

P's basis in its S or T stock (as applicable) following a triangular reorganization occurring before December 23, 1994, must be consistent with the adjustment that would be made if P had made the acquisition directly and P then transferred the assets to a controlled subsidiary. However, with respect to reverse triangular mergers occurring before December 23, 1994, P may adjust its basis in its T stock as if P acquired the stock of the former T shareholders in a transaction in which its basis was determined under section 362(b).

Section 1.1032-2 applies with respect to certain triangular reorganizations occurring on or after December 23, 1994. With respect to triangular reorganizations occurring before December 23, 1994, see, e.g., § 1.1032-1 and Rev. Rul. 57-278, 1957-1 C.B. 124.

Section 1.1502-30 applies with respect to triangular reorganizations occurring on or after December 21, 1995, in which P and S, or P and T, as applicable, are members of a consolidated group following the triangular reorganization. For similar triangular reorganizations occurring before December 21, 1995, any adjustments to P's basis in its S or T stock (as applicable) must be consistent with the rules applicable for nonconsolidated taxpayers, except to the extent that § 1.1502-31 applies to a transaction that is a group structure change.

#### Drafting Information

The principal authors of these regulations are Rose Williams and Curt Cutting, Office of Assistant Chief Counsel (Corporate). However, other personnel from the IRS and the Treasury Department participated in their development.

#### List of Subjects for 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

### PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part:

Authority: 26 U.S.C. 7805 \* \* \*

Section 1.1502-30 also issued under 26 U.S.C. 1502 \* \* \*

#### § 1.358-2 [Amended]

Par. 2. Section 1.358-2(d) is removed.

Par. 3. Section 1.358-6 is added to read as follows:

#### § 1.358-6 Stock basis in certain triangular reorganizations.

(a) *Scope.* This section provides rules for computing the basis of a controlling corporation in the stock of a controlled corporation as the result of certain reorganizations involving the stock of the controlling corporation as described in paragraph (b) of this section. The rules of this section are in addition to rules under other provisions of the Internal Revenue Code and principles of law. See, e.g., section 1001 for the recognition of gain or loss by the controlled corporation on the exchange of property for the assets or stock of a target corporation in a reorganization described in section 368.

(b) *Triangular reorganizations—(1) Nomenclature.* For purposes of this section—

(i) *P* is a corporation—

(A) That is a party to a reorganization,

(B) That is in control (within the meaning of section 368(c)) of another party to the reorganization, and

(C) Whose stock is transferred pursuant to the reorganization.

(ii) *S* is a corporation—

(A) That is a party to the reorganization, and

(B) That is controlled by *P*.

(iii) *T* is a corporation that is another party to the reorganization.

(2) *Definitions of triangular reorganizations.* This section applies to the following reorganizations (which are referred to collectively as *triangular reorganizations*):

(i) *Forward triangular merger.* A forward triangular merger is a statutory merger of *T* and *S*, with *S* surviving, that qualifies as a reorganization under section 368(a)(1)(A) or (G) by reason of the application of section 368(a)(2)(D).

(ii) *Triangular C reorganization.* A triangular C reorganization is an acquisition by *S* of substantially all of *T*'s assets in exchange for *P* stock in a transaction that qualifies as a reorganization under section 368(a)(1)(C).

(iii) *Reverse triangular merger.* A reverse triangular merger is a statutory merger of *S* and *T*, with *T* surviving, that qualifies as a reorganization under section 368(a)(1)(A) by reason of the application of section 368(a)(2)(E).

(iv) *Triangular B reorganization.* A triangular B reorganization is an acquisition by *S* of *T* stock in exchange for *P* stock in a transaction that qualifies as a reorganization under section 368(a)(1)(B).

(c) *General rules.* Subject to the special rule provided in paragraph (d) of

this section, *P*'s basis in the stock of *S* or *T*, as applicable, as a result of a triangular reorganization, is adjusted under the following rules—

(1) *Forward triangular merger or triangular C reorganization—(i) In general.* In a forward triangular merger or a triangular C reorganization, *P*'s basis in its *S* stock is adjusted as if—

(A) *P* acquired the *T* assets acquired by *S* in the reorganization (and *P* assumed any liabilities which *S* assumed or to which the *T* assets acquired by *S* were subject) directly from *T* in a transaction in which *P*'s basis in the *T* assets was determined under section 362(b); and

(B) *P* transferred the *T* assets (and liabilities which *S* assumed or to which the *T* assets acquired by *S* were subject) to *S* in a transaction in which *P*'s basis in *S* stock was determined under section 358.

(ii) *Limitation.* If, in applying section 358, the amount of *T* liabilities assumed by *S* or to which the *T* assets acquired by *S* are subject equals or exceeds *T*'s aggregate adjusted basis in its assets, the amount of the adjustment under paragraph (c)(1)(i) of this section is zero. *P* recognizes no gain under section 357(c) as a result of a triangular reorganization.

(2) *Reverse triangular merger—(i) In general—(A) Treated as a forward triangular merger.* Except as otherwise provided in this paragraph (c)(2), *P*'s basis in its *T* stock acquired in a reverse triangular merger equals its basis in its *S* stock immediately before the transaction adjusted as if *T* had merged into *S* in a forward triangular merger to which paragraph (c)(1) of this section applies.

(B) *Allocable share.* If *P* acquires less than all of the *T* stock in the transaction, the basis adjustment described in paragraph (c)(2)(i)(A) of this section is reduced in proportion to the percentage of *T* stock not acquired in the transaction. The percentage of *T* stock not acquired in the transaction is determined by taking into account the fair market value of all classes of *T* stock.

(C) *Special rule if P owns T stock before the transaction.* Solely for purposes of paragraphs (c)(2)(i)(A) and (B) of this section, if *P* owns *T* stock before the transaction, *P* may treat that stock as acquired in the transaction or not, without regard to the form of the transaction.

(ii) *Reverse triangular merger that qualifies as a section 351 transfer or section 368(a)(1)(B) reorganization.* Notwithstanding paragraph (c)(2)(i) of this section, if a reorganization qualifies as both a reverse triangular merger and