

**SPECIAL CAPITAL GAINS/EXTRAORDINARY DIVIDEND  
ELECTION AND COMPUTATION**

- Attach a copy of Federal Schedule D or other appropriate federal documentation.
- Attach this page to Form 1040N or 1041N.

Your Name as Shown on Form 1040N

Social Security Number

**READ THIS BEFORE YOU BEGIN:**

**EMPLOYEES**

1. Complete Part I to make this election (Skip Part I if the election has previously been made).
2. Complete Part II to calculate the exclusion.

**SPOUSE OR OLDEST ISSUE (DIRECT DESCENDENT OF THE EMPLOYEE) RECEIVING STOCK AS A GIFT (See definitions below)**

1. Complete Part III to determine if you qualify.
2. Complete Part I (Skip Part I if the election has previously been made).
3. Complete Part II to calculate the exclusion.

**NOTE:** Complete and attach two separate **Part II Income Exclusion** calculations if filing to exclude both capital gains and extraordinary dividends received. Add the allowable exclusion amounts from line 14 of each calculation and enter on the appropriate line of Form 1040N or Form 1041N.

**PART I ELECTION**

• Complete this part to make the Special Capital Gains/Extraordinary Dividend Election.

Name of the Employee Who Originally Acquired the Stock

Employee's Social Security Number

**1** Have you (or another qualified individual on behalf of the employee) made a previous special capital gains/extraordinary dividend election?  
 YES  NO  
**If Yes,** do not complete the remainder of Part I. Instead, attach a copy of the previous election (Form 4797N), enter the tax year election was made (\_\_\_\_), and complete Part II.  
**If No,** complete the remainder of Part I to make the election.

**2** Complete the statement below by checking the applicable box.  
I am the:  Employee  Surviving Spouse  Oldest Issue  
If you checked Employee, you qualify to make the election. Complete the rest of Part I and Part II.  
If you checked Surviving Spouse or Oldest Issue, complete Part III to see if you qualify to make the election (see instructions).

**3** Was the stock acquired by the employee because of employment by the issuing corporation, or while employed by the issuing corporation?  
 YES  NO

**4** Name of the corporation issuing the stock:  
  
**6** Has this corporation conducted business in Nebraska for three years before the first sale or exchange of stock or declaration of extraordinary dividend?  
 YES  NO

**5** Description of the stock:

**7** Was the corporation a publicly traded corporation?  
 YES  NO  
If No, answer questions 8 and 9. If Yes, skip to signature.

**8** How many shareholders did the corporation have before the first sale or exchange of stock or declaration of extraordinary dividend?  
  
If less than 5 shareholders, STOP. You do not qualify for the election.

**9** Did a shareholder, or group of related shareholders, hold more than 90% of the stock at the time of the first sale or exchange of stock or declaration of extraordinary dividend?  
 YES  NO  
If you answered Yes, STOP. You do not qualify for the election.

I hereby elect to receive the special capital gains/extraordinary dividend treatment provided under Neb. Rev. Stat. § 77-2715.09, and declare under penalties of perjury that to the best of my knowledge and belief, the capital stock described above qualifies for the special capital gains/extraordinary dividend election.

**sign  
here** ▶

Signature of Employee, Surviving Spouse, or Oldest Issue Making this Election

Date

## PART II INCOME EXCLUSION

• This part is to be completed if you are claiming an exclusion from income for Nebraska purposes.

**SPECIAL NOTE: If you are not the employee, you must have received the stock as a gift from the employee in order for the stock to qualify for the exclusion. If you are the spouse or issue of the employee, or a trust for the benefit of the spouse, or child, or grandchild, and received the qualified stock as a gift from the employee, FIRST COMPLETE PART III of this form to determine if the sale of stock or receipt of an extraordinary dividend qualifies for the income exclusion.**

Name of the stock owner at the time of first sale or exchange of stock or declaration of extraordinary dividend \_\_\_\_\_

If you are not the employee, was the stock a gift from the employee?

YES  NO      If No, STOP. You do not qualify for the election.

