

Information Return for Acquisition of Control or Substantial Change in Capital Structure

Part I Reporting Corporation (see instructions)

1a Name of reporting corporation _____ c EIN of reporting corporation _____	b Address of reporting corporation _____ _____ _____
2a Name of reporting corporation's common parent, if any _____ c EIN of reporting corporation's common parent _____	b Address of reporting corporation's common parent _____ _____ _____

Part II Acquiring Corporation (see instructions)

3a Name of acquiring corporation _____ c EIN of acquiring corporation _____	b Address of acquiring corporation _____ _____ _____
d Is the acquiring corporation a foreign corporation (as defined in section 7701(a)(5))? <input type="checkbox"/> Yes <input type="checkbox"/> No e Is the acquiring corporation a dual resident corporation (see Regulations section 1.1503-2(c)(2))? <input type="checkbox"/> Yes <input type="checkbox"/> No f Was the acquiring corporation newly formed prior to its involvement in the transaction? <input type="checkbox"/> Yes <input type="checkbox"/> No	
4a Name of acquiring corporation's common parent, if any _____ c EIN of acquiring corporation's common parent _____	b Address of acquiring corporation's common parent _____ _____ _____

Part III Information About Acquisition of Control or Substantial Change in Capital Structure

5a Date of transaction(s) that resulted in the acquisition of control or substantial change in capital structure _____

b Description of the transaction(s) ▶ _____

6a Did the reporting corporation's shareholders receive any stock in exchange for their stock in the reporting corporation, for which the reporting corporation has reasonably determined that the shareholders **are not** required to recognize gain (if any) from the receipt of such stock? (If "No," go to line 7a). Yes No

b Fair market value of the stock received **6b** _____

c Description of the stock received ▶ _____

7a Amount of cash received by the reporting corporation's shareholders in exchange for their stock **7a** _____

b Fair market value of property, other than stock, received by the reporting corporation's shareholders **7b** _____

c Did the reporting corporation's shareholders receive any stock, other than stock described on line 6c above, in exchange for their stock in the reporting corporation, for which the reporting corporation has reasonably determined that its shareholders **would** be required to recognize gain (if any) from the receipt of such stock? (If "No," go to line 7e). Yes No

d Fair market value of the stock received **7d** _____

e Total cash and property. Add lines 7a, 7b, and 7d **7e** _____

f Description of the stock ▶ _____

Sign Here ▶ Under penalties of perjury, I declare that I have examined this form, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer _____	Date _____			
Paid Preparer's Use Only	Preparer's signature _____	Date	Check if self-employed <input type="checkbox"/>	Preparer's SSN or PTIN _____ _____
	Firm's name (or yours if self-employed), address, and ZIP code _____ _____ _____		EIN _____	Phone no. () _____

Part IV Consent Election

8 Does the reporting corporation consent to the publication of its name and address, date of transaction(s), description of shares affected by the transaction(s) and the amount of cash and fair market value of any property provided to each class of shareholders in exchange for a share, on an IRS website and/or in an IRS publication, as described in Temporary Regulations section 1.6043-4T(a)(2), to assist brokers to satisfy their reporting obligations under Temporary Regulations section 1.6045-3T? Yes No

Under penalties of perjury, I declare that I am an officer of the above named corporation and that I am authorized to give consent on behalf of the above named corporation for the IRS to publish the information necessary to enable brokers to satisfy their reporting obligations under Temporary Regulations section 1.6045-3T.

Sign Here ▶ _____
 Signature of officer Date Title

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A reporting corporation must file **Form 8806**, Information Return for Acquisition of Control or Substantial Change in Capital Structure, to report an acquisition of control or a substantial change in the capital structure of a domestic corporation.

Definitions

Acquisition of Control of a Corporation

Generally, an acquisition of control of a corporation (first corporation) occurs if, in a transaction or series of related transactions, either:

- Stock representing control of the first corporation is distributed by a second corporation to shareholders of the second corporation and the fair market value of such stock on the date of distribution is \$100 million or more or
- Before an acquisition of stock of the first corporation (directly or indirectly) by a second corporation, the second corporation does not have control of the first corporation; after the acquisition, the second corporation has control of the first corporation; the fair market value of the stock acquired in the transaction and in any related transactions as of the date or dates on which the stock was acquired is \$100 million or more; and the shareholders of the first corporation (determined without applying the constructive ownership rule of section 318(a)) receive cash, stock, or other property pursuant to the acquisition.

Control. Control means the ownership of stock possessing at least 50% of the total combined voting power of all classes of stock entitled to vote or at least 50% of the total value of shares of all classes of stock.

Constructive ownership. Generally, the constructive ownership rules of section 318(a) (except for section 318(a)(4), providing for constructive ownership through an option to acquire stock), modified as provided in section 304(c)(3)(B), apply for determining whether there has been an acquisition of control. The determination of whether there has been an acquisition of control will be made without regard to whether the person or persons from whom control was acquired retain indirect control of the first corporation under section 318(a). Section 318(a) will not cause a second corporation to be treated as owning, before an acquisition of stock in a first corporation (directly or indirectly) by the second corporation, any stock that is acquired in the first corporation.

Corporation includes group. If two or more corporations act according to a plan or arrangement with respect to the acquisition of stock, they will be treated as one corporation.

