



IRA A. JACKSON  
COMMISSIONER

*The Commonwealth of Massachusetts*  
*Department of Revenue*  
*Leverett Saltonstall Building*  
*100 Cambridge Street, Boston 02204*

June 25, 1984

You inquire as to the Massachusetts corporate excise treatment of the purchase of one hundred percent of the stock of a corporation by another corporation which elects, under Internal Revenue Code Section 338, to obtain a stepped-up basis for the assets of the acquired corporation.

If a corporation makes a qualified stock purchase of another corporation's stock after August 31, 1982, and makes an election or is treated as making an election under Internal Revenue Code Section 338, the purchasing corporation will get a stepped-up basis in the acquired corporation's assets equal to the purchasing corporation's grossed-up basis in the acquired corporation's stock. (I.R.C. § 338(a),(b)).

A qualified stock purchase is a purchase during a 12-month acquisition period of corporate shares which possess at least eighty percent of the total voting power of all classes of stock entitled to vote, and at least eighty percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends). (I.R.C. § 338(d)(3)).

Grossed-up basis equals the purchasing corporation's actual basis in the acquired corporation's stock on the acquisition date divided by that percentage of the acquired corporation's total shares which is being purchased. (I.R.C. § 338(b)(2)).

If the purchasing corporation holds all of the acquired corporation's stock, gain or loss is not recognized by the acquired corporation as a result of the deemed sale to the

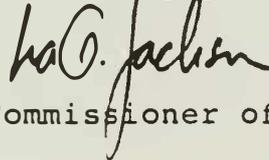
June 25, 1984

same extent gain or loss is not recognized by a corporation that sells its assets in a single transaction under a 12-month plan of complete liquidation under Code Section 337. (I.R.C. § 338(a)(1)(c)).

Massachusetts gross income is federal gross income as defined under the Internal Revenue Code, as amended and in effect for the taxable year, with certain modifications not relevant here. (G.L. c. 63, § 30(5)(a)).

For Massachusetts corporate tax purposes, a corporation making a qualified stock purchase under I.R.C. § 338 will get a stepped-up basis in the acquired corporation's assets to the same extent the corporation receives a stepped-up basis for federal tax purposes. For Massachusetts tax purposes, no gain or loss will be recognized by the acquired corporation if no gain or loss is recognized for federal tax purposes.

Very truly yours,



Commissioner of Revenue

IAJ:VGS:mf

LR 84-45