1 Name of the corporation issuing the stock \_\_\_\_\_

2 Description of the stock \_\_\_\_\_

3 Name of the employee who originally acquired the stock \_\_\_\_\_

4 Employed by the qualified corporation

from: \_\_\_\_\_ to: \_\_\_\_\_  
Month/Day/Year                      Month/Day/Year

5 Period of time the stock was acquired by the employee

from: \_\_\_\_\_ to: \_\_\_\_\_  
Month/Day/Year                      Month/Day/Year

6 Your relationship to the employee \_\_\_\_\_

7 The election to designate stock for the income exclusion was made by (see instructions):

\_\_\_\_\_  
Name of person making the election or who previously made the election

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Year the Election Was Made

8 Sales price of the stock (attach Federal Schedule D and other federal documentation). If filing to exclude an extraordinary dividend, enter the fair market value of the stock on the date the dividend was declared. Enter the amount of the extraordinary dividend on line 10, and attach Federal Schedule B. <input type="checkbox"/> Check this box if you are claiming an extraordinary dividend exclusion. . . . .	8		
9 Cost or other basis in stock . . . . .	9		
10 Enter capital gains on sales of qualifying stock during this year (line 8 minus line 9). If filing for an extraordinary dividend: a Enter on line 10 the amount of the extraordinary dividend received. b Divide line 10 by line 8. c If result is .20 or greater, enter the amount from line 10 on line 14, and skip lines 11 through 13. If the result is less than .20, STOP. You do not qualify for the exclusion. . . . .	10		
11 Capital gains exclusion deferred from a prior year. If claiming an extraordinary dividend exclusion, enter zero (-0-). . . . .	11		
12 Total capital gains available for exclusion (line 10 plus line 11) . . . . .	12		
13 Limitation on capital gains exclusion (see instructions) . . . . .	13		
14 Allowable capital gains (smaller of line 12 or line 13). If filing to exclude an extraordinary dividend, enter the line 10 amount (see line 10 instructions). Enter here and on line 54, Nebraska Schedule I. Partial-year residents – do not include this amount on line 66, Schedule III, Form 1040N . . . . .	14		
15 Capital gains exclusion deferred to next year (line 12 minus line 14). If claiming an extraordinary dividend exclusion, enter zero (-0-) . . . . .	15		

## GENERAL INSTRUCTIONS

### DEFINITIONS

**CAPITAL STOCK** is common or preferred stock and may be either voting or nonvoting. Capital stock does not include stock rights, stock warrants, stock options, debt securities, or cash distributions from employee stock ownership plans.

**EMPLOYEE** is the individual who obtained the capital stock of a qualified corporation either: (1) because of employment by the corporation; or (2) while employed by the corporation.

**EXTRAORDINARY DIVIDEND** means any dividend that is more than 20 percent of the fair market value of the related stock on the date the dividend is declared.

**NON-QUALIFIED STOCK** is stock received through the creation or purchase of a corporation by an investor who is not an employee, or for services performed for a corporation by a non-employee, and does not qualify for this election. Stock that was inherited or transferred through a testamentary trust also does not qualify for this election.

**OLDEST ISSUE** is the oldest direct descendant of the employee, e.g., child or grandchild.

**QUALIFIED CORPORATION** is any corporation which (at the time of the first sale or exchange of capital stock or declaration of extraordinary dividend on capital stock for which the election is made):

1. Has been in existence and actively doing business in Nebraska for at least three years; and
2. Has at least five shareholders; and
3. Has at least two shareholders or groups of shareholders who are not related to each other and each of which owns at least 10% of the stock.

### PART I — INSTRUCTIONS

An individual making this special capital gains/extraordinary dividend election must complete Part I. Attach this completed form, or a copy of your previous election, to your Nebraska Individual Income Tax Return, Form 1040N.

This irrevocable, one-time election may be made by any **full-year resident individual** who obtained the capital stock of a qualified corporation because of employment by the corporation, or while employed by the corporation. Partial-year residents may also make the election if they sell the stock or receive the extraordinary dividend while living in Nebraska.

If the employee died without making the election, the surviving spouse, or if no surviving spouse, the oldest surviving issue (e.g., child, grandchild) may make the election provided the election could have been made by the employee.

If you are not the employee, use Part III to determine if you qualify to make the election.

