

**Internal Revenue Service, Treasury**

**§ 1.367(b)-13**

(B) On January 1, 2007, USP foreign corporations C and D merge into foreign corporation B in a reorganization described in section 368(a)(1)(A).

(ii) *Result.* Although the merger is a foreign section 381 transaction involving a foreign corporation with no property or tax attributes, paragraph (b) of this section does

not apply because more than one foreign corporation with significant tax attributes is involved in the foreign section 381 transaction. Accordingly, under §1.367(b)-7(d), foreign surviving corporation B has the following post-1986 undistributed earnings and post-1986 foreign income taxes immediately after the foreign section 381 transaction:

Separate Category	Earnings & profits		Foreign taxes	
	Positive E&P	Hovering deficit	Foreign taxes available	Foreign taxes associated with hovering deficit
General .....	1200u	(900u)	\$400	\$50
Passive .....	400u	(200u)	100	100
	1600u	(1100u)	500	150

(e) *Effective date.* This section shall apply to section 367(b) transactions that occur on or after November 6, 2006.

[T.D. 9273, 71 FR 44913, Aug. 8, 2006]

**§ 1.367(b)-12 Subsequent treatment of amounts attributed or included in income.**

(a) *In general.* This section applies to distributions with respect to, or a disposition of, stock—

(1) To which, in connection with an exchange occurring before February 23, 2000, an amount has been attributed pursuant to §7.367(b)-9 or 7.367(b)-10 of this chapter (as in effect prior to February 23, 2000, see 26 CFR part 1 revised as of April 1, 1999); or

(2) In respect of which, before February 23, 2000, an amount has been included in income or added to earnings and profits pursuant to §7.367(b)-7 or §7.367(b)-10 of this chapter (as in effect prior to February 23, 2000, see 26 CFR part 1 revised as of April 1, 1999).

(b) *Applicable rules.* See §7.367(b)-12(b) through (e) of this chapter (as in effect prior to January 11, 2001, see 26 CFR part 1 revised as of April 1, 2000) for purposes of applying paragraph (a) of this section.

(c) *Effective date.* This section applies to distributions or dispositions that occur on or after January 11, 2001.

[T.D. 8937, 66 FR 2257, Jan. 11, 2001]

**§ 1.367(b)-13 Special rules for determining basis and holding period.**

(a) *Scope and definitions—(1) Scope.* This section provides special basis and holding period rules to determine the basis and holding period of stock of certain foreign surviving corporations held by a controlling corporation whose stock is issued in an exchange under section 354 or 356 in a triangular reorganization. This section applies to transactions that are subject to section 367(b) as well as section 367(a), including transactions concurrently subject to sections 367(a) and (b).

(2) *Definitions.* For purposes of this section, the following definitions apply:

(i) A block of stock has the meaning provided in §1.1248-2(b).

(ii) The terms *P*, *S*, and *T* have the meanings set forth in §1.358-6(b)(1)(i), (ii), and (iii), respectively.

(iii) A triangular reorganization is a reorganization described in §1.358-6(b)(2)(i), (ii), or (iii), or (v) (a forward triangular merger, triangular C reorganization, reverse triangular merger, or triangular G reorganization, respectively).

(b) *Determination of basis for exchanges of foreign stock or securities under section 354 or 356.* For rules determining the basis of stock or securities in a foreign corporation received in a section 354 or 356 exchange, see §1.358-2.

(c) *Determination of basis and holding period for triangular reorganizations—(1) Application.* In the case of a triangular reorganization described in paragraph

(a)(2)(ii) of this section, this paragraph (c) applies, if—

(i)(A) Immediately before the transaction, either P is a section 1248 shareholder with respect to S, or P is a foreign corporation and a United States person is a section 1248 shareholder with respect to both P and S; and

(B) In the case of a reverse triangular merger, P's exchange of S stock is not described in § 1.367(b)-3(a) and (b) or in § 1.367(b)-4(b)(1)(i), (2)(i), or (3); or

(ii)(A) Immediately before the transaction, a shareholder of T is a section 1248 shareholder with respect to T, or a shareholder of T is a foreign corporation and a United States person is a section 1248 shareholder with respect to both such foreign corporation and T; and

(B) With respect to at least one of the exchanging shareholders described in paragraph (c)(1)(ii)(A) of this section, the exchange of T stock is not described in § 1.367(b)-3(a) and (b) or in § 1.367(b)-4(b)(1)(i), (2)(i), or (3).