Section 338 election. An acquisition of stock of a corporation with respect to which an election under section 338 is made is treated as an acquisition of stock (and not as an acquisition of the assets of the corporation).

Substantial Change in Capital Structure of a Corporation

A corporation has a substantial change in capital structure if it has a change in capital structure and the amount of any cash and the fair market value of any other property (including the value of any stock) provided to the shareholders of such corporation pursuant to the change in capital structure, as of the date or dates on which the cash or other property is provided, is \$100 million or more. Generally, a corporation has a change in capital structure if the corporation in a transaction or series of transactions:

- Undergoes a recapitalization with respect to its stock;
- Redeems its stock (including deemed redemptions);
- Merges, consolidates, or otherwise combines with another corporation or transfers all or substantially all of its assets to one or more corporations;
- Transfers all or part of its assets to another corporation in a Title 11 or similar case and, in pursuance of the plan, distributes stock or securities of that corporation; or
- Changes its identity, form, or place of organization.

Receipt of property. A shareholder is treated as receiving property (or as having property provided to it) related to an acquisition of control or a substantial change in capital structure if a liability of the shareholder is assumed in the transaction and, as a result of the transaction, an amount is realized by the shareholder from the sale or exchange of stock.

Reporting Corporation

A reporting corporation is a corporation whose stock was acquired in an acquisition of control or that had a substantial change in its capital structure.

Acquiring Corporation

The acquiring corporation is any corporation that acquired control of the reporting corporation or received assets from the reporting corporation pursuant to a substantial change in capital structure of the reporting corporation.

Who Must File

A reporting corporation is required to file Form 8806 if the reporting corporation or any shareholder is required to recognize gain (if any) as a result of the application of section 367(a) to the transaction.

If the reporting corporation transfers all or substantially all of its assets to an acquiring corporation in a transaction that constitutes a substantial change in the capital structure of the reporting corporation and the reporting corporation does not file Form 8806, then the acquiring corporation must file Form 8806. If neither corporation files Form 8806, both corporations are jointly and severally liable for any applicable penalties. See **Penalties for Failure To File** below.

Corporations Not Required To File

Do not file Form 8806:

- For transactions that were properly reported under section 6043(a); or
- If the reporting corporation reasonably determines that all of its shareholders who receive cash, stock, or other property related to the acquisition of control or substantial change in capital structure are exempt recipients under Temporary Regulations section 1.6043-4T(b)(6).

When To File

File Form 8806, within 45 days after the transaction, or if earlier by January 5th of the calendar year following the year in which the acquisition of control or substantial change in capital structure occurred.

If an acquisition of control or a substantial change in capital structure of a corporation occurs after December 31, 2002, and before December 30, 2003, Form 8806 must be filed on or before January 5, 2004.

Where To File

Mail Form 8806 to:

Internal Revenue Service
Large and Midsize Business Division
Attention: PFTS
1111 Constitution Ave., NW
Washington, DC 20224

Penalties for Failure To File

Caution: *Form 8806 and all Forms 1099-CAP, Changes in Corporate Control and Capital Structure, required to be filed under Temporary Regulations sections 1.6043-4T(a) and (b) will be considered as one return for purposes of the failure to file penalty under section 6652(l).*

If a correct Form 8806 is not filed by the due date of the corporation's income tax return, including extensions, it may be penalized \$500 for each day the

return is late, up to a maximum of \$100,000. The penalty will not be imposed if the corporation can show that the failure to file on time was due to reasonable cause. Corporations that file late must attach a statement explaining the reasonable cause. Additional penalties may apply under sections 7203, 7206, and 7207.

Note: Failure to file also includes the requirement to file on magnetic media as required by section 6011(e) and Regulations section 1.6011-2.

Information Returns Regarding Shareholders

A corporation required to file Form 8806 also must file Form 1099-CAP for certain shareholders of record who receive cash or other property (including stock) in exchange for their stock in the reporting corporation due to the acquisition of control or the substantial change in capital structure. See Form 1099-CAP for more information.

Specific Instructions

Employer identification number (EIN).

An EIN must be included for each corporation identified. An EIN is not required if the corporation does not have, and is not otherwise required to have, an EIN.

Common parent of the reporting corporation. If the reporting corporation was a subsidiary member of a consolidated group immediately prior to the reportable transaction, complete lines 2a and 2b.

Common parent of the acquiring corporation. If the acquiring corporation was a subsidiary member of a consolidated group at the time of the change in control or substantial change in capital structure, complete lines 4a and 4b.

Part IV—Consent Election

A reporting corporation may elect to consent to the IRS publication (on the IRS website and/or an IRS publication) of information included on this form, to be limited to the name and address of the corporation, the date of the transaction, a description of the shares affected by the transaction, and the amount of cash and the fair market value of any property (as reflected on line 7e) provided to each class of shareholders in exchange for a share. See Temporary Regulations section 1.6043-4T(a)(2).

Corporations that elect to consent to such publication are not required to file Form 1099-CAP with respect to shareholders that are clearing organizations, or to furnish Form 1099-CAP to such organizations. See Temporary Regulations section 1.6043-4T(b)(1) and (4).

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this tax form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping . . .	6 hr., 42 min.
Learning about the law or the form . . .	2 hr., 10 min.
Preparing and sending the form to the IRS . . .	2 hr., 23 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send this form to this address. Instead see **Where To File** on page 2.

