

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-143321-02]

RIN 1545-BB60

Information Reporting Relating to Taxable Stock Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to information reporting relating to taxable stock transactions. This document contains proposed regulations under section 6043(c) requiring information reporting by a corporation if control of the corporation is acquired or if the corporation has a recapitalization or other substantial change in capital structure. This document also contains proposed regulations under section 6045 concerning information reporting requirements for brokers with respect to transactions described in section 6043(c). The text of the temporary regulations serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by February 18, 2003. Outlines of topics to be discussed at the public hearing scheduled for March 5, 2003, at 10 a.m., must be received by February 12, 2003.

ADDRESSES: Send submissions to: CC:ITA:RU (REG-143321-02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG-143321-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at [www.irs.gov/regs](http://www.irs.gov/regs). The public hearing will be held in room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Nancy L. Rose (202) 622-4910; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Treena Garrett at (202) 622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

**Paperwork Reduction Act**

The collection of information contained in this notice of

proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224. Comments on the collection of information should be received by January 17, 2003. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in 26 CFR 1.6043-4(a) and (b) and in 26 CFR 1.6045-3. The information is required be reported to ensure that shareholders properly recognize gain from corporate acquisitions and changes in capital structure. The collection of information is mandatory. The likely respondents are large corporations.

The estimated total annual reporting and recordkeeping burden in proposed §1.6043-4(a), requiring the filing of Form 8806, is 2 hours. The estimated total annual reporting and recordkeeping burden in proposed §§1.6043-4(b) and 1.6045-3 is 15 minutes for each Form 1099-CAP and 10 minutes for Form 1096.

The estimated annual burden per respondent and/or recordkeeper will vary dependent on the number of Forms 1099-CAP required to be filed.

The estimated number of respondents under the proposed regulations is 350. The estimated number of respondents under the temporary regulations, for transactions occurring after December 31, 2001, is 5.

The estimated annual frequency of reporting on Form 8806 and Form 1096 is 1. The estimated annual frequency of reporting on Form 1099-CAP is 1 for each shareholder.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

#### **Background and Explanation of Provisions**

Temporary regulations in the Rules and Regulations section of this issue of the Federal Register amend the Income Tax Regulations (26 CFR Part 1) relating to sections 6043 and 6045. The temporary regulations set forth information reporting requirements relating to acquisitions of control and substantial changes in capital structure. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments and these proposed regulations.

As set forth in the preamble to the temporary

regulations, public comments are specifically invited with regard to the potential for duplicate reporting under these proposed regulations and with regard to the burden of compliance with the reporting requirements under the proposed regulations.

#### **Proposed Effective Date**

The provisions of these regulations under section 6043 are proposed to be applicable for any acquisition of control and change in capital structure occurring after the date on which these regulations are published in the **Federal Register** as final regulations. The provisions of these regulations under section 6045 are proposed to be applicable for any Form 1099-CAP received by a broker after the date on which these regulations are published in the **Federal Register** as final regulations.

#### **Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also 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 regulations do 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 will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

#### **Comments and Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and 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 has been scheduled for March 5, 2003, beginning at 10 a.m. in room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the FOR FURTHER INFORMATION CONTACT portion of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments must submit electronic or written comments by February 18, 2003, and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by February 12, 2003. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for reviewing outlines has passed. Copies of the agenda will be available free of charge at the hearing.

**Drafting Information**

The principal author of this notice of proposed rulemaking is Nancy L. Rose, Office of Associate Chief Counsel (Procedure and Administration).

**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 continues to read in part as follows:

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

**Par. 2.** Section 1.6043-4 is added to read as follows:

§1.6043-4 Information returns relating to certain acquisitions  
of control and changes in capital structure.

[The text of proposed §1.6043-4 is the same as the text  
of §1.6043-4T published elsewhere in this issue of the **Federal  
Register**]

**Par. 3.** Section 1.6045-3 is added to read as follows:

§1.6045-3 Information reporting for acquisitions of control  
or substantial changes in capital structure.

[The text of proposed §1.6045-3 is the same as the text  
of §1.6045-3T published elsewhere in this issue of the **Federal  
Register**]

/s/ Robert E. Wenzel

Deputy Commissioner of Internal Revenue