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March 2, 2009

Mr. Stephen Schaeffer
Office of Associate Chief Counsel (Procedure & Administration)
Internal Revenue Service
CC:PA:LPD:PR (Notice 2009-17)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

VIA EMAIL

Dear Mr. Schaeffer

SunGard Financial Systems LLC, through its Wall Street Concepts and Phase3 businesses provides securities trade execution and clearing as well as tax information reporting services to financial institutions. As such, SunGard is uniquely positioned to offer observations on the potential impact of cost basis reporting requirements to these firms. Kindly consider the feedback provided herein regarding the IRS Notice for Comment 2009-17.

As participants in the information reporting regime, financial services firms provide their clients with comprehensive information related to their investments. This information provides an important mechanism for investors to obtain the starting point in determining the tax liability related to their investment activity and for the Service to evaluate the completeness and accuracy of the tax returns it receives. The addition of cost basis to the requirements supplies investors with additional assistance toward completing their returns, but creates challenges for the reporting firms which, if not addressed in the regulations, can result in an open ended financial burden.

In considering the development of regulations, it is essential to consider three things: 1) financial services firms must rely on third parties to provide data in a timely manner but have no control or enforcement recourse; 2) mandated activities should include provisions to convey circumstances that are outside the expected norms; and 3) the taxpayer remains the focal point of a tax return and is responsible for its contents.

While there are many specific details provided in these comments, there is a common principal here: Even well written and conceived regulations will not anticipate every variation of investment activity that will take place in a free market. The comments are by no means exhaustive. They are intended, rather to highlight the types of situations that are not likely to conform to expectations and to emphasize opportunities to reduce the complexity or expense of compliance without undermining its objectives.

Broker Practices and Procedures

S CORPORATIONS

Under the requirements S corporations, other than a financial institution, are treated in the same manner as a partnership. The account classifications currently used in the industry are not granular enough to distinguish a corporation as an "S" corporation. The guidance should specify how this granularity is to be obtained and whether or not existing accounts must be re-certified.

TRADER STATUS

There are certain taxpayers that currently qualify for "trader" status and use mark to market accounting. The purpose of this special status seems clearly designed to streamline the reporting process for individuals or entities that are engaged in high frequency trading. Extending this application to professional equities traders who engage in "day-trading" activities would be a consistent application of this special status and would greatly reduce the information reporting burden on both the IRS and financial institutions. Of course, financial institutions would be obliged to secure appropriate documentation to certify an account as qualifying for trader status and exempt that account from the un-necessary cost basis reporting.

Under the current reporting requirements there are situations in which both an account holder and the IRS receive literally millions of superfluous 1099-B transactions on trader accounts. This has led to delays in processing and transmitting this data to taxpayers and the IRS in a timely manner. It has also resulted in substantial amounts of expenditures at both the institution remitting this data and the IRS, as recipient, to assure that sufficient hardware and software is in place to accommodate the transference of this important information. This burden has been particularly acute with the "electronic" transfer process. With the continuing volatility and increasing volume in the securities markets, it is substantially certain that this burden and its associated costs will increase, perhaps to an unwelcome breaking point. It is important to note that the detail transactional information remains available with financial services firms doing business as broker-dealers. Consequently, the IRS has the availability through subpoena or otherwise to retrieve detail information at a subsequent time if the need arises.

DELIVERY OF PAYEE STATEMENTS

The increasing costs of information reporting can be mitigated to some extent by creating more opportunities for firms to rely on electronic delivery and eliminate statements that will be amended. This could be accomplished by allowing a firm to implement electronic delivery as the default method for accounts that demonstrate the means for persistent interaction via the internet. Evidence of such capability is demonstrated by online trading, retrieval of tax data for loading to tax preparation software and the use of electronic bill payment.

Further, adopting an account based reporting deadline that looks at an account's assets to determine the latest applicable deadline would eliminate unnecessary reporting. Each year hundreds of thousand of payee statements are produced for accounts that hold Real Estate Mortgage Investment Conduits (REMICs). These statements are intended to comply with the February 15th deadline (previously January 31st) yet these same accounts will receive an additional or revised statement covering the required information for the REMICs on March 15th. When reporting requirements for Widely Held Fixed Investment Trusts (WHFITs) are in effect for 2009, there will be approximately 1 million additional assets with a March 15th reporting deadline. Allowing firms to report in a single package with a due date based on the latest deadline appropriate to an account, determined by the assets held, provides another substantial opportunity for savings.

