

# Golden Parachute Payments; Correction

## Announcement 2002-65

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing (REG-109114-90, 2002-9 I.R.B. 576) that was published in the **Federal Register** on Wednesday, February 20, 2002 (67 FR 7630) that will clarify the application of section 280G of the Internal Revenue Code to deny a deduction to a corporation for any excess parachute.

FOR FURTHER INFORMATION CONTACT: Erinn Madden at (202) 622-6060 (not a toll-free number).

### SUPPLEMENTARY INFORMATION:

#### Background

The notice of proposed rulemaking and notice of public hearing that is the subject of these corrections are under section 280G of the Internal Revenue Code.

#### Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing (REG-209114-90, 2002-9 I.R.B. 576) contains errors that may prove to be misleading and are in need of clarification.

#### Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG-209114-90), which is the subject of FR Doc. 02-3819, is corrected as follows:

1. On page 7630, column 1, in the preamble under the caption "SUMMARY:", fourth line from the bottom of the paragraph, the language "may rely on the 1989 regulations for any" is corrected to read "may rely on the 1989 proposed regulations for any".

2. On page 7630, column 2, in the preamble under the caption "FOR FURTHER INFORMATION CONTACT:", line 2, the language "Madden at (202) 622-6030 (not a toll)" is corrected to read "Madden at (202) 622-6060 (not at toll)".

3. On page 7630, column 2, in the preamble under the paragraph heading "Background", second paragraph, line 9, the language "section 312(v)(2)(A), which relates to" is corrected to read "section 3121(v)(2)(A), which relates to the."

4. On page 7630, column 2, in the preamble under the paragraph heading "Background", second paragraph, line 14, the language "FR 19390 on May 5, 1989 (the 1989)" is corrected to read "FR 19390 on May 5, 1989 and corrected in 54 FR 25879 (June 20, 1989) (the 1989)".

5. On page 7631, column 1, in the preamble under the paragraph heading "*Disqualified Individuals*", second paragraph, line 7, the language "1989 regulations provides a *de minimis*" is corrected to read "1989 proposed regulations provides a *de minimis*".

6. On page 7634, column 2, in the preamble under the paragraph heading "*Reasonable Compensation*", first full paragraph from the top of the column, line 2 from end of paragraph, the language "show to be reasonable compensation" is corrected to read "shown to be reasonable compensation".

7. On page 7635, column 3, in the preamble under the paragraph heading "*Timing of the Payment of Tax under Section 4999*", paragraph 1, line 2, the language "section 312(v) and § 1.3121(v)-1(e)(4)" is corrected to read "section 3121(v) and § 31.3121(v)(2)-1(e)(4)".

8. On page 7635, column 3, in the preamble under the paragraph heading "*Proposed Effective Date*", line 4, the language "control occurring on or after January 1," is corrected to read "control that occurs on or after January 1,".

#### § 1.280G-1 [Corrected]

9. On page 7638, column 2, § 1.280G-1, paragraph (g) of A-6:, *Example 4.*, line 10, the language "application of the exemption described in" is corrected to read "application of the exemption described in".

10. On page 7638, column 2, § 1.280G-1, paragraph (g) of A-6:, *Example 5.*, line 9, the language "pays or accrues a payment that would" is corrected to read "that would".

11. On page 7638, column 3, § 1.280G-1, paragraph (b)(1) of A-7:, line 9, the language "A-7, the vote can be no less than the" is corrected to read "A-7, the vote can be on less than the".

12. On page 7640, column 1, § 1.280G-1, paragraph (e) of A-7:, *Example 7.*, line 16, the language "the payments of \$400,000 to X; \$600,000 to" is corrected to read "and describing the payments of \$400,000 to X; \$600,000 to".

13. On page 7640, column 1, § 1.280G-1, paragraph (e) of A-7:, *Example 8.*, line 8, the language "the nature of the payments to X, Y, and Z are" is corrected to read "the nature and amount of the payments to X, Y, and Z are".

