

Purpose

Use Form 8725 to report and pay the 50% excise tax imposed under section 5881 on the gain or other income realized on the receipt of greenmail (defined below). Greenmail is considered received when the gain or other income is realized under your method of accounting, regardless of whether the gain or other income is recognized. The tax applies to any consideration received after December 22, 1987. However, the tax does not apply to any stock acquired under a written, binding contract in effect on December 15, 1987, if the contract remained in effect until the acquisition.

Definition of Greenmail

The term "greenmail" means any amount a corporation (or, for transactions occurring after March 30, 1988, any person acting in concert with a corporation) pays to a shareholder to directly or indirectly acquire its stock if:

1. The shareholder held the stock (as determined under section 1223) for less than 2 years before entering into the agreement to make the transfer,
2. At some time during the 2-year period ending on the date of acquisition, the shareholder, any person acting in concert with the shareholder, or any person related to either of them, made or threatened to make a public tender offer for stock of the corporation, and
3. The acquisition was made under an offer that was not made on the same terms to all shareholders.

Note: *Payments made in connection with (or in transactions related to) an acquisition are treated as payments made for the acquisition of the stock.*

Indirect acquisition of stock.—Stock is deemed to have been acquired indirectly by the issuing corporation if such stock is sold to an entity related to the issuing corporation (e.g., a controlled subsidiary).

Public tender offer.—The term "public tender offer" means any offer to purchase or otherwise acquire stock or assets in a corporation if the offer was or would be required to be filed or registered with any Federal or state agency regulating securities.

Related person.—A person is considered related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b).

Who Must File

You must file Form 8725 if you are liable for the excise tax on greenmail under section 5881. For each agreement made to transfer stock, file a separate Form 8725.

When To File

For greenmail received before December 19, 1991, file Form 8725 by March 18, 1992. For greenmail received after December 18, 1991, file Form 8725 by the 90th day following receipt of any portion of the greenmail.

If you need more time to file Form 8725, file **Form 2758**, Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns, by the due date of Form 8725. Form 2758 does not extend the time for payment of tax.

Where To File

File Form 8725 with the Internal Revenue Service Center for filing your income tax return. If you have no legal residence, principal place of business, or office or agency in the United States, file Form 8725 with the Internal Revenue Service Center, Philadelphia, PA 19255.

Rounding Off to Whole Dollars

Money items may be shown on the return as whole dollars. To do so, drop any amount less than 50 cents and increase any amount from 50 cents through 99 cents to the next higher dollar.

Amended Return

To amend a previously filed Form 8725, file a corrected Form 8725 marked "Amended" at the top of the form.

Attachments

If more space is needed, attach separate sheets to Form 8725. Be sure to put your name and identifying number on each sheet.

Signature

See the instructions for the "Signature" section of your Federal income tax return.

Interest and Penalties

Interest.—Interest is charged on taxes not paid by the due date at a rate determined under section 6621.

Late filing of return.—A penalty of 5% a month or part of a month, up to a maximum of 25%, is imposed on the net amount due if the excise tax return is not filed when due.

Late payment of tax.—Generally, the penalty for not paying tax when due is $\frac{1}{2}$ of 1% of the unpaid amount, up to a maximum of 25%, for each month or part of a month the tax remains unpaid. The penalty is imposed on the net amount due.

Specific Instructions

Name and Address

Enter the name shown on your most recently filed Federal income tax return. Include the suite, room, apartment, or

other unit number after the street address. If the Post Office does not deliver mail to the street address and the taxpayer has a P.O. box, show the P.O. box number instead of the street address.

Identifying Number

If you are an individual, enter your social security number. Other filers, enter your employer identification number.

Tax Computation

Line 1. Net sales price.—Enter the net proceeds received from the sale of the stock subject to the excise tax.

Column 2(a). Date acquired.—For each separate acquisition of stock subject to the excise tax, enter the date acquired (e.g., the trade date for stock traded on an exchange or over the counter). See section 1223 for special rules for determining the holding period of stock received in an exchange, for stock that has the same basis in whole or in part as it would have in the hands of another person, for stock subject to the "wash sale" rules of section 1091, etc.

Column 2(c). Cost or other basis.—The cost or other basis of stock is generally the cost of the stock plus purchase commissions. If you inherited the stock, received it as a gift, received it in a tax-free exchange, or reacquired stock in a "wash sale" transaction subject to the rules of section 1091, you may not be able to use the actual cash cost as the basis. If you do not use cash cost, attach an explanation of your basis. Be sure to adjust your basis by subtracting all the nontaxable distributions you received before the sale. Also adjust your basis for any stock splits. For more information, see **Pub. 551**, Basis of Assets.

Line 4. Other income.—If you realized any other income which is subject to the excise tax, enter the amount of the income on line 4.

Line 5. Total gain and other income.—You must include the recognized portion of the amount on line 5 as income on your Federal income tax return.

Line 6. Excise tax on greenmail.—You may not claim a deduction on your Federal income tax return for the amount shown on this line.

Line 7. Tax paid with Form 2758.—If you filed Form 2758, enter the amount of tax paid, if any, when you filed that form.

Line 8. Tax due.—Full payment of the tax due must accompany Form 8725. Make your check or money order payable to the "Internal Revenue Service." Write your name, address, identifying number, and "Form 8725" on the check or money order.

Line 9. Overpayment.—The IRS will refund the amount on line 9 if you owe no other taxes.