(2) *Basis and holding period rules.* In the case of a triangular reorganization described in paragraph (c)(1) of this section, each share of stock of the surviving corporation (S or T) held by P must be divided into portions attributable to the S stock and the T stock immediately before the exchange. See paragraph (e) of this section *Examples 1* through *4* for illustrations of this rule.

(i) *Portions attributable to S stock—*(A) In the case of a forward triangular merger, a triangular C reorganization, or a triangular G reorganization, the basis and holding period of the portion of each share of surviving corporation stock attributable to the S stock is the basis and holding period of such share of stock immediately before the exchange.

(B) In the case of a reverse triangular merger, the basis and holding period of the portion of each share of surviving corporation stock attributable to the S stock is the basis and the holding period immediately before the exchange of a proportionate amount of the S stock to which the portion relates. If P is a shareholder described in paragraph (c)(1)(i)(A) of this section with respect to S, and P exchanges two or more blocks of S stock pursuant to the transaction, then each share of the sur-

viving corporation (T) attributable to the S stock must be further divided into separate portions to account for the separate blocks of stock in S.

(C) If the value of S stock immediately before the triangular reorganization is less than one percent of the value of the surviving corporation stock immediately after the triangular reorganization, then P may determine its basis in the surviving corporation stock by applying the rules of paragraph (c)(2)(ii) of this section to determine the basis and holding period of the surviving corporation stock attributable to the T stock, and then increasing the basis of each share of surviving corporation stock by the proportionate amount of P's aggregate basis in the S stock immediately before the exchange (without dividing the stock of the surviving corporation into separate portions attributable to the S stock).

(ii) *Portions attributable to T stock—*

(A) If any exchanging shareholder of T stock is described in paragraph (c)(1)(ii) of this section, the basis and holding period of the portion of each share of stock in the surviving corporation attributable to the T stock is the basis and holding period immediately before the exchange of a proportionate amount of the T stock to which such portion relates. If any exchanging shareholder of T stock is described in paragraph (c)(1)(i) of this section, and such shareholder exchanges two or more blocks of T stock pursuant to the transaction, then each share of surviving corporation stock attributable to the T stock must be further divided into separate portions to account for the separate blocks of T stock.

(B) If no exchanging shareholder of T stock is described in paragraph (c)(1)(ii) of this section, the rules of § 1.358-6 apply to determine the basis of the portion of each share of the surviving corporation attributable to T immediately before the exchange.

(d) *Special rules applicable to divided shares of stock—*(1) *In general—*(i) Shares of stock in different blocks are aggregated into one divided portion for basis purposes, if such shares immediately before the exchange are owned by one or more shareholders that are—

(A) Not section 1248 shareholders with respect to the corporation; or

(B) Foreign corporate shareholders, provided that no United States persons are section 1248 shareholders with respect to both such foreign corporate shareholders and the corporation.

(ii) For purposes of determining the amount of gain realized on the sale or exchange of stock that has a divided portion pursuant to paragraph (c) of this section, any amount realized on such sale or exchange will be allocated to each divided portion of the stock based on the relative fair market value of the stock to which the portion is attributable at the time the portions were created. See paragraph (e) *Example 5* of this section.

(iii) Shares of stock will no longer be required to be divided if section 1248 or section 964(e) would not apply to a disposition or exchange of such stock.

(2) *Pre-exchange earnings and profits.* All earnings and profits (or deficits) accumulated by a foreign corporation before the reorganization and attributable to a share (or block) of stock for purposes of section 1248 are attributable to the divided portion of stock with the basis and holding period of that share (or block). See § 1.367(b)-4(d).

(3) *Post-exchange earnings and profits.* Any earnings and profits (or deficits) accumulated by the surviving corporation subsequent to the reorganization are attributed to each divided share of stock pursuant to section 1248 and the regulations thereunder. The amount of earnings and profits (or deficits) attributable to a divided share of stock is further attributed to the divided portions of such share of stock based on the relative fair market value of each divided portion of stock. See paragraph (e) *Example 5* of this section.

