A advances S an additional $1,000, which is not evidenced by a written instrument. There is no net increase under paragraph (c) of this section in year 2010.

(ii) The $4,000 April repayment S makes to A and A’s $1,000 September advance are netted to result in a net repayment of $3,000 for the taxable year on A’s $16,000 open account debt carried forward from 2009. Because there is no net increase in 2010, no basis of indebtedness is restored for the 2010 taxable year, and A realizes $1,500 of income on the $3,000 net repayment at the close of the 2010 taxable year.

(iii) At close of the 2010 taxable year, A’s open account debt does not exceed $25,000. The $3,000 repayment of $3,000 for the taxable year on A’s $16,000 open account debt carried forward from 2009, leaves A with an open account debt of $13,000 to carry forward as open account debt to the beginning of the 2011 taxable year.

Example 8. Treatment of shareholder indebtedness not evidenced by a written instrument which exceeds $25,000.

(i) The facts are the same as in Example 7, in addition to which, on February 1, 2011, S repays $5,000 of the open account debt and on March 1, 2011, A advances S $20,000, which is not evidenced by a written instrument.

(ii) At the close of the 2010 taxable year, A has an open account debt of $13,000 to carry forward as open account debt to the beginning of the 2011 taxable year.

(iii) The 2011 advances and repayments are netted to result in a net advance of $15,000 on A’s $13,000 open account debt carried forward from 2010, increasing A’s open account debt to $28,000, as of the close of the 2011 taxable year. Because A’s open account debt exceeds $25,000, for any subsequent taxable year the $28,000 indebtedness will be treated in the same manner as indebtedness evidenced by a separate written instrument for the purposes of this section. Because there is no net increase in 2011, no basis of indebtedness is restored for the 2011 taxable year.

[T.D. 9428, 73 FR 62203, Oct. 20, 2008]

§ 1.1368–0 Table of contents.

The following table of contents is provided to facilitate the use of §§1.1368–1 through 1.1368–4.

§ 1.1368–1 Distributions by S corporations.

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(i) In general.
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§ 1.1368–2 Accumulated adjustments account (AAA).

(a) Accumulated adjustments account.
(1) In general.
(2) Increases to the AAA.
(3) Decreases to the AAA.
(4) Corporate statement regarding elections.

§ 1.1367–3 Effective/Applicability date.

Section 1.1367–2(a), (c)(2), (d)(2), and (e) Example 6, Example 7, and Example 8 apply to any shareholder advances to the S corporation made on or after October 20, 2008, and repayments on those advances by the S corporation.

(T.D. 9428, 73 FR 62203, Oct. 20, 2008)
§ 1.1368–1

(a) In general. This section provides rules for distributions made by an S corporation with respect to its stock which, but for section 1368(a) and this section, would be subject to section 316 and § 1.316–2 for provisions relating to the allocation of earnings and profits among distributions.

(b) Date distribution made. For purposes of section 1368, a distribution is taken into account on the date the corporation makes the distribution, regardless of when the distribution is treated as received by the shareholder.

(c) S corporation with no earnings and profits. A distribution made by an S corporation that has no accumulated earnings and profits as of the end of the taxable year of the S corporation in which the distribution is made is treated in the manner provided in section 1368(b).

(d)(2) of this section, a distribution made with respect to its stock by an S corporation that has accumulated earnings and profits as of the end of the taxable year of the S corporation in which the distribution is made is treated in the manner provided in section 1368(c).

§ 1.1368–2

§ 1.1368–4 Effective date and transition rule.

§ 1.1368–1 Distributions by S corporations.

(a) In general. This section provides rules for distributions made by an S corporation with respect to its stock which, but for section 1368(a) and this section, would be subject to section 316 and § 1.316–2 for provisions relating to the allocation of earnings and profits among distributions.

(b) Date distribution made. For purposes of section 1368, a distribution is taken into account on the date the corporation makes the distribution, regardless of when the distribution is treated as received by the shareholder.

(c) S corporation with no earnings and profits. A distribution made by an S corporation that has no accumulated earnings and profits as of the end of the taxable year of the S corporation in which the distribution is made is treated in the manner provided in section 1368(b).

(d) General treatment of distribution. Except as provided in paragraph (d)(2) of this section, a distribution made with respect to its stock by an S corporation that has accumulated earnings and profits as of the end of the taxable year of the S corporation in which the distribution is made is treated in the manner provided in section 1368(c).

§ 1.1368–3 Examples.

§ 1.1368–4 Effective date and transition rule.