

Cost Basis Steering Committee Meeting Minutes
6/29/2010 and 6/30/2010

Date: June 29, 2010

Time: Noon – 2 p.m.

- I. Approval of June 22, 2010 meeting minutes
 - The committee approved the minutes as written

- II. Review new values in the Tax Lot Input Record
 - **Gifted or Inherited Indicator:** revisit discussion of *Inherited then Gifted* value. The committee discussed this value, and had conflicting opinions about whether to include this additional value. Keith Lawson of the ICI called contacts at the Treasury Department and the IRS. The committee reconvened on July 1 to discuss the issue further after Keith relayed the phone conversations back to the committee. The minutes of this additional meeting are in Appendix A
 - **Uncovered/Pending Indicator:** New Value: *Uncovered – reported by Transfer Agent*. This field was also discussed at this additional meeting, please see Appendix A
 - DTCC reviewed changes to the file layouts since the layouts were released to the industry on April 30, 2010. Below is a list of those changes. **No more changes will be made to the record layouts in this phase of the project**
 - **Receiving/Submitting Firm Type:**
 - New Firm Type code for CBRS only user: CBRACT (was CBR)
 - New rule about transaction type 41
 - **Receiving/Submitting Firm Number:** new comment
 - **ISIN Security Check Digit:** change in rule
 - **Option Strike Price Integer and Decimal:** now Numeric fields
 - **Position Code:** now required on both asset and tax lot (conditional on Firm Reject/Request record)
 - **Total Average Cost:** added Best Practice
 - **Shares to Cover Short Indicator:** new comment
 - **Asset Description, Asset Category, Total Position Quantity** on Firm Reject/Request: new rule
 - **Date Transfer was Initiated, Settlement Date of Transfer, Position Code** on Firm Reject/Request: updated Best Practices
 - **Fair Market Value as of Date of Gift:** added comment and Best Practice
 - **Acquisition Date of Tax Lot:** changed various/unknown date to 01/01/1901
 - **Original Acquisition Date for Wash Sale Adjustment:** added Best Practice
 - **Tax Lot Original Unit Price:** added Best Practice

Appendix A
Minutes from supplemental
Cost Basis Steering Committee Meeting, 6/30/2010

Date: June 30, 2010
Time: Noon – 1 p.m.

Meeting Attendees

Ellen Bocina — NFS
Isabel Chan — DTCC
Jim Costello — Harris Bank
Joan DiBlasi — AFLAC
Kathy Joaquin — ICI
Keith Lawson — ICI
Kevin McCosker — Pershing
Lydia Midwood — DTCC
Alison Myers — NFS
Adam O’Neill — DTCC
Nino Palermo — American Funds
Tom Tierney — SIFMA

- I. **Inherited then Gifted value in Gifted or Inherited Indicator field**
 - The committee reviewed emails from Keith Lawson at ICI (a copy of the emails is included in Appendix B). Since more specific guidance from the IRS is not available, the committee decided to include this value in this field. The rules for the value are the same as the rules for the 01 = Gifted value

- II. **New field: Taxes reported by Issuer/Transfer Agent**
 - The committee discussed the issue that the value 04 = *Uncovered – reported by Transfer Agent* in the *Uncovered/Pending Indicator* field was not adequate to cover all scenarios when the Issuer/Transfer Agent report taxes. In some situations the lot will be covered. The value will be removed from the record layouts
 - To fix the problem, the committee decided to add a new field, *Taxes reported by Issuer/Transfer Agent*. The values for this field are Yes or No, and the field is optional

- III. **Next Steps**
 - The committee will meet on Tuesday, July 20, from Noon – 2 PM

Appendix B

Email about Inherited then Gifted value:

"Joaquin, Kathy" <kjoaquin@ici.org>

06/30/2010 09:00 AM
To Lydia Midwood/DTCC@DTCC
Subject FW: Inherited shares that then are gifted

Hi Linda- further information and questions to discuss on today's call.

Regards,
Kathy

Kathleen C. Joaquin, CPA
Director - Operations & Distribution
Investment Company Institute
202-326-5930
kjoaquin@ici.org

-----Original Message-----

From: Lawson, Keith
Sent: Tuesday, June 29, 2010 6:11 PM
To: Joaquin, Kathy
Cc: Gibian, Karen; Burns, Martin "Marty"; Butler, Diane
Subject: RE: Inherited shares that then are gifted

Kathy:

I just spoke with the Treasury and IRS cost basis reporting experts. The IRS official remembers the inherited/gifted fact pattern being discussed by the government team that developed the proposed regulations, but does not remember the government team ever reaching a conclusion on the substantive answer. The IRS official noted that the Code section 1223(9) rule discussed below, on its face, refers only to the donor's holding period. As noted below, the Treasury estate and gift tax expert thought that the donee would benefit from the long-term holding period rule if the beneficiary later gifted the shares to the donee.

In sum, the cost basis experts are not at this point in a position to answer definitively the question of what the transfer statement should or should not show when inherited shares subsequently are gifted. They would be very interested in any insights we can provide on the frequency of these transactions and the coding difficulties. For example, assuming that cost basis systems must be able to override the date of death "acquisition date" to apply section 1223(9) when the beneficiary sells the shares, the government team would like to understand the additional burdens of applying the section 1223(9) rule when gifted shares previously were inherited.

The Treasury/IRS team also would like to hear back from us so that they can decide what changes, if any, should be made to the proposed regulations to clarify the treatment of issues such as these (either with "must follow" or "safe harbor" rules). I told them that we were not in a position today to have an ICI view, but that I would call back tomorrow (either to tell them that we reached a consensus or to discuss the various factors we still were considering).

-- Keith

-----Original Message-----

From: Lawson, Keith

Sent: Tuesday, June 29, 2010 3:45 PM

To: Joaquin, Kathy Cc: Gibian, Karen; Burns, Martin "Marty"; Butler, Diane

Subject: Inherited shares that then are gifted

Kathy:

I spoke with a Treasury Department official (an estate and gift tax expert) who thought that the answer to the "inherited/then gifted" fact pattern was clear. This official said that the beneficiary's/donor's long-term holding period of the inherited shares would not be negated by a subsequent gift since the beneficiary's/donor's holding period (long-term, pursuant to Code section 1223(9)) carries over to the donee when the shares are gifted. When I described the alternative reading discussed during today's call, the official said "I've never heard that before." The official added that this alternative reading could cause shares eligible for long-term capital gain treatment in the beneficiary's/donor's hands to receive (potentially) short-term treatment in the donee's hands -- and that this reading "didn't make sense" since the donor's holding period carries over to the donee.

I have not spoken yet to the other Treasury Department official (the cost basis reporting expert) I called to ask why the proposed cost basis regulations (Prop. Treas. Reg. section 1.6045A-1(b)(3)) require that the transfer statement report (1) that the shares are inherited and (2) the date of death as the original acquisition date. This "original acquisition date" rule, on its face, would appear to conflict with both Code section 1223(9) and the answer received from the first Treasury Department official UNLESS the acquisition date information is being provided mostly/only as a backstop for determining the date of death value.

I will let you know when I hear from the second Treasury Department official.

-- Keith