

2007 Instructions for Form 8915
Qualified Hurricane Retirement Plan Distributions and Repayments

Purpose: This is the first circulated draft of the 2007 Instructions for Form 8915 for your review and comments. See below for a discussion of the major changes.

TPCC Meeting: None, but one may be arranged if requested.

Prior Version: The 2006 Instructions for Form 8915 are available at:
<http://www.irs.gov/pub/irs-pdf/i8915.pdf>

Form: The 2007 Form 8915 was circulated earlier at:
http://taxforms.web.irs.gov/Products/Drafts/2007-2/07f8915_d1.pdf

Other Products: Circulations of draft tax forms, instructions, notices, and publications are posted at:
http://taxforms.web.irs.gov/draft_products.html

Comments: Please email, fax, call, or mail any comments by **September 4, 2007**.

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Major Changes to the 2007 Instructions for Form 8915

- Qualified hurricane distributions cannot be made after 12/31/2006. Part I, *Total Distributions From All Retirement Plans (including IRAs)*, was deleted from the 2007 Form 8915 and references to Part I are deleted throughout the instructions. (IRC 1400Q).
- A caution was added on page 1 stating that qualified hurricane distributions cannot be taken after 2006.
- Part II, *Qualified Hurricane Distributions From Retirement Plans (other than IRAs)* was renumbered and is now Part I.
- Part III, *Qualified Hurricane From Traditional, SEP, SIMPLE, and Roth IRAs* was renumbered and is now Part II.
- Line references were updated to conform to line changes on Form 8915.
- Year references were updated as appropriate.



Instructions for Form 8915

Qualified Hurricane Retirement Plan Distributions and Repayments

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

General Instructions

Purpose of Form

Use Form 8915 if you were adversely affected by Hurricane Katrina, Rita, or Wilma, and you received a distribution that qualifies for favorable tax treatment.

Parts I and II

Use Parts I and II to:

- Report any repayments of qualified hurricane distributions, and
- Figure the taxable amount, if any, of your qualified hurricane distributions.

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

Additional Information

See Pub. 4492, Information For Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma, for more details.

Who Must File

File Form 8915 if any of the following apply.

- You received a qualified hurricane distribution from an eligible retirement plan in 2006 that you are including in income in equal amounts over 3 years.
- You received a qualified hurricane distribution from an eligible retirement plan in 2005 that you are including in income in equal amounts over 3 years.
- You made a repayment of a qualified hurricane distribution in 2007.

When and Where to File

File Form 8915 with your 2007 Form 1040, 1040A, or 1040NR. If you are not required to file an income tax return but are required to file Form 8915, sign Form 8915 and send it to the Internal Revenue Service at the same time and place you would otherwise file Form 1040, 1040A, or 1040NR.

How is a Qualified Hurricane Distribution Taxed?

Generally, a qualified hurricane distribution is included in your income in equal amounts over 3 years. However, you could have elected to include the entire distribution in your income in the year of the distribution. 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 hurricane distributions are not subject to the additional 10% tax on early distributions.



You cannot take a qualified hurricane distribution after 2006.

Qualified Hurricane Distribution

A qualified hurricane distribution is any distribution you received in 2005 or 2006 from an eligible retirement plan if both of the following conditions were met.

1. Your main home was located in a hurricane disaster area listed below on the date shown for that area.
 - a. August 28, 2005, for the Hurricane Katrina disaster area. For this purpose, that area includes the states of Alabama, Florida, Louisiana, and Mississippi.
 - b. September 23, 2005, for the Hurricane Rita disaster area. For this purpose, that area includes the states of Louisiana and Texas.
 - c. October 23, 2005, for the Hurricane Wilma disaster area. For this purpose, that area includes the state of Florida.
2. You sustained an economic loss because of Hurricane Katrina, Rita, or Wilma, and your main home was in that hurricane disaster area on the date in (1) above for that hurricane. Examples of an economic loss include, but are not limited to (a) loss, damage to, or destruction of real or personal property from fire, flooding, looting, vandalism, theft, wind, or other cause; (b) loss related to displacement from your home; or (c) loss of livelihood due to temporary or permanent layoffs.

If (1) and (2) applied, you can generally designate any distribution in 2005 or 2006 (including periodic payments and required minimum distributions) from an eligible retirement plan as a qualified hurricane distribution, regardless of whether the distribution was made on account of Hurricane Katrina, Rita, or Wilma. Qualified hurricane distributions are permitted without regard to your need or the actual amount of your economic loss.

A reduction or offset in 2005 or 2006 of your account balance in an eligible

retirement plan in order to repay a loan could have also been designated as a qualified hurricane distribution. See *Distribution of plan loan offsets* below.

Limit. The total of your qualified hurricane distributions for 2005 and 2006 from all plans is limited to \$100,000. If you have distributions in excess of \$100,000 from more than one type of plan, such as a 401(k) plan and an IRA, you may allocate the \$100,000 limit among the plans any way you choose.

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 does not comply with the terms of repayment. Plan loan offsets are treated as actual distributions and are reported on 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, will not change your main home.

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

Note. If you chose to treat a distribution as a qualified hurricane 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 Hurricane Distribution

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

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 qualified rollover 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 qualified rollover.

Note. If a taxpayer who had previously received a qualified hurricane distribution died in 2007, the distribution may no longer be spread over 3 years. The remainder of the distribution (including any remaining amounts from 2005 or 2006) must be reported on the return of the deceased taxpayer.

