

*warrants* means rights to acquire common stock. The following examples illustrate the rules of paragraph (a) of this section:

*Example 1.* A, an individual, exchanged 100 shares of stock for 100 shares of stock and a security in the principal amount of \$1,000 with a fair market value of \$990. The amount of \$990 is treated as “other property.”

*Example 2.* B, an individual, exchanged 100 shares of stock and a security in the principal amount of \$1,000 for 300 shares of stock and a security in the principal amount of \$1,500. The security had a fair market value on the date of receipt of \$1,575. The fair market value of the excess principal amount, or \$525, is treated as “other property.”

*Example 3.* C, an individual, exchanged a security in the principal amount of \$1,000 for 100 shares of stock and a security in the principal amount of \$900. No part of the security received is treated as “other property.”

*Example 4.* D, an individual, exchanged a security in the principal amount of \$1,000 for 100 shares of stock and a security in the principal amount of \$1,200 with a fair market value of \$1,100. The fair market value of the excess principal amount, or \$183.33, is treated as “other property.”

*Example 5.* E, an individual, exchanged a security in the principal amount of \$1,000 for another security in the principal amount of \$1,200 with a fair market value of \$1,080. The fair market value of the excess principal amount, or \$180, is treated as “other property.”

*Example 6.* F, an individual, exchanged a security in the principal amount of \$1,000 for two different securities each in the principal amount of \$750. One of the securities had a fair market value of \$750, the other had a fair market value of \$600. One-third of the fair market value of each security (\$250 and \$200) is treated as “other property.”

*Example 7.* G, an individual, exchanged stock for stock and a warrant. The warrant had no principal amount. Thus, G received no excess principal amount within the meaning of section 356(d).

*Example 8.* H, an individual, exchanged a warrant for stock and a warrant. The warrants had no principal amount. Thus, H received no excess principal amount within the meaning of section 356(d).

*Example 9.* I, an individual, exchanged a warrant for stock and a debt security. The warrant had no principal amount. The debt security had a \$100 principal amount. I received \$100 of excess principal amount within the meaning of section 356(d).

[T.D. 6500, 25 FR 11607, Nov. 26, 1960, as amended by T.D. 7616, 44 FR 26869, May 8, 1979; T.D. 8752, 63 FR 410, Jan. 6, 1998; T.D. 8882, 65 FR 31078, May 16, 2000]

#### § 1.356-4 Exchanges for section 306 stock.

If, in a transaction to which section 356 is applicable, other property or money is received in exchange for section 306 stock, an amount equal to the fair market value of the property plus the money, if any, shall be treated as a distribution of property to which section 301 is applicable. The determination of whether section 306 stock is surrendered for other property (including money) is a question of fact to be decided under all of the circumstances of each case. Ordinarily, the other property (including money) received will first be treated as received in exchange for any section 306 stock owned by a shareholder prior to such transaction. For example, if a shareholder who owns a share of common stock (having a basis to him of \$100) and a share of preferred stock which is section 306 stock (having a basis to him of \$100) surrenders both shares in a transaction to which section 356 is applicable for one share of common stock having a fair market value of \$80 and one \$100 bond having a fair market value of \$100, the bond will be deemed received in exchange for the section 306 stock and it will be treated as a distribution to which section 301 is applicable to the extent of its entire fair market value (\$100).

#### § 1.356-5 Transactions involving gift or compensation.

With respect to transactions described in sections 354, 355, or 356, but which—

(a) Result in a gift, see section 2501 and following, and the regulations pertaining thereto, or

(b) Have the effect of the payment of compensation, see section 61(a)(1), and the regulations pertaining thereto.

#### § 1.356-6 Rules for treatment of non-qualified preferred stock as other property.

(a) *In general.* For purposes of §§ 1.354-1(e), 1.355-1(c), and 1.356-3(b), the terms *stock* and *securities* do not include—

(1) Nonqualified preferred stock, as defined in section 351(g)(2), received in exchange for (or in a distribution with respect to) stock, or a right to acquire