(e) *Examples.* The rules of this section are illustrated by the following examples:

*Example 1. Blocks of stock exchanged in a triangular reorganization.* (i) *Facts.* (A) US1, a domestic corporation, owns all the stock of F1, a foreign corporation. F1 owns all the stock of FT, a foreign corporation, with 100 shares of stock outstanding. Each share of FT stock is valued at \$10x. Because F1 acquired the stock of FT at two different dates, F1 owns two blocks of FT stock for purposes of section 1248. The first block consists of 60 shares. The shares in the first block have a

basis of \$300x (\$5x per share), a holding period of 10 years, and \$240x (\$4x per share) of earnings and profits attributable to the shares for purposes of section 1248. The second block consists of 40 shares. The shares in the second block have a basis of \$600x (\$15x per share), a holding period of 2 years, and \$80x (\$2x per share) of earnings and profits attributable to the shares for purposes of section 1248.

(B) US2, a domestic corporation, owns all of the stock of FP, a foreign corporation, which owns all of the stock of FS, a foreign corporation. FP owns two blocks of FS stock. Each block consists of 10 shares with a value of \$200x (\$20x per share). The shares in the first block have a basis of \$50x (\$5x per share), a holding period of 10 years, and \$50x (\$5x per share) of earnings and profits attributable to such shares for purposes of section 1248. The shares in the second block had a basis of \$100x (\$10x per share), a holding period of 5 years, and \$20x (\$2x per share) of earnings and profits attributable to such shares for purposes of section 1248.

(C) FT merges into FS, with FS surviving, and F1 receives 50 shares of FP stock with a value of \$1,000x in exchange for its FT stock. The merger of FT into FS qualifies as forward triangular merger, and immediately after the exchange US1 is a section 1248 shareholder with respect to F1, the exchanging shareholder, FP and FS, all of which are controlled foreign corporations.

(i) *Basis and holding period determination.* (1) US1 is a section 1248 shareholder of F1, the exchanging shareholder, and FT (both of which are controlled foreign corporations) immediately before the transaction. Moreover, F1 is not required to include amounts in income under § 1.367(b)-3(b) or 1.367(b)-4(b) as described in paragraph (c)(1)(ii)(B) of this section. Accordingly, the basis and holding period of the FS stock held by FP immediately after the triangular reorganization is determined pursuant to paragraph (c) of this section.

(2) Pursuant to paragraph (c) of this section, each share of FS stock is divided into portions attributable to the basis and holding period of the FS stock held by FP immediately before the exchange (the FS portion) and the FT stock held by F1 immediately before the exchange (the FT portion). The basis and holding period of the FS portion is the basis and holding period of the FS stock held by FP immediately before the exchange. Thus, each share of FS stock in the first block has a portion with a basis of \$5x, a value of \$20x, a holding period of 10 years, and \$5x of earnings and profits attributable to such portion for purposes of section 1248. Each share of FS stock in the second block has a portion with a basis of \$10x, a value of \$20x, a holding period of 5 years, and \$2x of earnings and profits attributable to such portion for purposes of section 1248.

(3) Because the exchanging shareholder of FT stock (F1) has a section 1248 shareholder (US1), the holding period and basis of the FT portion is the holding period and the proportionate amount of the basis of the FT stock immediately before the exchange to which such portion relates. Further, because F1 exchanged two blocks of FT stock, the FT portion must be divided into two separate portions attributable to the two blocks of FT stock. Thus, each share of FS stock will have a second portion with a basis of \$15x (\$300x basis/20 shares), a value of \$30x (\$600x value/20 shares), a holding period of 10 years, and \$12x of earnings and profits (\$240x/20 shares) attributable to such portion for purposes of section 1248. Each share of FS stock will have a third portion with a basis of \$30x (\$600x basis/20 shares), a value of \$20x (\$400x value/20 shares), a holding period of 2 years, and \$4x of earnings and profits (\$80x/20 shares) attributable to such portion for purposes of section 1248.

(iii) *Subsequent disposition—first block.* Assume, immediately after the transaction, FP disposes of a share of FS stock from the first block. When FP disposes of any share of its FS stock, it is treated as disposing of each divided portion of such share. With respect to the first portion (attributable to the FS stock), FP recognizes a gain of \$15x (\$20x value—\$5x basis), \$5x of which is treated as a dividend under section 1248. With respect to the second portion (attributable to the first block of FT stock), FP recognizes a gain of \$15x (\$30x value—\$15x basis), \$12x of which is treated as a dividend under section 1248. With respect to the third portion (attributable to the second block of FT stock), FP recognizes a capital loss of \$10x (\$20x value—\$30x basis).

