

WSGR ALERT

JANUARY 2011

NEW TAX REPORTING REQUIREMENTS FOR CORPORATE ACTIONS AFFECTING STOCK TAX BASIS

Beginning on January 1, 2011, regulations¹ issued under Section 6045B of the Internal Revenue Code will require any domestic or foreign corporation that undertakes an "organizational action," such as a merger, acquisition, recapitalization (including a stock split or stock dividend), or similar transaction, that affects the tax basis of its outstanding stock² to comply with certain tax reporting requirements. The regulations apply to both private and public corporations.

While there is currently no Internal Revenue Service (IRS) form for the information return, the regulations require, among other things, a description of the transaction and relevant Internal Revenue Code provisions, the quantitative effect of the transaction on the basis of the corporation's stock as an adjustment per share or as a percentage of the old basis, the data supporting the calculation, and any other information necessary to implement the adjustment.

The information return must be filed by the corporation with the IRS, or published on the corporate website (and maintained for 10 years), on or before the 45th day following the organizational action or, if earlier, January 15 of the year following the calendar year of action. In addition, reporting to stockholders is required, although this requirement may also be satisfied by providing the relevant information on the corporate website.

Failure to comply with the new reporting requirements may result in penalties of up to \$50 for each information return with a maximum of \$250,000, or \$100 per failure with no maximum amount if the failure to file is the result of an intentional disregard of the filing requirement.³

¹ Treas. Reg. Section 1.6045B-1.

² The regulations are currently only effective for corporate actions affecting stock basis, but are expected to apply to actions affecting other "specified securities," e.g., a note or other evidence of indebtedness, effective January 1, 2013.

³ IRC Section 6721 *et seq*

If you have any questions regarding the new reporting requirements, please contact a member of Wilson Sonsini Goodrich & Rosati's tax practice:

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