IRC Section 402(e)(4)(B)

Election to Include Net Unrealized Appreciation of Employer Securities From Lump-Sum Distribution in Gross Income

Overview

Distributions from qualified plans are generally taxed according to the rules of §72. However, §402(e)(4)(B) provides a specific rule that net unrealized appreciation attributable to employer contributions on employer securities received in a lump sum distribution shall be excluded from the distributee's gross income. Pursuant to §402(e)(4)(B), the recipient of a lump sum distribution from an employer's qualified plan may elect to include such net unrealized appreciation in gross income.

While there are many specific rules related to the determination of and application of net unrealized appreciation of employer securities, it is generally defined as the difference between the aggregate fair market value of the securities (netting appreciated and depreciated securities) on the date of distribution and the adjusted basis of the securities to the trust.

If the election is made, the additional amount included in gross income will also be eligible for any special application of the lump sum distributions rules that may be made by the taxpayer (e.g., five-year or ten-year averaging).

When to File

The election is made by attaching a signed statement to the taxpayer's income tax return (or amended return) for the year in which the distribution is received, and by including the net unrealized appreciation as part of the distribution on Form 4972, or, if no Form 4972 if filed, on line 16 of Form 1040. The election must be made no later than the due date, including extensions, of the taxpayer's return for such year.

Where to File

The election statement is attached to the taxpayer's timely filed return, which is mailed to the designated Internal Revenue Service Center.

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1. Code Section: 402

2. Topic: Gross Income

3. Return Type: 1040

Authorities

IRC §402(e)(4)(B); IRS Notice 89-25, Q&A 1