(iv) *Subsequent disposition—second block.* Assume further, immediately after the transaction, FP also disposes of a share of stock from the second block of FS stock. With respect to the first portion (attributable to the FS stock), FP recognizes a gain of \$10x (\$20x value—\$10x basis), \$2x of which is treated as a dividend under section 1248. With respect to the second portion (attributable to the first block of FT stock), FP recognizes a gain of \$15x (\$30x value—\$15x basis), \$12x of which is treated as a dividend under section 1248. With respect to the third portion (attributable to the second block of FT stock), FP recognizes a capital loss of \$10x (\$20x value—\$30x basis).

*Example 2.* (i) *Facts.* The facts are the same as in *Example 1*, except that FS merges into FT with FT surviving in a reverse triangular merger. Pursuant to the merger, F1 receives FP stock with a value of \$1,000x in exchange for its FT stock, and FP receives 10 shares of FT stock with a value of \$1,000x in exchange for its FS stock. Immediately after the exchange, US1 is a section 1248 shareholder with respect to F1, the exchanging share-

holder, FP, and FT, all of which are controlled foreign corporations.

(ii) *Basis and holding period determination—*(A) The basis and holding period of the stock of the surviving corporation held by FP are the same as in *Example 1*, except that each share of the surviving corporation (FT, instead of FS) will be divided into four portions instead of three portions. Because FP exchanges two blocks of FS stock, the FS portion must be divided into two separate portions attributable to the two blocks of FS stock. Because F1 exchanges two blocks of FT stock, the FT portion must be divided into two separate portions attributable to the two blocks of FT stock.

(B) Thus, each share of the surviving corporation (FT) will have a first portion (attributable to the first block of FS stock) with a basis of \$5x (\$50x/10 shares), a value of \$20x (\$200x/10 shares), a holding period of 10 years, and \$5x of earnings and profits (\$50x/10 shares) attributable to such portion for purposes of section 1248. Each share of FT stock will have a second portion (attributable to the second block of FS stock) with a basis of \$10x (\$100x/10 shares), a value of \$20x (\$200x/10 shares), a holding period of 5 years, and \$2x of earnings and profits (\$20x/10 shares) attributable to such portion for purposes of section 1248. Moreover, each share of FT stock will have a third portion (attributable to the first block of FT stock) with a basis of \$30x (\$300x basis/10 shares), a value of \$60x (\$600x value/10 shares), a holding period of 10 years, and \$24x of earnings and profits (\$240x/10 shares) attributable to such portion for purposes of section 1248. Lastly, each share of FT stock will have a fourth portion (attributable to the second block of FT stock) with a basis of \$60x (\$600x basis/10 shares), a value of \$40x (\$400x value/10 shares), a holding period of 2 years, and \$8x of earnings and profits (\$80x/10 shares) attributable to such portion for purposes of section 1248.

*Example 3.* (i) *Facts.* USP, a domestic corporation, owns all the stock of FS, a foreign corporation with 10 shares of stock outstanding. Each share of FS stock has a value of \$10x, a basis of \$5x, a holding period of 10 years, and \$7x of earnings and profits attributable to such share for purposes of section 1248. FP, a foreign corporation, owns the stock of FT, another foreign corporation. FP and FT do not have any section 1248 shareholders. FT has assets with a value of \$100x, a basis of \$50x, and no liabilities. The FT stock held by FP has a value of \$100x and a basis of \$75x. FT merges into FS with FS surviving in a forward triangular merger. Pursuant to the reorganization, FP receives USP stock with a value of \$100x in exchange for its FT stock.

(ii) *Basis and holding period determination*—(A) Because USP is a section 1248 shareholder of FS immediately before the transaction, the basis and holding period of the FS stock held by USP immediately after the triangular reorganization is determined pursuant to paragraph (c) of this section.