14. On page 7641, column 1, § 1.280G-1, paragraph (c) of A-11:, lines 18 and 19 from the top of the column, the language "under section 3121(v) and § 1.312(v)-1(c)(4) or payment related to health" is corrected to read "under section 3121(v) and § 31.3121(v)(2)-1(e)(4) of this chapter, or a payment related to health".

15. On page 7641, column 2, § 1.280G-1, paragraph (a) of A-13:, lines 13 and 14, the language "value of an option with an ascertainable fair market value at the time the option" is corrected to read "value of an option at the time the option".

16. On page 7642, column 1, § 1.280G-1, Q-17:, line 3, the language "purposes of paragraph (a)(1) of Q/A-15" is corrected to read "purposes of paragraph (a)(1) and (b) of Q/A-15".

17. On page 7642, column 3, § 1.280G-1, paragraph (c) of A-18:, line 16, the language "defined in Q/A-20 of this section). If the" is corrected to read "defined in Q/A-20 of this section). The number of employees is determined with regard to the rules in Q/A-19 (c). If the".

18. On page 7642, column 3, § 1.280G-1, paragraph (a) of A-19:, line 13, the language "A-21 of this section)

paid during the” is corrected to read “A–21 of this section) earned during the”.

20. On page 7644, column 1, § 1.280G–1, paragraph (c) of A–22:, line 7, the language “that is closely associated and materially” is corrected to read “that is closely associated with and materially”.

21. On page 7646, column 3, § 1.280G–1, paragraph (f) of A–24:, *Example 4.*, line 3 from the bottom of the column, the language “would be on January 15, 2011. The” is corrected to read “would have been on January 15, 2011. The”.

22. On page 7648, column 1, § 1.280G–1, paragraph (c) of A–26:, line 13, the language “of section 129); or a no-additional-cost” is corrected to read “of section 129); a no-additional-cost”.

23. On page 7648, column 1, § 1.280G–1, paragraph (c) of A–26:, line 15, the language “132(b)) or qualified employee discount” is corrected to read “132(b)) qualified employee discount”.

24. On page 7648, column 1, § 1.280G–1, line 16, the language “(within the meaning of section 132(c));” is corrected to read “(within the meaning of section 132(c)) qualified retirement planning services under section 132(m);”.

25. On page 7649, column 1, § 1.280G–1, paragraph (d) of A–27:, *Example 4.*, lines 11 through 22, the language “Corporation P shareholders also owned Corporation O stock (overlapping shareholders) with a fair market value of 5 percent of the value of Corporation O stock. The overlapping shareholders consist of Mutual Company A Growth Fund, which prior to the transaction owns 3 percent of the value of Corporation O stock, Mutual Company A Income Fund, which prior to the transaction owns 1 percent of the value of Corporation O stock, and B, an individual who prior to the transaction owns 1 percent” is corrected to read “Corporation O shareholders also owned Corporation P stock (overlapping shareholders) exchanged for O stock with a fair market value of 5 percent of the value of Corporation O stock. The overlapping shareholders consist of Mutual Company A Growth Fund, which prior to the transaction owns P stock that is exchanged for 3 percent of the value of Corporation O stock, Mutual Company A Income Fund, which prior to the transaction owns P stock that is exchanged for 1 percent of

the value of Corporation O stock, and B an individual who prior to the transaction owns P stock that is exchanged for 1 percent”

26. On page 7651, column 1, § 1.280G–1, A–32:, line 12, the language “24 and 35 of this section. However, for” is corrected to read “24 and 31 of this section. However, for”.

27. On page 7655, column 1, § 1.280G–1, paragraph (c) of A–42:, *Example 3.*, line 4, the language “services to Corporation N, when and if,” is corrected to read “services to Corporation N, when and if”.

28. On page 7656, column 2, § 1.280G–1, A–48: is corrected to read as follows:

*§ 1.280G–1 Golden parachute payments.*

\* \* \* \* \*

A–48: This section applies to any payments that are contingent on a change in ownership or control that occurs on or after January 1, 2004. Taxpayers can rely on these rules after February 20, 2002, for the treatment of any parachute payment.

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