

§ 1.356-1

(g) *Effective date.* This section applies to distributions occurring after December 20, 2000, except that they do not apply to any distributions occurring pursuant to a written agreement which is (subject to customary conditions) binding on December 20, 2000, and at all times thereafter.

[T.D. 8913, 65 FR 79723, Dec. 20, 2000; 66 FR 9034, Feb. 6, 2001]

§ 1.356-1 Receipt of additional consideration in connection with an exchange.

(a) If in any exchange to which the provisions of section 354 or section 355 would apply except for the fact that there is received by the shareholders or the security holders other property (in addition to property permitted to be received without recognition of gain by such sections) or money, then—

(1) The gain, if any, to the taxpayer shall be recognized in an amount not in excess of the sum of the money and the fair market value of the other property, but,

(2) The loss, if any, to the taxpayer from the exchange or distribution shall not be recognized to any extent.

(b) If the distribution of such other property or money by or on behalf of a corporation has the effect of the distribution of a dividend, then there shall be chargeable to each distributee (either an individual or a corporation)—

(1) As a dividend, such an amount of the gain recognized as is not in excess of the distributee's ratable share of the undistributed earnings and profits of the corporation accumulated after February 28, 1913, and

(2) As a gain from the exchange of property, the remainder of the gain so recognized.

(c) This section may be illustrated by the following examples:

Example (1). In an exchange to which the provisions of section 356 apply and to which section 354 would apply but for the receipt of property not permitted to be received without the recognition of gain or loss, A (either an individual or a corporation), received the following in exchange for a share of stock having an adjusted basis to him of \$85:

One share of stock worth	\$100
Cash	25
Other property (basis \$25) fair market value	50
	175

Total fair market value of consideration received ..	175
Adjusted basis of stock surrendered in exchange	85
	90
Total gain	90
Gain to be recognized, limited to cash and other property received	75
A's pro rata share of earnings and profits accumulated after February 28, 1913 (taxable dividend)	30
	45
Remainder to be treated as a gain from the exchange of property	45

Example (2). If, in *Example (1)*, A's stock had an adjusted basis to him of \$200, he would have realized a loss of \$25 on the exchange, which loss would not be recognized.

(d) Section 301(b)(1)(B) and section 301(d)(2) do not apply to a distribution of "other property" to a corporate shareholder if such distribution is within the provisions of section 356.

(e) See paragraph (1) of § 1.301-1 for certain transactions which are not within the scope of section 356.

§ 1.356-2 Receipt of additional consideration not in connection with an exchange.

(a) If, in a transaction to which section 355 would apply except for the fact that a shareholder (individual or corporate) receives property permitted by section 355 to be received without the recognition of gain, together with other property or money, without the surrender of any stock or securities of the distributing corporation, then the sum of the money and the fair market value of the other property as of the date of the distribution shall be treated as a distribution of property to which the rules of section 301 (other than section 301(b) and section 301(d)) apply. See section 358 for determination of basis of such other property.

(b) Paragraph (a) of this section may be illustrated by the following examples:

Example (1). Individuals A and B each own 50 of the 100 outstanding shares of common stock of Corporation X. Corporation X owns all of the stock of Corporation Y, 100 shares. Corporation X distributes to each shareholder 50 shares of the stock of Corporation Y plus \$100 cash without requiring the surrender of any shares of its own stock. The \$100 cash received by each is treated as a distribution of property to which the rules of section 301 apply.

Example (2). If, in the above example, Corporation X distributes 50 shares of stock of Corporation Y to A and 30 shares of such stock plus \$100 cash to B without requiring