

(or D as the successor to C) also must file a Form 1099-CAP with respect to each shareholder who is not an exempt recipient showing the fair market value of the short term notes and the fair market value of the D stock provided to that shareholder. In addition, C (or D) must furnish a copy of the Form 1099-CAP to that shareholder.

*Example 3.* (i) The facts are the same as in *Example 2*, except that C reasonably determines that—

(A) The transaction satisfies the requirements of section 368;

(B) The C shareholders who exchange their C stock solely for D stock will not be required to recognize gain (if any) on the exchange; and

(C) The C shareholders who exchange their C stock for a combination of short term notes and D stock will be required to recognize gain (if any) on the exchange solely with respect to the receipt of the short term notes.

(ii) C is required to file Form 8806 under paragraph (a) of this section. C (or D as the successor to C) must also comply with the rules in paragraph (b) of this section. With respect to each shareholder who receives a combination of short term notes and D stock, and who is not an exempt recipient, C (or D) must file a Form 1099-CAP showing the fair market value of the short term notes provided to the shareholder, and C (or D) must furnish a copy of the Form 1099-CAP to that shareholder. The Form 1099-CAP should not show the fair market value of the D stock provided to the shareholder. C and D are not required to file and furnish Forms 1099-CAP with respect to shareholders who receive only D stock in exchange for their C stock.

*Example 4.* The facts are the same as in *Example 3*, except C hires a transfer agent to effectuate the exchange. The transfer agent is treated as a broker under section 6045 and is required to report the fair market value of the short term notes provided to C's shareholders under § 1.6045-3T. Under paragraph (b)(6) of this section, C and D are not required to file information returns under paragraph (b) of this section with respect to a shareholder of record, unless C or D knows or has reason to know that the transfer agent does not satisfy its information reporting obligation under § 1.6045-3T with respect to that shareholder. Thus, if the transfer agent satisfies its information reporting requirements under § 1.6045-3T with respect to shareholder I, an individual who receives both D stock and short term notes, C and D are not required to file a Form 1099-CAP with respect to I. Conversely, if the transfer agent does not have an information reporting obligation under § 1.6045-3T with respect to one of C's shareholder's of record (for example, a clearing organization that is an exempt recipient under § 1.6045-3T(b)(ii)), or if

C or D knows or has reason to know that the transfer agent has not satisfied its information reporting requirement with respect to a shareholder, then C (or D) must provide a Form 1099-CAP to that shareholder.

(i) *Effective date.* This section applies to any acquisition of control and any substantial change in capital structure occurring after December 31, 2001, if the reporting corporation or any shareholder is required to recognize gain (if any) as a result of the application of section 367(a) as a result of the transaction. However, paragraphs (a) through (h) of this section apply to acquisitions of control and substantial changes in capital structure occurring after December 31, 2002, if the reporting corporation or any shareholder is required to recognize gain (if any) as a result of the application of section 367(a) as a result of the transaction. For transactions prior to January 1, 2003, see § 1.6043-4T as published in 26 CFR part 1 (revised as of April 1, 2003). This section expires on November 14, 2005.

[T.D. 9101, 68 FR 75122, Dec. 30, 2003]

**§ 1.6044-1 Returns of information as to patronage dividends with respect to patronage occurring in taxable years beginning before 1963.**

(a) *Requirement—(1) In general.* Except as provided in subparagraph (2) of this paragraph, any corporation allocating to any patron in respect of patronage occurring in any taxable year of the corporation beginning before January 1, 1963, amounts aggregating \$100 or more during a calendar year as patronage dividends, rebates, or refunds (whether in cash, merchandise, capital stock, revolving fund certificates, retain certificates, letters of advice, or in some other manner that discloses to each patron the amount of such dividend, rebate, or refund) shall for each such calendar year file a return of information with respect to such allocation on Forms 1096 and 1099. A separate Form 1099 shall be prepared for each patron showing the name and address of the patron to whom such allocation is made, and the amount of the allocation. The allocation shall be reported for the calendar year during which the allocation is made, regardless of whether the allocation is deemed for

the purpose of section 522 to be made at the close of a preceding taxable year of the corporation.

(2) *Exception.* A return is not required under this section in the case of any corporation (including any cooperative or nonprofit corporation engaged in rural electrification) described in section 501(c) (12) or (15) which is exempt from tax under section 501(a), or in the case of any corporation subject to a tax imposed by subchapter L, chapter 1, of the Code.

(b) *Time and place for filing.* Returns made under this section on Forms 1096 and 1099 for any calendar year shall be filed on or before February 28 of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for such forms.

(c) *Definitions.* The terms “cooperative association”, “patron”, “patronage dividends, rebates, and refunds”, and “allocation” are defined, for the purpose of this section, in paragraph (b) of § 1.522-1.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960, as amended by T.D. 6628, 27 FR 12798, Dec. 28, 1962]

**§ 1.6044-2 Returns of information as to payments of patronage dividends.**

(a) *Requirement of reporting—(1) In general.* Except as provided in § 1.6044-4, every organization described in paragraph (b) of this section which makes payments with respect to patronage occurring on or after the first day of the first taxable year of the organization beginning after December 31, 1962, of amounts described in § 1.6044-3 aggregating \$10 or more to any person during any calendar year shall make an information return on Forms 1096 and 1099 for the calendar year showing the aggregate amount of such payments, the name and address of the person to whom paid, the total of such payments for all persons, and such other information as is required by the forms. The organization is required to make an information return regardless of the amount of the payment if the tax imposed by section 3406 is required to be withheld. Thus, in the case of any amount subject to backup withholding under section 3406 and not refunded by the payor before the due date of the in-

formation return in accordance with the regulations under section 3406, an information return shall be made even if the payment is not generally reportable because it is made to an exempt recipient described in § 1.6049-4(c)(1)(ii) or the amount paid during the calendar year to the recipient aggregates less than \$10.

(2) *Definitions.* The term “person” when used in this section does not include the United States, a State, the District of Columbia, a foreign government, a political subdivision of a State or of a foreign government, or an international organization. Therefore, payment of amounts described in § 1.6044-3 to one of these entities need not be reported.

(3) *Determination of person to whom a patronage dividend is paid.* For purposes of applying the provisions of this section, the person whose identifying number is required to be included by the cooperative on an information return with respect to a patronage dividend shall be considered the person to whom such dividend is paid. For regulations relating to the use of identifying numbers, see § 1.6109-1.

(4) *Inclusion of other payments.* The Form 1099 filed by an organization with respect to payments of patronage dividends made to any person during a calendar year may, at the election of the organization, include other payments made by it to such person during such year which are required to be reported on Form 1099.

(b) *Organizations subject to reporting requirement.* The organizations subject to the reporting requirements of paragraph (a) of this section are:

(1) Any organization exempt from tax under section 521 (relating to exemption of farmers’ cooperatives from tax), and

(2) Any corporation operating on a cooperative basis other than an organization:

(i) Which is exempt from tax under chapter 1 (other than section 521), or

(ii) Which is subject to the provisions of part II of subchapter H of chapter 1 (relating to mutual savings banks, etc.), or subchapter L of chapter 1 (relating to insurance companies), or