

unless, under paragraph (a) of this section, the transferor has no duty to furnish a transfer statement for the transfer. The receiving broker is only required to make this request once. If the receiving broker does not receive a complete transfer statement after requesting it, the receiving broker may treat the security as a noncovered security upon its subsequent sale or transfer. A transfer statement for a covered security is complete if, in the view of the receiving broker, it provides sufficient information to comply with § 1.6045-1 when reporting the sale of the security. A transfer statement for a noncovered security is complete if it indicates that the security is a noncovered security.

(ii) *Transition rules for transfers of debt instruments, options, and securities futures contracts.* If an option described in § 1.6045-1(a)(14)(iii), a securities futures contract described in § 1.6045-1(a)(14)(iv), or a debt instrument described in § 1.6045-1(a)(15)(i)(C) is transferred in 2014 and no transfer statement is received, the receiving broker is not required to request a transfer statement from the transferor and may treat the security as a noncovered security. If a debt instrument described in § 1.6045-1(a)(15)(i)(D) is transferred in 2016 and no transfer statement is received, the receiving broker is not required to request a transfer statement from the transferor and may treat the security as a noncovered security.

(c) *Reporting by other parties after a transfer—(1) In general.* A transferor that has furnished a transfer statement must furnish a corrected statement for a covered security within fifteen days of receiving a transfer statement, an issuer statement (as described in § 1.6045B-1), or instructions or valuations from an authorized representative of an estate, that provides information under paragraph (b) of this section that was not reported on the initial transfer statement.

(2) *Exception.* A transferor is not required to furnish a corrected transfer statement for a covered security under this paragraph (c) if the transferor receives the transfer statement or issuer statement or receives the instructions or valuations from an authorized representative of an estate more than

eighteen months after the transferor furnished the transfer statement.

(d) *Effective/applicability dates.* This section applies to:

(1) A transfer on or after January 1, 2011, of stock other than stock in a regulated investment company within the meaning of § 1.1012-1(e)(5);

(2) A transfer on or after January 1, 2012, of stock in a regulated investment company;

(3) A transfer on or after January 1, 2015, of an option described in § 1.6045-1(a)(14)(iii), a securities futures contract described in § 1.6045-1(a)(14)(iv), or a debt instrument described in § 1.6045-1(a)(15)(i)(C); and

(4) A transfer on or after January 1, 2017, of a debt instrument described in § 1.6045-1(a)(15)(i)(D).

[T.D. 9504, 75 FR 64097, Oct. 18, 2010, as amended by T.D. 9616, 78 FR 23132, Apr. 18, 2013]

#### § 1.6045B-1 Returns relating to actions affecting basis of securities.

(a) *In general—(1) Information required.* An issuer of a specified security (within the meaning of § 1.6045-1(a)(14)) that takes an organizational action that affects the basis of the security must file an issuer return setting forth the following information and any other information specified in the return form and instructions:

(i) *Reporting issuer.* The name and taxpayer identification number of the reporting issuer.

(ii) *Security identifiers.* The identifiers of each security involved in the organizational action including, as applicable, the Committee on Uniform Security Identification Procedures (CUSIP) number or other security identifier number that the Secretary may designate by publication in the FEDERAL REGISTER or in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter), classification of the security (such as stock), account number, serial number, and ticker symbol, as well as any descriptions about the class of security affected.

(iii) *Contact at reporting issuer.* The name, address, e-mail address, and telephone number of a contact person at the issuer.

(iv) *Information about action.* The type or nature of the organizational action

including, as applicable, the date of the action or the date against which shareholders' ownership is measured for the action.

(v) *Effect of the action.* The quantitative effect of the organizational action on the basis of the security in the hands of a U.S. taxpayer as an adjustment per share or as a percentage of old basis, including a description of the calculation, the applicable Internal Revenue Code section and subsection upon which the tax treatment is based, the data supporting the calculation such as the market values of securities and valuation dates, any other information necessary to implement the adjustment including the reportable taxable year, and whether any resulting loss may be recognized.

(2) *Time for filing the return*—(i) *In general.* An issuer must file an issuer return with the IRS pursuant to the prescribed form and instructions on or before the 45th day following the organizational action, or, if earlier, January 15 of the year following the calendar year of the organizational action. For purposes of this paragraph (a)(2), a redemption occurs on the last day a holder may redeem a security. The issuer may file the return before the organizational action if the quantitative effect on basis is determinable beforehand.