Identifying Applicable Issues

In considering how to apply the rules regarding basis reporting, categorizing a security to determine if it is considered a "covered security" is essential. Most often, the tax section of a prospectus makes clear the classification of instruments that is intended by its issuer. These declarations are often qualified, however, by stating that the IRS may differ with the issuer's determination. An institution's compliance cost should be assured through regulation that their reliance on these determinations will be respected and that they will not be subjected to potential penalties or the costs of reprocessing historical data. Further, the Service in its guidance should minimize the potential for ambiguity that arises with certain types of investment products. History has shown that classifications defined by regulation generally lag the innovative features found in newly developed financial products. The following examples–a structured product that becomes common shares and subordinated debt that is treated as equity– illustrate the potential difficulties to be found when applying the rules.

EXAMPLES

UBS Yield Optimization Notes with Contingent Protection due 2/11/2011

Marketed as a single instrument, this investment pairs the purchase of a bond with the concurrent sale of a put option on GE common stock. The security makes monthly payments at a rate of 15.25%. These payments have two components: option premium at 11.122% and bond interest at 4.125%. The premium component is compensation to the investor for entering into the option agreement. At maturity, the issuer will redeem the unit for either the principal amount of the maturing note (if the value of GE shares has risen) or for shares of GE (if the value of the shares has declined below a specified threshold).

On February 11, 2011, the note matures. If the issuer exercises the put option, he retains the bond proceeds and delivers shares. The investor's basis in the stock received is equal to the proceeds of the note minus the sum of the monthly distributions of option premium. From the perspective of the broker holding this position, this transaction could be considered the purchase of an equity after 2010 and would be subject to cost basis reporting. The complications here are that the recorded purchase was made in 2009, the instrument purchased was not an equity and determining the initial basis of the resulting equity depends not on a typical market transaction but on having retained both the cost of the original investment and all the previous distributions received and then allocating the premium portion to basis.

The term of these instruments is usually between 18 and 24 months. Currently, there are 44 with maturities after 2010. There were more than 8400 that matured prior to 2009. Due to market conditions, all recent maturities have resulted in exercise of the option.

Allianz 8.375% Undated Subordinated Callable Bonds

Although clearly titled as a bond, the following passage from the taxation section of the prospectus suggests otherwise. It is important that the Service address these types of situations in its guidance to nominees.

> <u>*Classification of the Undated Subordinated Bonds*</u>
>
> *Although the matter is not free from doubt, the Undated Subordinated Bonds should be treated as equity interests in Allianz, and not as debt. Accordingly, each "interest" payment should be treated as a distribution by Allianz with respect to such equity interest, and any reference in this discussion to "dividends" refers to the "interest" payments on the Undated Subordinated Bonds. The rest of this discussion assumes the Undated Subordinated Bonds are treated as equity for U.S. federal income tax purposes.*
>
> <u>*Taxation of Dividends*</u>
>
> *U.S. Holders. Under the U.S. federal income tax laws, and subject to the passive foreign investment company, or PFIC, rules discussed below, if you are a U.S. holder, the gross amount of any distribution paid by Allianz out of its current or accumulated earnings and profits (as determined for U.S. federal income tax purposes) is subject to U.S. federal income taxation as a dividend. The dividend is ordinary income that you must include in income when you receive the dividend, actually or constructively. If you are a noncorporate U.S. holder, dividends paid to you in taxable years beginning before January 1, 2011 should constitute "qualified dividend income," provided that the Undated Subordinated Bonds are readily tradable on the New York Stock Exchange or on another established securities market in the United States or Allianz is eligible for the benefits of the Income Tax Treaty between the Federal Republic of Germany and the United States (the "**Tax Treaty**"). It is expected that the Undated Subordinated Bonds will be listed on the New York Stock Exchange and therefore "readily tradable," and in addition Allianz believes that it is eligible for the benefits of the Tax Treaty. Dividends paid to you that are qualified dividend income will be taxable to you at a*

> *maximum tax rate of 15% provided that you (i) hold the Undated Subordinated Bonds for more than 60 days during the 121-day period beginning 60 days before the ex-dividend date or, if the dividend is attributable to a period or periods aggregating over 366 days, for more than 90 days during the 181-day period beginning 90 days before the ex-dividend date and (ii) meet other holding period requirements. The dividend will not be eligible for the dividends-received deduction generally allowed to U.S. corporations in respect of dividends received from other U.S. corporations.*

Reconciliation

Because of the many variations that are possible in an investor's relationship to the financial services industry and the uncertain timing that is likely in reporting corporate action and return of capital allocations, the ultimate burden must be on the taxpayer when it comes to reconciling the basis for all tax lots owned. For example, an investor can own multiple lots of the same stock across several firms. Each of these lots might be acquired at different times under different circumstances. The institutions involved can not be expected to reconcile these facts when the investor, as the focal point, is the only person in possession of all the relevant detail. The reporting requirements go a very long way toward providing an investor with all the relevant information.