(B) Pursuant to paragraph (c) of this section, each share of FS stock is divided into portions attributable to the basis and holding period of the FS stock held by USP immediately before the exchange (the FS portion) and the FT portion immediately before the exchange. Because FT does not have a section 1248 shareholder immediately before the transaction, the rules of § 1.358-6 apply to determine the basis of the FT portion of each share of FS stock. Those rules determine the basis of FS stock held by USP by reference to the basis of FT's net assets. The basis and holding period of the FS portion is the basis and holding period of the FS stock held by USP immediately before the exchange. Thus, each share of FS stock has a portion with a basis of \$5x, a value of \$10x, a holding period of 10 years, and \$7x of earnings and profits attributable to such portion for section 1248 purposes. The basis of the FT portion is the basis of the FT assets to which such portion relates. Thus, each share of FS stock has a second portion with a basis of \$5x (\$50x basis in FT's assets/10 shares) and a value of \$10x (\$100x value of FT's assets/10 shares). All of FS's earnings and profits prior to the transaction (\$70x) is attributed solely to the FS portion in each share of FS stock. As a result of each share of stock being divided into portions, the basis of the FS stock is not averaged with the basis of the FT assets to increase the section 1248 amount with respect to the stock of the surviving corporation (FS).

*Example 4.* (i) *Facts.* US, a domestic corporation, owns all of the stock of FT, a foreign corporation. The FT stock held by US constitutes a single block of stock with a value of \$1,000x, a basis of \$600x, and holding period of 5 years. USP, a domestic corporation, forms FS, a foreign corporation, pursuant to the plan of reorganization and capitalizes it with \$10x of cash. FS merges into FT with FT surviving in a reverse triangular merger and a reorganization described in section 368(a)(1)(B). Pursuant to the reorganization, US receives USP stock with a value of \$1,000x in exchange for its FT stock, and USP receives 10 shares of FT stock with a value of \$1,010x in exchange for its FS stock.

(ii) *Basis and holding period determination.* (A) US and USP are section 1248 shareholders of FT and FS, respectively, immediately before the transaction. Neither US nor USP is required to include amounts in income under § 1.367(b)-3(b) or 1.367(b)-4(b) as described in paragraph (c)(1)(i)(B) or (c)(1)(ii)(B) of this section. The basis and holding period of the

FT stock held by USP is determined pursuant to paragraph (c) of this section.

(B) Pursuant to paragraph (c) of this section, because the exchanging shareholder of FT stock (US) is a section 1248 shareholder of FT, each share of the surviving corporation (FT) has a proportionate amount of the basis and holding period of the FT stock immediately before the exchange to which such share relates. Thus, the portion of each share of FT stock attributable to the FT stock has a basis of \$60x (\$600x basis/10 shares), a value of \$100x (\$1,000x value/10 shares), and a holding period of 5 years. Because the value of FS stock immediately before the triangular reorganization (\$10x) is less than one percent of the value of the surviving corporation (FT) immediately after the triangular reorganization (\$1,010x), USP may determine its basis in the stock of the surviving corporation (FT) attributable to its FS stock basis held prior to the reorganization by increasing the basis of each share of FT stock by the proportionate amount of USP's aggregate basis in the FS stock immediately before the exchange (without dividing each share of FT stock into separate portions to account for FS and FT). If USP so elects, USP's basis in each share of FT stock is increased by \$1x (\$10x basis in FS stock/10 shares). As a result, each share of FT stock has a basis of \$61x, a value of \$101x, and a holding period of 5 years.

*Example 5.* (i) *Facts.* US, a domestic corporation, owns all of the stock of F1, a foreign corporation, which owns all the stock of FT, a foreign corporation. The FT stock held by F1 constitutes one block of stock with a basis of \$170x, a value of \$200x, a holding period of 5 years, and \$10x of earnings and profits attributable to such stock for purposes of section 1248. FP, a foreign corporation, owns all the stock of FS, a foreign corporation. FS has 10 shares of stock outstanding. No United States person is a section 1248 shareholder with respect to FP or FS. The FS stock held by FP has a value of \$100x and a basis of \$50x (\$5x per share). FT merges into FS with FS surviving in a forward triangular merger. Pursuant to the merger, F1 receives FP stock with a value of \$200x for its FT stock in an exchange that qualifies for non-recognition under section 354. US is a section 1248 shareholder with respect to F1, the exchanging shareholder, FP, and FS (all of which are controlled foreign corporations) immediately after the exchange.

(ii) *Basis and holding period determination.* (A) Because US is a section 1248 shareholder of F1, the exchanging shareholder, and FT immediately before the transaction, and US is a section 1248 shareholder of F1, FP, and FS immediately after the transactions, F1 is not required to include amounts in income under §§ 1.367(b)-3(b) and 1.367(b)-4(b) as described in paragraph (c)(1)(ii)(B) of this section. Thus, the basis and holding period of

the FS stock held by FP immediately after the triangular reorganization is determined pursuant to paragraph (c) of this section.

