

Instructions for Form 8937



Department of the Treasury
Internal Revenue Service

(Rev. December 2011)

Report of Organizational Actions Affecting Basis of Securities

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Future developments. Information about any future developments that affect Form 8937 (such as legislation) will be posted at www.irs.gov/form8937.

Who Must File

File Form 8937 if you are an issuer of a specified security that takes an organizational action that affects the basis of that security. A specified security is:

- Any share of stock in an entity organized as, or treated for federal tax purposes as, a corporation, or
- Any interest treated as stock, including, for example, an American Depository Receipt.

File Form 8937 only when an organizational action affects the basis of all holders of a security or all holders of a class of the security. For example, you must file Form 8937 if you make a nontaxable cash distribution to shareholders or if you make a nontaxable stock distribution to shareholders, including a stock split. Do not file Form 8937 if you distribute stock to someone exercising a previously granted right to purchase stock. While this action bears on the basis of the stock being distributed, it does not affect the basis of stock held by others. You must instead report the basis of the stock being distributed when you purchase back or transfer custody of the stock. You should not file Form 8937 for an initial public offering.

File Form 8937 for a distribution of property to shareholders only if you know that the distribution will not be taxable as a dividend to shareholders. Do not report a distribution on Form 8937 if the distribution is reportable as a dividend on Form 1099-DIV.

The requirement to file Form 8937 applies to both domestic and foreign issuers of securities if the security is owned by U.S. taxpayers, either directly or as a depository receipt.

This filing requirement applies to organizational actions after 2010. However, regulated investment companies (RICs) need to file Form 8937 only for organizational actions after 2011.

Exceptions

Public reporting. You are not required to file Form 8937 with the IRS if, by the due date, you post a completed Form 8937 in a readily accessible format in an area of your primary public website dedicated to this purpose and you keep it accessible to the public on this website or the primary website of any successor organization for 10 years.

Exempt recipients. No reporting is required if you determine that all the holders of the security are exempt recipients, including C corporations, charitable organizations, foreign holders, IRAs, Archer MSAs, health savings accounts (HSAs), the United States, a

state, or political subdivisions, as defined in Regulations section 1.6045B-1(b)(5).

Certain money market funds. No reporting is required by a regulated investment company (RIC) that can hold itself out as a money market fund under Rule 2a-7 under the Investment Company Act of 1940.

Special Rules

S corporations. An S corporation can satisfy the reporting requirement for any organizational action affecting the basis of its stock if it reports the effect of the organizational action on a timely filed Schedule K-1 (Form 1120S) for each shareholder and timely gives a copy to all proper parties.

Certain RICs and REITs. A regulated investment company (RIC) or a real estate investment trust (REIT) that reports undistributed capital gains to shareholders on Form 2439 can satisfy the organizational action reporting requirements for those undistributed gains if the RIC or REIT timely files and gives Form 2439 to all proper parties for the organizational action. RICs, REITs, and brokers holding custody of RIC and REIT stock must then adjust basis in accordance with the information reported on Form 2439.

When To File

Form 8937 must be filed with the IRS 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. You may file the return before the organizational action if the quantitative effect on basis is determinable. For purposes of determining this deadline, a redemption occurs on the last day a holder may redeem a security.

TIP *To report the quantitative effect on basis by the due date, you may make reasonable assumptions about facts that cannot be determined before the due date. You must file a corrected return within 45 days of determining facts that result in a different quantitative effect on basis from what was previously reported. For additional information, see Regulations section 1.6045B-1(a)(2)(ii).*

Where To File

Send Form 8937 to Department of the Treasury, Internal Revenue Service, Ogden, UT 84201-0054.

Issuer Statements

If you are required to file Form 8937, you must give a copy of Form 8937 to each security holder of record as of the date of the organizational action and all subsequent holders of record up to the date you give the copy of Form 8937. If you record the security on your books in the name of a nominee, you must give the copy of Form 8937 to the nominee in lieu of the holder. However, if you, your agent, or a plan you operate is listed as the nominee, you must give the copy of Form 8937 to the holder.

You are considered to have given a copy of Form 8937 to all holders and nominees if you post a completed Form 8937 to your primary public website under the rules listed under *Public reporting*, earlier.

You are not required to, but may, give a copy of Form 8937 to a holder or nominee if the holder is an exempt recipient. See *Exempt recipients*, earlier.

You may give holders and nominees a written statement instead of a copy of Form 8937. The written statement must include the same information as provided on Form 8937 and must indicate that the information is being reported to the IRS.

Time for furnishing statements. You must give holders or nominees an issuer statement on or before January 15 of the year following the calendar year of the organizational action. For purposes of determining this deadline, a redemption occurs on the last day a holder may redeem a security. You can give an issuer statement before the organizational action if you have determined the quantitative effect on basis. If you file a corrected Form 8937 with the IRS, you must give a corrected issuer statement by the later of the January 15 due date above or 45 days after you determine the facts that result in a different quantitative effect on basis from what was previously reported.

Penalties

Penalty relief for 2011. You will not be penalized under section 6721 if you do not file Form 8937 within 45 days of an organizational action taken in 2011 provided that you file a correct Form 8937 (or make it publicly available on your website) by January 17, 2012. For details, see Notice 2011-18, available at www.irs.gov/irb/2011-11_IRB/ar07/html.

Agents. An issuer may use an agent, including a depository, to satisfy these reporting requirements. However, the issuer remains liable for any 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.

Acquiring and successor entities. An acquiring or successor entity of an issuer must satisfy these reporting obligations if the issuer has not done so. If neither the issuer nor the acquiring or successor entity satisfies the reporting obligations, both are jointly and severally liable for any applicable penalties.

Specific Instructions

Part I

Boxes 1 and 2. Enter the issuer's name and employer identification number (EIN).

Boxes 3, 4, 5, 6, and 7. Enter the name, telephone number, email address, and mailing address of a contact person.

Boxes 8, 9, 10, 11, 12, and 13. For each security involved in the organizational action, enter the requested information. Complete all boxes that apply. If a box does not apply, leave it blank.

In box 9, enter the classification of the security (such as stock) and include any description about the class of security affected.

Part II

For each security involved in the organizational action, enter the requested information.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Learning about the law or the form	35 min.
Preparing the form	40 min.
Recordkeeping	2 hours, 52 min.