(ii) *Reasonable assumptions.* To report the quantitative effect on basis by the due date in paragraph (a)(2)(i) of this section, an issuer may make reasonable assumptions about facts that cannot be determined before the due date. An issuer must file a corrected return within forty-five days of determining facts that result in a different quantitative effect on basis from what the issuer previously reported. However, for purposes of this paragraph (a)(2)(ii), an issuer must treat a payment that may be a dividend consistently with its treatment of the payment under section 6042(b)(3) and § 1.6042-3(c).

(3) *Exception for public reporting.* An issuer is not required to file a return with the IRS under this paragraph (a) if, by the due date described in paragraph (a)(2)(i) of this section, the issuer posts the return with the required information in a readily accessible format in an area of its primary public

Web site dedicated to this purpose and keeps the return accessible for ten years to the public on its primary public Web site or the primary public Web site of any successor organization. An issuer may electronically sign a return that is publicly reported in accordance with this paragraph (a)(3). The electronic signature must identify the individual who attests to the declaration in the jurat.

(4) *Exception when holders are exempt recipients.* No reporting is required under this paragraph (a) if the issuer reasonably determines that all of the holders of the security are exempt recipients under paragraph (b)(5) of this section.

(5) *Exception for certain money market funds.* No reporting is required under this paragraph (a) by a regulated investment company described in § 1.6045-1(c)(3)(vi).

(b) *Statements to nominees and certificate holders*—(1) *In general.* An issuer required to file an information return under this section must furnish a written statement with the same information to each holder of record of the security or to the holder's nominee. This issuer statement must indicate that the information is being reported to the IRS. An issuer may satisfy this requirement by furnishing a copy of the information return.

(2) *Time for furnishing statements.* An issuer must furnish each issuer statement on or before January 15 of the year following the calendar year of the organizational action. For purposes of this paragraph (b)(2), a redemption occurs on the last day a holder may redeem a security. An issuer may furnish the statement before the organizational action if the quantitative effect on basis is determinable beforehand. An issuer must furnish a statement that corresponds to a corrected return described in paragraph (a)(2)(ii) of this section by the later of the due date described in this paragraph (b)(2) or forty-five days after determining the facts that result in a different quantitative effect on basis from what the issuer previously reported on the return.

(3) *Recipients of statements.* An issuer must furnish a separate statement to each holder of record of the security as

of the date of the organizational action and all subsequent holders of record up to the date the issuer furnishes the statement required under this section. If the issuer records the security on its books in the name of a nominee, the issuer must furnish the statement to the nominee in lieu of the holder. However, if the nominee is the issuer, an agent of the issuer, or a plan operated by the issuer, the issuer must furnish the statement to the holder.

(4) *Exception for public reporting.* An issuer is deemed to furnish an issuer statement under this paragraph (b) to all holders and nominees if the issuer satisfies the public reporting requirements of paragraph (a)(3) of this section.

(5) *Exempt recipients—(i) In general.* An issuer is not required to furnish an issuer statement to a holder or its nominee if the holder is an exempt recipient under §1.6045-1(c)(3)(i)(B), provided the issuer has actual knowledge that the holder is described in that section or has a properly completed exemption certificate from the holder asserting that the holder is an exempt recipient (as provided in §31.3406(h)-3 of this chapter). An issuer may treat a holder as an exempt recipient based on the applicable indicators described in §1.6049-4(c)(1)(ii)(A) through (M).

(ii) *Limitation for corporate holders.* For an organizational action occurring on or after January 1, 2012, an issuer may treat a holder as an exempt recipient based on the indicator described in §1.6049-4(c)(1)(ii)(A) only if one of the following applies:

(A) The name of the holder contains the term “insurance company,” “indemnity company,” “reinsurance company,” or “assurance company.”

(B) The name of the holder indicates that it is an entity listed as a per se corporation under §301.7701-2(b)(8)(i) of this chapter.

(C) The issuer receives a properly completed exemption certificate (as provided in §31.3406(h)-3 of this chapter) that asserts that the holder is not an S corporation as defined in section 1361(a).

(D) The issuer receives a withholding certificate described in §1.1441-1(e)(2)(i) that includes a certification that the

person whose name is on the certificate is a foreign corporation.

(iii) *Foreign holders.* An issuer may treat a holder as an exempt recipient if the issuer, prior to the transaction, associates the holder with documentation upon which the issuer may rely in order to treat payments to the holder as made to a foreign beneficial owner in accordance with §1.1441-1(e)(1)(ii) or as made to a foreign payee in accordance with §1.6049-5(d)(1) or presumed to be made to a foreign payee under §1.6049-5(d)(2) or (3). For purposes of this paragraph (b)(5)(iii), the provisions in §1.6049-5(c) (regarding rules applicable to documentation of foreign status and definition of U.S. payor and non-U.S. payor) apply. Rules similar to the rules of §1.1441-1 apply by substituting the terms “issuer” and “holder” in place of the terms “withholding agent” and “payee” and without regard to the limitation to amounts subject to withholding under chapter 3 of the Internal Revenue Code. Rules similar to the rules of §1.6049-5(d) apply by substituting the terms “issuer” and “holder” in place of the terms “payor” and “payee.”

