

MEMO# 27192

April 18, 2013

IRS Issues Final Regulations on Cost Basis Reporting for Debt and Options; Includes Guidance on Form 8937

[27192]

April 18, 2013

TO: ADVISER DISTRIBUTOR TAX ISSUES TASK FORCE No. 3-13
BANK, TRUST AND RETIREMENT ADVISORY COMMITTEE No. 9-13
BDAC COST BASIS REPORTING TASK FORCE No. 2-13
BROKER/DEALER ADVISORY COMMITTEE No. 20-13
OPERATIONS MEMBERS No. 10-13
SMALL FUNDS MEMBERS No. 27-13
TAAC COST BASIS REPORTING TASK FORCE No. 2-13
TAX MEMBERS No. 18-13
TRANSFER AGENT ADVISORY COMMITTEE No. 32-13 RE: IRS ISSUES FINAL REGULATIONS ON COST BASIS REPORTING FOR DEBT AND OPTIONS; INCLUDES GUIDANCE ON FORM 8937

The Internal Revenue Service (“IRS”) and Department of the Treasury have released final regulations regarding cost basis reporting for debt and options. [\[1\]](#) These final regulations contain two provisions that are applicable to regulated investment companies (“RICs”).

First, the final regulations provide that, for sales before January 1, 2014, a broker may, but is not required to, reduce gross proceeds by the amount of commissions and transfer taxes, provided the treatment chosen is consistent with the books of the broker. For sales on or after January 1, 2014, a broker must reduce gross proceeds by the amount of commissions and transfer taxes related to the sale of the security. [\[2\]](#)

The final regulations also address the exception for public reporting of Form 8937, “Report of Organizational Actions Affecting Basis of Securities.” The Institute previously asked the IRS and Treasury Department to permit RICs and other issuers of securities more flexibility in posting the information contained in Form 8937 on their public websites. [\[3\]](#) Specifically, we asked that issuers be permitted to post a substitute form, rather than the actual Form 8937. The final regulations do not adopt our recommendation, because the government believes that posting a copy of Form 8937 ensures consistent presentation of the reported information. The final regulations do allow an issuer to publicly post a Form 8937 with an electronic signature as an alternative to a written signature. This change addresses the Institute’s concern that posting a written signature to a public website could facilitate

identity theft. The final regulations thus permit an issuer to electronically sign a return that is reported on a public website in accordance with the regulations, provided the electronic signature identifies the individual who has signed the form. [4]

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endnotes

[1] The final regulations can be found [here](#) on the website of the Federal Register (www.federalregister.gov).

[2] Treas. Reg. § 1.6045-1(d)(5).

[3] See Institute [Memorandum](#) (26071) dated April 24, 2012.

[4] Treas. Reg. § 1.6045B-1(a)(3).

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