Information reporting has traditionally been the foundation of a taxpayer's preparation of a tax return, but is not considered a complete substitute for the investor's recordkeeping and accounting. A taxpayer remains responsible for the content of his or her return. Precedent for this type of action relative to the payee statements received by a taxpayer exists in several areas. For example, the owner of a STRIP will routinely receive a 1099-OID for the annual amount of OID but is advised by Publication 1212 to independently compute his or her OID income. Similarly, an investor would routinely adjust interest income on a bond for interest paid at the time of purchase, offset income with bond premium or recognize market discount income (either currently or at redemption). Consider also the existing requirement for a filer of Form 1040 to reconcile each 1099-B received.

Reporting Entities

In addition to brokers, custodians and transfer agents would need to report basis upon transfer of assets. It would also be useful for the service to clarify whether any reporting is to be done to the beneficial owner upon creation of a certificated rather than book entry position. Similarly, what should be required of an investor who is depositing a certificate to a brokerage account for safekeeping or sale?

Cost Basis of Fixed Income Obligations

Cost basis for a fixed income instrument– particularly one with Original Issue Discount (OID) or purchased at a market discount– has more components and, therefore, implies maintenance of more complex routines to track basis and more data elements to be communicated in broker to broker transfers. For example, the amount of market discount attributable to a tax lot is established at the time of purchase and then accrued over its life. A transfer would have to include the adjusted basis, the remaining market discount and the date at which those values were fixed. Where OID or market discount are applicable, amounts of original issue discount and market discount accrued to date must be maintained because principal payments received are first a return of previously accrued OID, then recognized as market discount and finally as return of principal. This is particularly true of mortgage backed issues that make periodic pro rata payments of principal.

If the asset was a REMIC regular interest, the process would be even more difficult because the information needed to make these calculations (daily OID, daily Non Qualified Stated Interest, market discount accrual ratio, etc.) would not be available form the bond's issuer until a month after the conclusion of the current calendar quarter at the very earliest.

Moreover, periodic payments other than qualified stated interest (QSI) will be a reductions to basis, but, in the case of mortgage backed issues, one (and sometimes two) payments will be made to the beneficial owner at the transferor firm <u>after</u> the position has been delivered to the transferee. Will the receiving firm be responsible for making the adjustments to basis even though it can't ensure that the investor was entitled to the distributions or that the payments were made? Will the delivering firm be required to account for these payments at the time of transfer or be allowed to delay the transfer until all the trailing payments are received? Will there be a mechanism to transmit "basis reduction records" after the transfer is completed? And, if so, for how long?

Widely Held Fixed Investment Trusts

Separate rules for WHFITs dictate the availability of information relating to basis calculation for those assets. Significantly, the information required is only available annually and can, to a great extent, apply to individual assets in the trust. Guidance from the Service must acknowledge that this information is not available until February of the year that follows the tax year.

Availability of Capital Changes and Return of Capital Details

The details of capital changes and the designation of periodic distributions as return of capital are sometimes available much later than what appears to be anticipated based on the proposed deadlines. Similarly, an issuer can revise the information that was announced at the time of a distribution or corporate action. Any regulations propagated must recognize these facts and limit the obligation of the reporting firm accordingly.

EXAMPLES

Alberto Culver / Sally Beauty Holdings

The separation of Alberto Culver and Sally Beauty Holdings in November of 2006 included a $25 cash payment to shareholders. This payment, made in calendar year 2006, was made in the company's fiscal 2007. Until they completed their tax return for 2007, in September of 2008, the company was unable to provide guidance as to the tax treatment of the distribution (ultimately 47.7308% return of capital). As a result, the 1099-DIV filings for 2006 treated the entire distribution as a dividend and were amended late in 2008 (company announcement attached). In the 22 month interval a position could have been transferred multiple times or portions of it could have been sold. Tracking where the responsibilities lie with the multiple firms involved and ensuring accuracy of any trailing adjustment to basis would be quite difficult in this expansive time frame.