(B) Pursuant to paragraph (c) of this section, each share of FS stock is divided into portions attributable to the basis and holding period of the FS stock held by FP immediately before the exchange (the FS portion) and the FT stock held by F1 immediately before the exchange (the FT portion). The basis and holding period of the FS portion is the basis and holding period of the FS stock held by FP immediately before the exchange. Thus, each share of FS stock has a portion with a basis of \$5x and a value of \$10x. Because the exchanging shareholder of FT stock (F1) has a section 1248 shareholder of both F1 and FT, the basis and holding period of the FT portion is the proportionate amount of the basis and the holding period of the FT stock immediately before the exchange to which such portion relates. Thus, each share of FS stock will have a second portion with a basis of \$17x (\$170x basis/10 shares), a value of \$20x (\$200x value/10 shares), a holding period of 5 years, and \$1x of earnings and profits (\$10x earnings and profits/10 shares) attributable to such portion for purposes of section 1248.

(iii) *Subsequent disposition.* (A) Several years after the merger, FP disposes of all of its FS stock in a transaction governed by section 964(e). At the time of the disposition, FS stock has decreased in value to \$210x (a post-merger reduction in value of \$90x), and FS has incurred a post-merger deficit in earnings and profits of \$30x.

(B) Pursuant to paragraph (d)(1)(ii) of this section, for purposes of determining the amount of gain realized on the sale or exchange of stock that has a divided portion, any amount realized on such sale or exchange is allocated to each divided portion of the stock based on the relative fair market value of the stock to which the portion is attributable at the time the portions were created. Immediately before the merger, the value of the FS stock in relation to the value of both the FS stock and the FT stock was one-third (\$100x/(\$100x plus \$200x)). Likewise, immediately before the merger, the value of the FT stock in relation to the value of both the FT stock and the FS stock was two-thirds (\$200x/\$100x plus \$200x). Accordingly, one-third of the \$210x amount realized is allocated to the FS portion of each share and two-thirds to the FT portion of each share. Thus, the amount realized allocated to the FS portion of each share is \$7x (one-third of \$210x divided by 10 shares). The amount realized allocated to the FT portion of each share is \$14x (two-thirds of \$210x divided by 10 shares).

(C) Pursuant to paragraph (d)(3) of this section, any earnings and profits (or deficits) accumulated by the surviving corporation subsequent to the reorganization are attrib-

uted to the divided portions of shares of stock based on the relative fair market value of each divided portion of stock. Accordingly, one-third of the post-merger earnings and profits deficit of \$30x is allocated to the FS portion of each share and two-thirds to the FT portion of each share. Thus, the deficit in earnings and profits allocated to the FS portion of each share is \$1x (one-third of \$30x divided by 10 shares). The deficit in earnings and profits allocated to the FT portion of each share is \$2x (two-thirds of \$30x divided by 10 shares).

(D) When FP disposes of its FS stock, FP is treated as disposing of each divided portion of a share of stock. With respect to the FS portion of each share of stock, FP recognizes a gain of \$2x (\$7x value - \$5x basis), which is not recharacterized as a dividend because a deficit in earnings and profits of \$1x is attributable to such portion for purposes of section 1248. With respect to the FT portion of each share of stock, FP recognizes a loss of \$3x (\$14x value - \$17x basis).

(f) *Effective date.* This section applies to exchanges occurring on or after January 23, 2006.

[T.D. 9243, 71 FR 4289, Jan. 26, 2006, as amended by T.D. 9400, 73 FR 30303, May 27, 2008; T.D. 9446, 74 FR 6958, Feb. 11, 2009]

### § 1.367(b)-14T Acquisition of parent stock for property in triangular reorganizations (temporary).

(a) *In general*—(1) *Scope and purpose.* This section applies to triangular reorganizations where P or S (or both) is foreign and, in connection with the reorganization, S acquires, in exchange for property (as defined in this section), all or a portion of the P stock that is used to acquire the stock or assets of T. This section may apply to a reorganization regardless of whether P controls S (within the meaning of section 368(c)) at the time S acquires the P stock that is used to acquire the stock or assets of T. The purpose of this section is to prevent what is in effect a distribution of property to P without the application of provisions otherwise applicable to property distributions, when in connection with a triangular reorganization S acquires, in exchange for property, all or a portion of the P stock used in the reorganization.

(2) *Definitions.* For purposes of this section, the following definitions apply: