

Example 1. Individuals A, B, and C organize a corporation with 101 shares of common stock. A and B each transfers to it \$10,000 worth of the only class of stock of corporation X, listed on the New York Stock Exchange, in exchange for 50 shares of stock. C transfers \$200 worth of readily marketable securities in corporation Y for one share of stock. In determining whether or not diversification has occurred, C's participation in the transaction will be disregarded. There is, therefore, no diversification, and gain or loss will not be recognized.

Example 2. A, together with 50 other transferors, organizes a corporation with 100 shares of stock. A transfers \$10,000 worth of stock in corporation X, listed on the New York Stock Exchange, in exchange for 50 shares of stock. Each of the other 50 transferors transfers \$200 worth of readily marketable securities in corporations other than X in exchange for one share of stock. In determining whether or not diversification has occurred, all transfers will be taken into account. Therefore, diversification is present, and gain or loss will be recognized.

[T.D. 6500, 25 FR 11607, Nov. 26, 1960, as amended by T.D. 6942, 32 FR 20977, Dec. 29, 1967; T.D. 8665, 61 FR 19189, May 1, 1996; T.D. 8663, 61 FR 19545, May 2, 1996]

§ 1.351-2 Receipt of property.

(a) If an exchange would be within the provisions of section 351(a) if it were not for the fact that the property received in exchange consists not only of property permitted by such subsection to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property. No loss to the recipient shall be recognized.

(b) See section 357 and the regulations pertaining to that section for applicable rules as to the treatment of liabilities as "other property" in cases subject to section 351, where another party to the exchange assumes a liability, or acquires property subject to a liability.

(c) See sections 358 and 362 and the regulations pertaining to those sections for applicable rules with respect to the determination of the basis of stock, securities, or other property received in exchanges subject to section 351.

(d) See part I (section 301 and following), subchapter C, chapter 1 of the

Code, and the regulations thereunder for applicable rules with respect to the taxation of dividends where a distribution by a corporation of its stock or securities in connection with an exchange subject to section 351(a) has the effect of the distribution of a taxable dividend.

(e) See §1.356-7(a) for the applicability of the definition of nonqualified preferred stock in section 351(g)(2) for stock issued prior to June 9, 1997, and for stock issued in transactions occurring after June 8, 1997, that are described in section 1014(f)(2) of the Taxpayer Relief Act of 1997, Public Law 105-34 (111 Stat. 788, 921). See §1.356-7(c) for the treatment of preferred stock received in certain exchanges for common or preferred stock described in section 351(g)(2)(C)(i)(II).

[T.D. 6500, 25 FR 11607, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 8904, 65 FR 58650, Oct. 2, 2000]

§ 1.351-3 Records to be kept and information to be filed.

(a) *Significant transferor.* Every significant transferor must include a statement entitled, "STATEMENT PURSUANT TO §1.351-3(a) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SIGNIFICANT TRANSFEROR," on or with such transferor's income tax return for the taxable year of the section 351 exchange. If a significant transferor is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The name and employer identification number (if any) of the transferee corporation;

(2) The date(s) of the transfer(s) of assets;

(3) The aggregate fair market value and basis, determined immediately before the exchange, of the property transferred by such transferor in the exchange; and

(4) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with the section 351 exchange.