(c) *Special rule for S corporations.* An S corporation (as defined in section 1361(a)) is deemed to satisfy the requirements of paragraphs (a) and (b) of this section for any organizational action affecting the basis of its stock if the corporation reports the effect of the organizational action on a timely filed Schedule K-1 (Form 1120S), “Shareholder’s Share of Income, Deductions, Credits, etc.,” for each shareholder and timely furnishes copies of these schedules to all proper parties.

(d) *Special rule for certain regulated investment companies and real estate investment trusts.* A regulated investment company (RIC) that reports undistributed capital gains to shareholders under section 852(b)(3)(D) or a real estate investment trust (REIT) that reports undistributed capital gains to shareholders under section 857(b)(3)(D) is deemed to have satisfied the requirements of paragraphs (a) and (b) of this section for undistributed capital gains affecting the basis of its stock if the RIC or REIT timely files and furnishes the information returns required under section 852(b)(3)(D) or section

857(b)(3)(D) to all proper parties for the organizational action.

(e) *Acquiring and successor entities.* An acquiring or successor entity of an issuer that fails to satisfy the reporting obligations of paragraphs (a) or (b) of this section must satisfy these reporting obligations. If neither the issuer nor the acquiring or successor entity satisfies these reporting obligations, both parties are jointly and severally liable for any applicable penalties.

(f) *Penalties.* An issuer may use an agent to satisfy the requirements of this section for the issuer. Nonetheless, the issuer remains liable for penalty for any failure to comply unless it is shown that the failure is due to reasonable cause and not willful neglect. See sections 6721 through 6724.

(g) *Examples.* The following examples illustrate the rules of this section:

*Example 1.* (i) C, a corporation, distributes stock to shareholders on March 31, 2013.

(ii) Under paragraph (a)(2)(i) of this section, C must file an issuer return with the IRS on or before May 15, 2013 (45 days after the distribution date), reporting the quantitative effect of this distribution on the basis of C's stock. Under paragraph (b)(2) of this section, C must furnish issuer statements to its nominees and certificate holders on or before January 15, 2014.

(iii) Alternatively, under paragraphs (a)(3) and (b)(4) of this section, C may post by May 15, 2013, and maintain for ten years, the return with the required information in a readily accessible format in an area of its primary public Web site dedicated to this purpose.

*Example 2.* (i) D, a corporation, makes a cash distribution to shareholders on December 10, 2013.

(ii) Under paragraphs (a)(2)(i) and (b)(2) of this section, D is required to file an issuer return with the IRS and furnish issuer statements to its nominees and certificate holders on or before January 15, 2014.

(iii) On January 15, 2014, D is unsure whether the distribution will exceed its earnings and profits for the fiscal year. For purposes of section 6042(b)(3) and § 1.6042-3(c), D must treat the distribution as a dividend. Therefore, under paragraph (a)(2)(ii) of this section, D is not required to file an issuer return. If D later determines that dividend treatment was incorrect, D must file an issuer return reporting the correct quantitative effect on basis.

*Example 3.* E, a corporation, undertakes a stock split as of April 1, 2014. E furnishes issuer statements under paragraph (b) of this

section on April 1, 2014, at which time the books and records of E show that 90 percent of its outstanding stock is owned by shareholders through a clearing organization as their nominee, 7 percent is owned by 5,000 individuals, and the remaining 3 percent is owned by a dividend reinvestment plan operated by E that has 1,000 members. Under paragraph (b)(3) of this section, E must furnish statements to the clearing organization, the 5,000 individuals, and the 1,000 members of the dividend reinvestment plan.

(h) *Rule for options—(1) In general.* For an option granted or acquired on or after January 1, 2014, if the original contract is replaced by a different number of option contracts, the following rules apply:

(i) If the option is an exchange-traded option, any clearinghouse or clearing facility that serves as a counterparty is treated as the issuer of the option for purposes of section 6045B.

(ii) If the option is not an exchange-traded option, the option writer is treated as the issuer of the option for purposes of section 6045B.

(2) *Examples.* The following examples illustrate the rules of paragraph (h)(1) of this section:

*Example 1.* On January 15, 2014, F, an individual, purchases a one-year exchange-traded call option on 100 shares of Company X stock, with a strike price of \$110. The call option is cleared through Clearinghouse G. Company X executes a 2-for-1 stock split as of April 1, 2014. Due to the stock split, the terms of F's option are altered, resulting in two option contracts, each on 100 shares of Company X stock with a strike price of \$55. All other terms remain the same. Under paragraph (h)(1)(i) of this section, Clearinghouse G is required to prepare an issuer report for F.