### SPECIFIC INSTRUCTIONS

**Once the election is made, the following transactions for this corporation qualify for the income exclusion:**

1. Future sales and exchanges of the qualifying stock or receipts of extraordinary dividends in any taxable year.
2. Sales and exchanges or receipts of extraordinary dividends relating to stock owned by a spouse or issue received as a gift, including a gift in trust from the employee during his or her lifetime.

**NOTE:** The gain on the sale of stock or extraordinary dividend received by other trusts, partnerships, or other entities cannot be excluded even though it is reported on the employee's individual income tax return.

**MAXIMUM EXCLUSION.** The amount to be excluded cannot be more than the amount of the capital gain or dividend reported on your federal return.

**Attach a copy of your Federal Schedule D, Federal Schedule B, or other appropriate federal documentation. If the gain results from an installment sale, you must attach a copy of Federal Form 6252.**

### PART II — INSTRUCTIONS

#### SPECIAL INSTRUCTIONS

If a joint return is being filed and both spouses are reporting a special capital gains exclusion, file a separate Form 4797N for each spouse and complete all appropriate lines through Part II, line 7. Complete lines 8 through 15 on only one of the Forms 4797N using the combined information for both spouses. On the other Form 4797N write, "Exclusion calculation on other form." A separate calculation, lines 8 through 15, is required for each extraordinary dividend exclusion.

**LINE 1.** If the name of the corporation which issued the stock is different than the corporation name appearing on line 4 of the Part I Election, attach an explanation as to how the corporations are related, and why the gain or dividend being excluded qualifies for the income exclusion.

**LINE 2.** Enter the description of the capital stock. For example, "100 shares of seven percent preferred voting stock."

**LINE 5.** If the date the stock was acquired is not during employment dates, attach an explanation of how stock was acquired because of employment or while employed by the corporation.

**LINE 7.** If the election is being made on this return, enter the phrase “See Part I”. If an election was previously made, attach a copy of the Form 4797N where the election was previously made either by you or the qualified person. If the election was not made by the employee, include both Part I and Part III from the year the election was made.

**LINE 8.** Enter the sales price of the stock as shown on your Federal Schedule D (or Form 1099-B). If a broker advised you that the gross proceeds (gross sales price) less commission and option premium were reported to the Internal Revenue Service, enter the net amount on line 8. Do not include the commission and option premium on line 9. If filing to exclude an extraordinary dividend, enter the fair market value of the stock on the dividend declaration date.

**LINE 9.** In general, the “cost or other basis” is the cost of the stock as shown on your Federal Schedule D. If you do not use cash cost as a basis, attach an explanation of your basis.

When selling stock, adjust your basis by subtracting all the nontaxable distributions you received before the sale. Also, adjust your basis for any stock splits.

Increase your basis by any expenses of sale such as a broker’s fee, commission, and option premium before making an entry on line 9, unless net sales price was reported on line 8.

**LINE 10.** Enter the amount of the capital gains on qualified stock transactions this year.

1. Distributions considered ordinary income or reported on Form W-2, and not on Schedule D, do not qualify.
2. Losses on the qualifying stock must be netted against gains on the qualifying stock to determine the amount to enter on line 10.

For the extraordinary dividend exclusion to be eligible, the dividend must be more than 20% of the fair market value of the stock on the dividend declaration date.

**LINE 11.** Enter the amount of the qualified gain on transactions in prior years that was carried forward.

**LINE 13.** If line 13, Federal Form 1040, or line 4, Federal Form 1041, is a capital gain, add that amount to \$3,000 (\$1,500 if married, filing separately). Enter the result on line 13 of this form. If the amount is a capital loss, enter \$3,000 (\$1,500 if married, filing separately) less the amount of the loss.

**Caution:** The amount on line 13 of this form cannot be:

1. Less than zero; or
2. Greater than Tax Table Income, line 14 from Form 1040N, without the exclusion.

**LINE 15.** If line 12 is more than line 14 on this form, subtract line 14 from line 12. This is the qualified gain that may be carried over and excluded in future years. If line 12 is less than line 14, or if filing to exclude an extraordinary dividend, enter zero (-0-).

## PART III NON-EMPLOYEE QUALIFICATION

• If you are not the employee, complete this part to see if you qualify to make the Election and/or claim the Income Exclusion.

