

corporation, a party to the reorganization. This provision includes only stock and securities received in connection with a reorganization defined in section 368(a). It also includes non-voting stock and securities in a corporation, a party to a reorganization, received in a transaction to which section 368(a)(1)(C) is applicable only by reason of section 368(a)(2)(B).

**§ 1.362-1 Basis to corporations.**

(a) *In general.* Section 362 provides, as a general rule, that if property was acquired on or after June 22, 1954, by a corporation (1) in connection with a transaction to which section 351 (relating to transfer of property to corporation controlled by transferor) applies, (2) as paid-in surplus or as a contribution to capital, or (3) in connection with a reorganization to which part III, subchapter C, chapter 1 of the Code applies, then the basis shall be the same as it would be in the hands of the transferor, increased in the amount of gain recognized to the transferor on such transfer. (See also § 1.362-2.) See § 1.460-4(k)(3)(iv)(B)(2) for rules relating to adjustments to the basis of certain contracts accounted for using a long-term contract method of accounting that are acquired in certain transfers described in section 351 and certain reorganizations described in section 368(a).

(b) *Exceptions.* (1) In the case of a plan of reorganization adopted after October 22, 1968, section 362 does not apply if the property acquired in connection with such reorganization consists of stock or securities in a corporation a party to the reorganization, unless acquired by the exchange of stock or securities of the transferee (or of a corporation which is in control of the transferee) as the consideration in whole or in part for the transfer.

(2) In the case of a plan of reorganization adopted before October 23, 1968, section 362 does not apply if the property acquired in connection with such reorganization consists of stock or securities in a corporation a party to the reorganization, unless acquired by the issuance of stock or securities of the transferee (or, in the case of transactions occurring after December 31, 1963, of a corporation which is in con-

trol of the transferee) as the consideration in whole or in part for the transfer. The term *issuance of stock or securities* includes any transfer of stock or securities, including stock or securities which were purchased or were acquired as a contribution to capital.

[T.D. 7422, 41 FR 26569, June 28, 1976, as amended by T.D. 8995, 67 FR 34605, May 15, 2002]

**§ 1.362-2 Certain contributions to capital.**

The following regulations shall be used in the application of section 362(c):

(a) Property deemed to be acquired with contributed money shall be that property, if any, the acquisition of which was the purpose motivating the contribution;

(b) In the case of an excess of the amount of money contributed over the cost of the property deemed to be acquired with such money (as defined in paragraph (a) of this section) such excess shall be applied to the reduction of the basis (but not below zero) of other properties held by the corporation, on the last day of the 12-month period beginning on the day the contribution is received, in the following order—

(1) All property of a character subject to an allowance for depreciation (not including any properties as to which a deduction for amortization is allowable),

(2) Property with respect to which a deduction for amortization is allowable,

(3) Property with respect to which a deduction for depletion is allowable under section 611 but not under section 613, and

(4) All other remaining properties.

The reduction of the basis of each of the properties within each of the above categories shall be made in proportion to the relative bases of such properties.

(c) With the consent of the Commissioner, the taxpayer may, however, have the basis of the various units of property within a particular category adjusted in a manner different from the general rule set forth in paragraph (b) of this section. Variations from such rule may, for example, involve adjusting the basis of only certain units of the taxpayer's property within a given