*Example 2.* On January 31, 2014, J, an individual, purchases from K a non-exchange traded 7-month call option on 100 shares of Company X stock, with a strike price of \$110. Company X executes a 2-for-1 stock split as of April 1, 2014. Due to the stock split, the terms of J's option are altered, resulting in one option contract on 200 shares of Company X stock with a strike price of \$55. All other terms of the option remain the same. Under paragraph (h)(1) of this section, because the number of option contracts did not change, K is not required to prepare an issuer report for J.

(i) [Reserved]

(j) *Effective/applicability dates.* This section applies to—

(1) Organizational actions occurring on or after January 1, 2011, that affect the basis of specified securities within the meaning of § 1.6045-1(a)(14)(i) other than stock in a regulated investment company within the meaning of § 1.1012-1(e)(5);

(2) Organizational actions occurring on or after January 1, 2012, that affect the basis of stock in a regulated investment company;

(3) Organizational actions occurring on or after January 1, 2014, that affect the basis of debt instruments described in § 1.6045-1(n)(2)(i) (not including the debt instruments described in § 1.6045-1(n)(2)(ii));

(4) Organizational actions occurring on or after January 1, 2016, that affect the basis of debt instruments described in § 1.6045-1(n)(3);

(5) Organizational actions occurring on or after January 1, 2014, that affect the basis of options described in § 1.6045-1(a)(14)(iii); and

(6) Organizational actions occurring on or after January 1, 2014, that affect the basis of securities futures contracts described in § 1.6045-1(a)(14)(iv).

[T.D. 9504, 75 FR 64101, Oct. 18, 2010, as amended by T.D. 9616, 78 FR 23133, Apr. 18, 2013]

**§ 1.6046-1 Returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock.**

(a) *Officers or directors*—(1) *When liability arises on January 1, 1963.* Each U.S. citizen or resident who is on January 1, 1963, an officer or director of a foreign corporation shall make a return on Form 5471 (or subsequent form) showing the name, address, and identifying number of each U.S. person who, on January 1, 1963, owns 5 percent or more in value of the outstanding stock of such foreign corporation.

(2) *When liability arises after January 1, 1963*—(i) *Requirement of return.* Each United States citizen or resident who is at any time after January 1, 1963, an officer or director of a foreign corporation shall make a return on Form 5471 setting forth the information described in paragraph (a)(2)(ii) of this section with respect to each United States person who, during the time such citizen

or resident is such an officer or director—

(a) Acquires (whether in one or more transactions) outstanding stock of such corporation which has, or which when added to any such stock then owned by him (excluding any stock owned by him on January 1, 1963, if on that date he owned 10 percent or more in value of such stock) has, a value equal to 10 percent or more in value of the outstanding stock of such foreign corporation;

(b) Acquires (whether in one or more transactions) an additional 10 percent or more in value of the outstanding stock of such foreign corporation; or

(c) Is not described in paragraph (a)(2)(i)(a) or (b) of this section, and who, at any time after January 1, 1987, is treated as a United States shareholder under section 953(c) with respect to such foreign corporation.

(i) *Information required to be shown on return.* The return required under subdivision (i) of this subparagraph shall contain the following information:

(a) Name, address, and identifying number of each shareholder with respect to whom the return is filed;

(b) A statement showing that the shareholder is either described in subdivision (i)(a) or (i)(b) of this subparagraph; and

(c) The date on which the shareholder became a person described in subdivision (i)(a) or (i)(b) of this subparagraph.

(3) *Application of rules.* The provisions of this paragraph may be illustrated by the following examples:

*Example 1.* A, a United States citizen, is, on January 1, 1963, a director of M, a foreign corporation. X, on January 1, 1963, is a United States person owning 5 percent in value of the outstanding stock of M Corporation. A must file a return under the provisions of subparagraph (1) of this paragraph.

*Example 2.* (i) *Facts.* A, a United States citizen, is, on January 1, 2014, a director of M, a foreign corporation. X, on January 1, 2014, is a United States person owning 4% in value of the outstanding stock of M Corporation. On July 1, 2014, X acquires 4% in value of the outstanding stock of M Corporation and on September 1, 2014, he acquires an additional 4% in value of such stock.

(ii) *Results.* The July 1, 2014, transaction does not give rise to liability to file a return; however, A must file a return as a result of the September 1, 2014, transaction because X's holdings now exceed 10%.