### INSTRUCTIONS

Answer **only** the questions that apply to you. If none of the questions apply to your individual situation, contact the Nebraska Department of Revenue, Taxpayer Assistance at (800) 742-7474 (toll free in NE and IA), or (402) 471-5729.

If a trust, the beneficiary(ies) must answer the questions.

**Note: Stock that was inherited or transferred through a testamentary trust does not qualify for this election.**

<p><b>1</b> Has the employee previously made a special capital gains/extraordinary dividend election for this stock?</p> <p style="text-align: center;"><input type="checkbox"/> YES      <input type="checkbox"/> NO</p> <p><b>If Yes,</b> answer Question 2. <b>If No,</b> answer Question 4.</p>	<p><b>6</b> Were you married to the employee on the date of sale/exchange of stock or declaration of extraordinary dividend; or on the date of the employee's death, whichever was earlier?</p> <p style="text-align: center;"><input type="checkbox"/> YES      <input type="checkbox"/> NO</p> <p><b>If Yes, STOP HERE.</b> You qualify for the income exclusion. Complete Part I; then complete Part II. <b>If No, STOP HERE.</b> You do not qualify for the election.</p>
<p><b>2</b> Relationship to employee (check only one):</p> <p style="text-align: center;"><input type="checkbox"/> Spouse      <input type="checkbox"/> Child or Other Issue</p> <p><b>If Spouse,</b> answer Question 3.</p> <p><b>If Child or Other Issue, STOP HERE.</b> You qualify for the income exclusion. Complete Part II and include a copy of the Form 4797N which has previously been filed by the employee.</p>	<p><b>7</b> Did the employee's spouse make the special capital gains/extraordinary dividend election?</p> <p style="text-align: center;"><input type="checkbox"/> YES      <input type="checkbox"/> NO</p> <p><b>If Yes, STOP HERE.</b> You qualify for the income exclusion. Complete Part II and include a copy of the Form 4797N which has previously been filed by the employee's spouse. <b>If No,</b> answer Question 8.</p>
<p><b>3</b> Were you married to the employee on the date of sale or exchange of stock or declaration of the extraordinary dividend?</p> <p style="text-align: center;"><input type="checkbox"/> YES      <input type="checkbox"/> NO</p> <p><b>If Yes, STOP HERE.</b> You qualify for the income exclusion. Complete Part II and include a copy of the Form 4797N which has previously been filed by the employee. <b>If No, STOP HERE.</b> You do not qualify for the election.</p>	<p><b>8</b> Is the employee's spouse still living?</p> <p style="text-align: center;"><input type="checkbox"/> YES      <input type="checkbox"/> NO</p> <p><b>If Yes, STOP HERE.</b> You do not qualify for the election. <b>If No,</b> answer Question 9.</p>
<p><b>4</b> Is the employee still living?</p> <p style="text-align: center;"><input type="checkbox"/> YES      <input type="checkbox"/> NO</p> <p><b>If Yes, STOP HERE.</b> You do not qualify for the election. <b>If No,</b> answer Question 5.</p>	<p><b>9</b> Are you the <b>oldest</b> surviving issue, e.g., child, grandchild?</p> <p style="text-align: center;"><input type="checkbox"/> YES      <input type="checkbox"/> NO</p> <p><b>If Yes, STOP HERE.</b> You may make the election by completing Part I; then complete Part II. <b>If No,</b> answer Question 10.</p>
<p><b>5</b> Relationship to employee (check only one):</p> <p style="text-align: center;"><input type="checkbox"/> Spouse      <input type="checkbox"/> Child or Other Issue, e.g., grandchild</p> <p><b>If Spouse,</b> answer Question 6. <b>If Child or Other Issue,</b> answer Question 7.</p>	<p><b>10</b> Did the employee's <b>oldest</b> surviving issue previously make the special capital gains/extraordinary dividend election?</p> <p style="text-align: center;"><input type="checkbox"/> YES      <input type="checkbox"/> NO</p> <p><b>If Yes, STOP HERE.</b> You qualify for the income exclusion. Complete Part II, and include a copy of Form 4797N which has previously been filed by the employee's oldest surviving issue. <b>If No, STOP HERE.</b> You do not qualify for the election.</p>