Douglas Emmett

Another scenario with similar impact occurs routinely with Real Estate Investment Trusts (REITs). Most often a distribution with a record date in December and a payable date in January of the following year is reported as income for the year of the record date. At times, however, a REIT will allocate this amount (in whole or in part) to the year in which it is paid and provide the distribution's tax characterization after the conclusion of that calendar year. For example Douglas Emmett, Inc. made a distribution of $0.175 per share on January 15, 2008 to holders of record December 31, 2007. In their press release dated January 12, 2009 (attached) they characterized that distribution as 100% return of capital. Throughout 2008 the true basis of this investment was unknown, yet the position could have been transferred to another firm and/or sold.

With these facts in mind, consider a position that is sold on December 31, 2007 for settlement on January 4, 2008. A 1099-B (which is based on trade date) would have to be sent to the investor containing a basis which, a full year later, would be determined to be erroneous. This is because the selling shareholder is entitled to the January 2008 distribution that is reported on a form1099-DIV in mid-February of 2009 (characterized as a non-dividend distribution). While this REIT is a useful illustration, this type of event is possible with any stock making periodic distributions.

Reporting Additional Information

Services that a broker provides to a customer that are not covered by IRS regulation should be available to the firm's customers at the discretion of the broker. At many firms cost basis is already computed on a variety of assets. Firms should be able to continue to do this as a way to distinguish themselves in the marketplace. Regardless of information reporting requirements, reporting on these lots would have to be distinct from others in order to maintain the necessary clarity for investors.

Broker to Broker Transfers

For situations where the issuer will not be able to accurately characterize aspects of a transaction within the proscribed timeframe, the Service should provide guidance as to how to routinely distinguish this pending status. If this is defined well enough (several specific defined values), it can be used as a data element that is in included in broker to broker transfers, allowing the receiving party to correctly characterized the basis being transferred as "unadjusted," "adjustment pending" or "additional basis adjustment possible," for example. Further, if standard designations were included in the information reporting requirements, the reporting firm could meet its obligation to the best of its ability while also informing the taxpayer that addition information will be forthcoming at a later date.

Firms should not be subject to penalties due to late, inaccurate or incomplete information relative to positions established at the firm prior to the effective date of the reporting requirement or for positions that were transferred into the firm. On incoming transfers the receiving firm should be able to treat the data received as being reliable and be obligated only for future adjustments to the basis as received.

Summary

While the financial service industry currently employs a degree of functionality to maintain the adjusted cost basis for assets held for its clients, these capabilities are not universally in place at all firms or even for all assets at any given firm. Implementing this functionality throughout the industry can not be done without a substantial increase in cost. These situations involve complex investment vehicles, conversion transactions and the unfettered transfer of asset between firms. In drafting regulations that will mandate reporting of adjusted cost basis on form 1099-B, we ask that you give consideration to these situations and provide guidance that allows firms to be compliant without undue risk introduced by reliance on counterparties, outside information suppliers or the investors themselves.

Thank you for your consideration.

Sincerely,

Arthur Wolk
Senior Vice President
Wall Street Concepts
SunGard Brokerage and Clearance

Alberto Culver SALLY BEAUTY HOLDINGS, INC.

Dear Shareholder:

As a part of the November 16, 2006 separation of Alberto-Culver Company and Sally Beauty Holdings, you were paid a $25 per share special cash distribution. At that time, we issued you a 2006 form 1099-DIV for the distribution and advised you that under IRS regulations this needed to be reported as a fully taxable distribution until it could be determined, with reasonable certainty, that a portion of such dividend was a return of capital.

With the filing of our tax returns for the year ended September 30, 2007 we are now able to make that determination.

Dividend treatment of the $25 per share special cash distribution

The portion of the $25 per share special cash distribution taxable as a qualifying dividend was $13.0673 per share. An amended 1099-DIV reflecting that revision for the 2006 calendar year is attached. We are required to file this amended 1099-DIV with the IRS. You should file an amended 2006 income tax return to report the correct taxable dividend which may result in a reduced tax liability for you in 2006. We urge you to consult with your tax advisor concerning the tax consequences for you of this determination including the application of state, local and foreign tax laws.

