

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[TD 9471]

RIN 1545-BH68

**Employee Stock Purchase Plans Under Internal Revenue Code Section 423; Correction****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to final regulations (TD 9471) that were published in the **Federal Register** on Tuesday, November 17, 2009 (74 FR 59074) providing guidance to assist taxpayers in complying with section 423 in addition to clarifying certain rules regarding options granted under an employee stock purchase plan.

**DATES:** This correction is effective on December 22, 2009, and is applicable on November 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** Thomas Scholz or Ilya Enkishev, (202) 622-6030 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

The final regulations (TD 9471) that are the subject of this document are under sections 421, 422, 423, and 424 of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations (TD 9471) contain errors that may prove to be misleading and are in need of clarification.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Correction of Publication**

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

**PART 1—INCOME TAXES**

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

*Authority:* 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 1.423-2 is amended by:

■ 1. Revising the first sentence of paragraph (a)(1).

■ 2. Revising the paragraph (d)(3).

■ 3. Revising the last sentence of paragraph (i)(5) *Example 5*.

The revisions read as follows:

**§ 1.423-2 Employee stock purchase plan defined.**

\* \* \* \* \*

(a) \* \* \* (1) The term “employee stock purchase plan” means a plan that meets the requirements of paragraphs (a)(2) and (a)(3) of this section. \* \* \*

\* \* \* \* \*

(d) \* \* \*

(3) *Examples.* The following examples illustrate the principles of this paragraph (d):

\* \* \* \* \*

(i) \* \* \*

(5) \* \* \*

*Example 5.* \* \* \* On August 31, 2012, Q may purchase under the option an amount of FF stock equal to the difference between \$75,000 in fair market value of FF stock (determined at the time the option was granted) and the fair market value of FF stock (determined at the time of grant of the option) purchased during year 2011.

\* \* \* \* \*

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[TD 9470]

RIN 1545-BH69

**Information Reporting Requirements Under Internal Revenue Code Section 6039; Correction****AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to final regulations (TD 9470) that were published in the **Federal Register** on Tuesday, November 17, 2009 (74 FR 59087) relating to the return and information statement requirements under section 6039 of the Internal Revenue Code.

**DATES:** This correction is effective on December 22, 2009, and is applicable on November 17, 2009.

**FOR FURTHER INFORMATION CONTACT:** Thomas Scholz or Ilya Enkishev, (202) 622-6030 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

The final regulations (TD 9470) that are the subject of this document are under section 6039 of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations (TD 9470) contain errors that may prove to be misleading and are in need of clarification.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Correction of Publication**

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

**PART 1—INCOME TAXES**

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

*Authority:* 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 1.6039-2 is amended as follows:

■ 1. Revising the heading of paragraph (b).

■ 2. Revising the first and second sentences of paragraph (e)(2).

The revisions read as follows:

**§ 1.6039-2 Statements to persons with respect to whom information is reported.**

\* \* \* \* \*

(b) *Requirement of statement with respect to stock purchased under an employee stock purchase plan under section 6039(b).*

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \* Notwithstanding § 1.6039-1(f), corporations must furnish information statements to employees in accordance with this section for stock transfers that are subject to § 1.6039-1(a) and (b), and occur during the 2007, 2008 and 2009 calendar years. For purposes of furnishing information statements for stock transfers that occur during the 2007 or 2008 calendar years, taxpayers may rely on § 1.6039-1 of the 2004 final regulations (69 FR 46401) or § 1.6039-2 of the 2008 proposed regulations (REG-103146-08) (73 FR 40999). \* \* \*

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