheet (keep for your records)

- A. Enter the capital gain amount from Form 1099-R, Box 3. If you elected to include NUA in taxable income, enter the amount from line G of the NUA Worksheet **A.** _____
- B. Enter the factor from Schedule J, line 16. **B.** _____
- C. Multiply line A by line B. **C.** _____
- D. Enter the amount from Schedule J, line 20. **D.** _____
- E. Divide line C by line D and enter the result as a decimal (rounded to at least three places) **E.** _____
- F. Enter your share of the death benefit exclusion* **F.** _____
- G. Multiply line F by line E **G.** _____
- H. Subtract line G from line C. Enter the result here and on Form N-152, Part II, line 11. Write "DBE" in the amount space for line 9. . **H.** _____

* Applies only for participants who died before August 21, 1996. If there are multiple recipients of the distribution, the \$5,000 maximum death benefit exclusion must be allocated among the recipients in the same proportion that they share the distribution.

taxable income, write "NUA" on the dotted line to the left of line 14.

Line 15.— If you made the capital gain election, subtract line 11 from line 14.

Line 16.— If you received the distribution because of the plan participant's death, and the participant died before August 21, 1996, you may be able to exclude up to \$5,000 of the lump sum from your gross income. If you are filing for a trust and the trust shared the lump-sum with other trusts, it will share the exclusion in the same proportion as it shared the distribution. This exclusion applies to the beneficiaries or estates of common-law employees, self-employed individuals, and shareholder-employees who owned more than 2% of the stock of an S corporation. Federal Publication 939 gives more information about the death benefit exclusion.

Enter the death benefit exclusion on line 16. But see the instructions for line 9, if you made a capital gain election.

Line 26.— A beneficiary who receives a lump-sum distribution because of a plan participant's death must reduce the taxable part of the distribution by any federal estate tax paid on the lump-sum distribution. The reduction is made by entering on line 26 the federal estate tax attributable to the lump-sum distribution. Also, see the instructions for line 9 if you made a capital gain election.

Part III, Lines 32 and 35.— Use the TAX RATE SCHEDULE FOR 10-YEAR TAX OPTION, which is printed on page 2

of Form N-152 to complete lines 32 and 35.

Multiple Recipients of a Lump-Sum Distribution.— If you shared a lump-sum distribution from a qualified retirement plan when not all recipients were trusts (a percentage will be shown in Boxes 8 and/or 9a, Form 1099-R), figure your tax on Form N-152 as follows:

Step 1.— Complete Parts I and II of Form N-152.

Step 2.— Use this step **only** if you **do not elect to include NUA** in your taxable income or if you do not have NUA. If you elect to include NUA in taxable income, skip Step 2 and go to Step 3. (Box numbers used below are all from Form 1099-R)

(a) If you do not make the capital gain election, divide the amount shown on Schedule J (Form N-11/N-15/N-40), line 20 by your percentage of distribution shown in Box 9a. Enter this amount on Form N-152, line 14.

(b) If you make the capital gain election, subtract the amount on line 11 from the amount on Schedule J (Form N-11/N-15/N-40), line 20. Divide the result by your percentage of distribution shown in Box 9a. Enter the result on Form N-152, line 14.

(c) Divide the amount shown in Box 8 by the percentage shown in Box 8. Enter the result on Form N-152, line 18.

Step 3.— Use this step **only** if you **elect to include NUA** in your taxable income. (Box numbers used below are all from Form 1099-R.)

(a) If you do not make the capital gain election, add the amount on Schedule J (Form N-11/N-15/N-40), line 20 to the amount shown in Box 6. Divide the result by your percentage of distribution shown in Box 9a. Enter the result on Form N-152, line 14.

(b) If you make the capital gain election, subtract the amount on line 11 from the amount on Schedule J (Form N-11/N-15/N-40), line 20. Add to the result the amount from line F of your NUA Worksheet. Then divide the total by your percentage of distribution shown in Box 9a. Enter the result on Form N-152, line 14.

(c) Divide the amount shown in Box 8 by the percentage shown in Box 8. Enter the result on Form N-152, line 18.

Step 4.— Complete Form N-152, Part III, through line 36.

Step 5.— Complete the **Multiple Recipient Distribution Worksheet** below to figure the entry for line 37.

Form N-11 Filers Worksheet (keep for your records)

- A. Enter the amount from Form N-152, line 11. **A.** _____
- B. Enter the taxable ordinary income portion of the distribution **B.** _____
- C. Add lines A and B. **C.** _____
- D. Enter the amount, if any, from federal Form 1040, line 16b, which is attributable to any taxable income which could have been reported on federal Form 4972. **D.** _____
- E. Compare lines C and D. If line C is **larger** than line D, enter the Hawaii Additional Taxable amount (line C minus line D) here and on your *Hawaii Additions Worksheet*, line i, on page 35 of the N-11 Instructions. **E.** _____
- F. Compare lines C and D. If line C is **smaller** than line D, enter the Hawaii Nontaxable amount (line D minus line C) here and on your *Hawaii Subtractions Worksheet*, line m, on page 35 of the N-11 Instructions. **F.** _____

Multiple Recipient Worksheet (keep for your records)

- A. Enter your percentage of distribution from Form 1099-R, Box 9a. . . **A.** _____
- B. Form N-152, line 33 minus line 36. **B.** _____
- C. Multiply line A by the amount on line B. Enter the amount here and on Form N-152, line 37. Also, write "MRD" on the dotted line next to the entry space. This amount is in place of the amounts originally obtained by completing Step 4. **C.** _____