

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[REG-101273-10]

RIN 1545-BJ21

**Corporate Reorganizations; Allocation of Basis in "All Cash D" Reorganizations****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Notice of proposed rule making by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance regarding the determination of the basis of stock or securities in a reorganization where no stock or securities of the issuing corporation is issued and distributed in the transaction. These regulations clarify that, in certain reorganizations where no stock or securities of the issuing corporation is issued and distributed in the transaction, the ability to designate the share of stock of the issuing corporation to which the basis, if any, of the stock or securities surrendered will attach applies only to a shareholder that owns actual shares in the issuing corporation. These regulations affect corporations engaging in such transactions and their shareholders. The text of those temporary regulations published in this issue of the **Federal Register** also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments and requests for a public hearing must be received by February 21, 2012.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-101273-10), Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered or sent electronically, via the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov) (IRS REG-101273-10).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Lisa A. Fuller, (202) 622-7550; concerning submission of comments, Oluwafunmilayo Taylor, (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Background**

Temporary regulations in the Rules and Regulations section of this issue of

the **Federal Register** amend 26 CFR part 1. The temporary regulations provide guidance regarding the determination of the basis of stock or securities in a reorganization where no stock or securities of the issuing corporation is issued and distributed in the transaction. The text of those regulations also serves as the text of those proposed regulations. The preamble to the temporary regulations explains the amendments.

**Explanation of Provisions**

These temporary regulations clarify that, in certain reorganizations where no stock or securities of the issuing corporation is issued and distributed in the transaction, the ability to designate the share of stock of the issuing corporation to which the basis, if any, of the stock or securities surrendered will attach applies only to a shareholder that owns actual shares in the issuing corporation.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as defined in Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these regulations is Lisa A. Fuller, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and the Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

**PART 1—INCOME TAXES**

**Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 1.358-2 also issued under 26 U.S.C. 358(b)(1).

**Par. 2.** Section 1.358-2 is amended by:

1. Revising paragraph (a)(2)(iii).
2. Adding a new *Example 15* and *Example 16* to paragraph (c).
3. Revising paragraph (d).

The revision and addition reads as follows:

**§ 1.358-2 Allocation of basis among nonrecognition property.**

(a) \* \* \*

(2) \* \* \*

(iii) [The text of this proposed amendments to § 1.358-2(a)(2)(iii) is the same as the text of § 1.358-2T(a)(2)(iii) published elsewhere in this issue of the **Federal Register**.  
\* \* \* \* \*

(c) Examples \* \* \*

[The text of this proposed amendments to § 1.358-2, *Examples 15* and *16* are the same as the text of *Examples 15* and *16* in § 1.358-2T published elsewhere in this issue of the **Federal Register**.  
\* \* \* \* \*

(d) [The text of this proposed amendment to § 1.358-2(d) is the same as the text of § 1.358-2T(d) published elsewhere in this issue of the **Federal Register**.  
\* \* \* \* \*

**Steven T. Miller,***Deputy Commissioner for Services and Enforcement.*

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