Cost basis determination for your shares

The remaining balance of $11.9327 from the $25 special cash distribution ($25.00 - $13.0673 = $11.9327) was a return of capital distribution which will reduce the adjusted cost basis of your shares of Alberto-Culver Company and Sally Beauty Holdings to the extent of the tax basis of such shares. To the extent this $11.9327 exceeds the adjusted cost basis of your shares, the excess will be treated as a gain at the time of the distribution (November 16, 2006) from the sale or exchange of your shares. If you have sold the ACV or SBH shares that you received as a result of the separation, the amount of the gain realized may be impacted by this determination of the return of capital distribution.

We previously issued guidance on allocating the tax basis for your old Alberto-Culver Company shares between your new Alberto-Culver Company shares and new Sally Beauty Holdings, Inc. shares. Attached is a copy of this guidance for your easy reference. We would suggest that the newly designated return of capital distribution be allocated between each Alberto-Culver Company and Sally Beauty Holdings, Inc. share in the same manner as your original allocation of tax basis between each share. If you followed our previously outlined approach, you would now reduce your basis in each new Alberto-Culver Company share by $8.7419 ($11.9327 times 73.26%) and each new Sally Beauty Holdings, Inc. share by $3.1908 ($11.9327 times 26.74%).

Again, we urge you to consult your tax advisor. Should you or your advisor have questions, please contact the Alberto-Culver Investor Relations department:

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Thank you for your patience as we made this determination and for your support of Alberto-Culver Company and Sally Beauty Holdings.

Douglas Emmett

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FOR IMMEDIATE RELEASE

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DOUGLAS EMMETT REPORTS 2008 TAXABILITY OF DIVIDENDS

SANTA MONICA, California—January 12, 2009 —Douglas Emmett, Inc. (NYSE: DEI), a real estate investment trust (REIT) whose primary focus is owning and acquiring top-tier office properties and multifamily communities within targeted submarkets, announced today the 2008 tax treatment of its dividends . The Company's dividends relating to its common stock (CUSIP #25960P109) will be classified for United States federal income tax purposes as follows:

Record Date	Paid Date	Dividend Per Share	Dividend Allocable to 2008	2008 Dividend Ordinary Income %	2008 Dividend Capital Gain %	2008 Return of Capital %
12/31/07	01/15/08	$0.1750	$0.1750	0.0%	0.0%	100.0%
03/31/08	04/15/08	$0.1875	$0.1875	0.0%	0.0%	100.0%
06/30/08	07/15/08	$0.1875	$0.1875	0.0%	0.0%	100.0%
09/30/08	10/15/08	$0.1875	$0.1875	0.0%	0.0%	100.0%
12/31/08	01/15/09	$0.1875	$0.000	0.0%	0.0%	0.0%
	Total:	**$0.9250**	**$0.7375**	**0.0%**	**0.0%**	**100.0%**

The common stock dividend of $0.1750 paid on January 15, 2008, with a record date of December 31, 2007, is allocated to 2008. The common stock dividend of $0.1875 that will be paid on January 15, 2009, with a record date of December 31, 2008, will be allocated to 2009. Shareholders are encouraged to consult with their tax advisors as to their specific tax treatment of Douglas Emmett, Inc. dividends.

About Douglas Emmett, Inc.

Douglas Emmett, Inc. (NYSE: DEI) is a fully integrated, self-administered and self-managed real estate investment trust (REIT), and one of the largest owners and operators of high-quality office and multifamily properties located in premier submarkets in California and Hawaii. The Company's properties are concentrated in ten submarkets – Brentwood, Olympic Corridor, Century City, Santa Monica, Beverly Hills, Westwood, Sherman Oaks/Encino, Warner Center/Woodland Hills, Burbank and Honolulu. The Company focuses on owning and acquiring a substantial share of top-tier office properties and premier multifamily communities in neighborhoods that possess significant supply constraints, high-end executive housing and key lifestyle amenities. For more information on Douglas Emmett, please visit the Company's Web site at www.douglasemmett.com.

Safe Harbor Statement

Except for the historical facts, the statements in this press release regarding Douglas Emmett's business activities are forward-looking statements based on the beliefs of, assumptions made by, and information currently available to us about known and unknown risks, trends, uncertainties and factors that are beyond our control or ability to predict. Although we believe that our assumptions are reasonable, they are not guarantees of future performance and some will inevitably prove to be incorrect. As a result, our actual future results can be expected to differ from our expectations, and those differences may be material. Accordingly, investors should use caution in relying on forward-looking statements to anticipate future results or trends. For a discussion of some of the risks and uncertainties that could cause actual results to differ from those contained in the forward-looking statements, see "Risk Factors" in our Annual Report on Form 10-K filed with the Securities and Exchange Commission.

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