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Instructions for Form 8937

(Rev. December 2011)



Department of the Treasury
Internal Revenue Service

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

General Instructions

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,
- Any interest treated as stock, including, for example, an American Depositary Receipt, or
- Any note, bond, debenture, or other evidence of indebtedness.

This filing requirement applies to organizational actions after 2010. However, in the case of organizational actions that affect stock in a regulated investment company (RIC), this filing requirement applies to organizational actions after 2011.

Regulations section 1.6045B-1(g) gives three examples of actions that must be reported (stock distributions, cash distributions, and stock splits).

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 this purpose, a redemption occurs on the last day a holder may redeem a security.



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 the address shown on the form.

Exceptions

Public reporting. You are not required to file Form 8937 with the IRS if, by the due date, you post the required information 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 under Regulations section 1.6045-1(c)(3)(i)(B), and:

- You know that the holders are described in that section, or

- You have a properly completed exemption certificate from the holders asserting the exempt status.

You may treat a holder as an exempt recipient based on the applicable indicators under Regulations section 1.6049-4(c)(1)(ii)(A) through (M). For a list of exempt recipients, see the Form W-9 instructions.

Corporate holders. For organizational actions after 2011, you may treat a holder as exempt under Regulations section 1.6049-4(c)(1)(ii)(A) only if one of the following applies.

- The holder's name contains the term "insurance company," "indemnity company," "reinsurance company," or "assurance company."
- The holder's name indicates that it is a per se corporation under Regulations section 301.7701-2(b)(8)(i).
- You receive a properly completed exemption certificate asserting that the holder is not an S corporation.
- You receive a withholding certificate that includes a certification that the person whose name is on the certificate is a foreign corporation.

Foreign holders. You may treat a holder as an exempt recipient if, prior to the transaction, you associate the holder with documentation upon which you may rely in order to treat payments to the holder as made to a foreign beneficial owner under Regulations section 1.1441-1(e)(1)(ii) or as made to a foreign payee under Regulations section 1.6049-5(d)(1) or presumed to be made to a foreign payee under Regulations section 1.6409-5(d)(2) or (3). For more information on documentation of foreign status and definition of U.S. payor and non-U.S. payor, see Regulations section 1.6045B-1(b)(5)(iii).

Certain money market funds. Form 8937 is not required for a sale of an interest in 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 that computes its current price per share for purposes of distributions, redemptions, and purchases so as to stabilize the price per share at a constant amount that approximates its issue price or the price which it was originally sold to the public.

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) 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) has satisfied the reporting requirements for those undistributed gains if the RIC or REIT timely files and gives the information returns required under section

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

Issuer Statements

If you are required to file Form 8937, you must give a copy of the return or a written issuer statement with the same information to each security holder of record or to the security holder's nominee. If a written issuer statement is given, it must indicate that the information is being reported to the IRS.

You must give a separate statement 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 statement. If you record the security on your books in the name of a nominee, you must give the statement to the nominee in lieu of the holder. If the nominee is the issuer, an agent of the issuer, or a plan operated by the issuer, you must give the statement to the holder.

Time for furnishing statements. An issuer statement must be given on or before January 15 of the year following the calendar year of the organizational action. A redemption occurs on the last day a holder may redeem a security. A statement can be given before the organizational action if the quantitative effect on basis has been determined. However, if a corrected Form 8937 is filed, a corrected statement must be given by the later of the due date or 45 days after determining the facts that result in a different quantitative effect on basis from what was previously reported.

You are not required to give an issuer statement if you post the required information to your primary public website. See *Public reporting*, earlier.

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 the return (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 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:

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