Include on Form 8915 any repayments you make before filing your 2007 return. Any repayments you make will reduce the amount of qualified hurricane distributions reported on your return for 2007. Do not include on your 2007 Form 8915 any repayments you make later than the due date (including extensions) for filing your 2007 return. If you make a repayment in 2008 after you file your 2007 return, the repayment will reduce the amount of your qualified hurricane distributions included in income on your 2008 return, unless you are eligible to amend your 2005, 2006, or 2007 return. See *Amending Form 8915* later. Also, any excess repayments you make for 2007 will be carried forward to your 2008 return or, if you choose, carried back to your 2005 or 2006 return if applicable.

Also file Form 8606 to report any repayment of a nondeductible contribution to a traditional IRA on line 1 of Form 8606. If you make a repayment of a previously deductible contribution to a traditional IRA, do not file Form 8606 solely because of such repayment. If you make a repayment to a Roth IRA, see Pub. 590 to figure your basis.

Exceptions. You cannot repay the following types of distributions.

1. Qualified hurricane distributions received as a beneficiary (other than a surviving spouse).
2. Required minimum distributions.
3. Periodic payments (other than from an IRA) that are for:
 - a. A period of 10 years or more,
 - b. Your life or life expectancy, or
 - c. The joint lives or life expectancies of you and your beneficiary.

Amending Form 8915

If, after filing your original return, you make a repayment, the repayment may reduce the amount of your qualified hurricane 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 original return (including extensions), include the repayment on your amended 2007 Form 8915.

If you make a repayment after the due date of your original return (including extensions), include the repayment on your 2008 Form 8915. However, you may file an amended Form 8915 for 2005, 2006, or 2007 if either of the following applies.

- You elected to include all of your qualified hurricane distributions in income (instead of over 3 years) on your original return.
- The amount of the repayment exceeds the amount of your qualified hurricane distributions that are included in income for 2008 and you choose to carry the excess back to your 2005, 2006, or 2007 tax return. See the example below.

Example. You received a qualified hurricane distribution in the amount of \$90,000 on January 15, 2006. You choose to spread the \$90,000 over 3 years (\$30,000 in income for 2006, 2007, and 2008). On November 19, 2007, you make a repayment of \$45,000. For 2007, none of the qualified hurricane distribution is included in income. The excess repayment of \$15,000 (\$45,000 – \$30,000) could have been carried back to 2006 or you could have elected to carry it forward to 2008.

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

Specific Instructions

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. If both you and your spouse are required to file Form 8915, file a separate Form 8915 for each of you. If you and your spouse are both filing Forms 8915, the \$100,000 limit on qualified hurricane distributions and the election to include all qualified hurricane distributions in income are determined separately for each spouse.

Part I—Qualified Hurricane Distributions From Retirement Plans (other than IRAs)

Complete Part I if any of the following apply.

- You had an amount on your 2005 Form 8915, line 9, and you did not check the box on that line.
- You had an amount on your 2006 Form 8915, line 11, and you did not check the box on that line.
- You made a repayment of a qualified hurricane distribution.

Line 7

At any time during the 3-year period after the date you received a qualified hurricane distribution, you can repay any portion of the distribution to an eligible retirement plan that is permitted to accept rollover contributions. You cannot, however, repay more than the amount of the original distribution. See *Repayment of a Qualified Hurricane Distribution* on this page for details.

Enter on line 7 the amount of any repayments you made before filing your 2007 return. Do not include any repayments made later than the due date (including extensions) for that return. If you repaid more than the amount on line 3 (including any excess repayments from 2006 on line 6), the excess will be carried forward to your 2008 tax return. Repayments made after the due date of your 2007 return (including extensions) generally will be reported on your 2008 tax return. However, you may have to file an amended return in certain situations. See *Amending Form 8915* on this page.

Example. You received a \$90,000 qualified hurricane distribution on January 7, 2006, from your 401(k) plan because of Hurricane Wilma. On April 1, 2008, you repay \$30,000 to an IRA. You file your return on April 10, 2008. 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 7.

Part II—Qualified Hurricane Distributions From Traditional, SEP, SIMPLE, and Roth IRAs

Complete Part II if any of the following apply.

- You had an amount on your 2005 Form 8915, line 17, and you did not check the box on that line.
- You had an amount on your 2006 Form 8915, line 26, and you did not check the box on that line.
- You made a repayment of a qualified hurricane distribution.

Line 16

At any time during the 3-year period after the date you received a qualified hurricane distribution, you can repay any portion of the distribution to an eligible retirement plan that is permitted to accept rollover contributions. You cannot, however, repay more than the amount of the original distribution. See *Repayment of a Qualified Hurricane Distribution* on page 2 for details.

Enter on line 16 the amount of any repayments you made before filing your 2007 return. Do not include any repayments made later than the due date (including extensions) for that return. If you repaid more than the amount on line 12 (including any excess repayments from 2006 on line 15), the excess will be carried forward to your 2008 tax return.

Repayments made after the due date of your 2007 return (including extensions) generally will be reported on your 2008 tax return. However, you may have to file an amended return in certain situations. See *Amending Form 8915* on page 2.

Example. You received a \$60,000 qualified hurricane distribution on February 1, 2006, from your Roth IRA because of Hurricane Katrina. On April 1, 2008, you repay \$30,000 to your Roth IRA. You file your return on April 10, 2008. 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 16.

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. The reason we need your social security number is to secure proper identification in order to

gain access to the tax information in our files to properly process the form.

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, and the District of Columbia 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.
