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26 U.S.C. § 1060 – Special Allocation Rules for Certain Asset Acquisitions

- (a) *General rule.* In the case of any applicable asset acquisition, for purposes of determining both—
- (1) the transferee's basis in such assets, and
 - (2) the gain or loss of the transferor with respect to such acquisition,

—the consideration received for such assets shall be allocated among such assets acquired in such acquisition in the same manner as amounts are allocated to assets under section 338(b)(5). If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate.

- (b) *Information required to be furnished to Secretary.* Under regulations, the transferor and transferee in an applicable asset acquisition shall, at such times and in such manner as may be provided in such regulations, furnish to the Secretary the following information:

- (1) The amount of the consideration received for the assets which is allocated to section 197 intangibles.
- (2) Any modification of the amount described in paragraph (1).
- (3) Any other information with respect to other assets transferred in such acquisition as the Secretary deems necessary to carry out the provisions of this section.

- (c) *Applicable asset acquisition.* For purposes of this section, the term “applicable asset acquisition” means any transfer (whether directly or indirectly)—

- (1) of assets which constitute a trade or business, and
- (2) with respect to which the transferee's basis in such assets is determined wholly by reference to the consideration paid for such assets.

A transfer shall not be treated as failing to be an applicable asset acquisition merely because section 1031 applies to a portion of the assets transferred.

- (d) *Treatment of certain partnership transactions.* In the case of a distribution of partnership property or a transfer of an interest in a partnership—

- (1) the rules of subsection (a) shall apply but only for purposes of determining the value of section 197 intangibles for purposes of applying section 755, and

- (2) if section 755 applies, such distribution or transfer (as the case may be) shall be treated as an applicable asset acquisition for purposes of subsection (b).
- (e) *Information required in case of certain transfers of interests in entities.*
- (1) *In general.* If–
 - (A) a person who is a 10-percent owner with respect to any entity transfers an interest in such entity, and
 - (B) in connection with such transfer, such owner (or a related person) enters into an employment contract, covenant not to compete, royalty or lease agreement, or other agreement with the transferee, such owner and the transferee shall, at such time and in such manner as the Secretary may prescribe, furnish such information as the Secretary may require.
 - (2) *10-percent owner.* For purposes of this subsection–
 - (A) *In general.* The term “10-percent owner” means, with respect to any entity, any person who holds 10 percent or more (by value) of the interests in such entity immediately before the transfer.
 - (B) *Constructive ownership.* Section 318 shall apply in determining ownership of stock in a corporation. Similar principles shall apply in determining the ownership of interests in any other entity.
 - (3) *Related person.* For purposes of this subsection, the term “related person” means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the 10-percent owner.
- (f) *Cross reference.* For provisions relating to penalties for failure to file a return required by this section, see section 6721.