

General Instructions

Section references are to the Internal Revenue Code.

Future Developments

For the latest information about developments related to Form 8725 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/form8725.

Purpose of Form

Use Form 8725 to report and pay the 50% excise tax imposed under section 5881 on the gain or other income realized on the receipt of greenmail (defined below). Greenmail is considered received when the gain or other income is realized under your method of accounting regardless of whether the gain or other income is recognized.

Definitions

Greenmail. The term “greenmail” means any amount a corporation (or any person acting in concert with a corporation) pays to a shareholder to directly or indirectly acquire its stock if:

1. The shareholder held the stock (as determined under section 1223) for less than 2 years before entering into the agreement to make the transfer,
2. At some time during the 2-year period ending on the date of acquisition, the shareholder, any person acting in concert with the shareholder, or any person related to either of them (see *Related person*, later), made or threatened to make a public tender offer for stock of the corporation, and
3. The acquisition was made under an offer that was not made on the same terms to all shareholders.

Note. Payments made in connection with (or in transactions related to) an acquisition are treated as payments made for the acquisition of the stock.

Indirect acquisition of stock. Stock is deemed to have been acquired indirectly by the issuing corporation if such stock is sold to an entity related to the issuing corporation (for example, a controlled subsidiary).

Public tender offer. The term “public tender offer” means any offer to purchase or otherwise acquire stock or assets in a corporation if the offer was required to be filed or registered with any federal or state agency regulating securities.

Related person. A person is considered related to another person if the relationship between such persons would result in losses disallowed under section 267 or 707(b).

Who Must File

You must file Form 8725 if you are liable for the excise tax on greenmail under section 5881. File a separate Form 8725 for each agreement made to transfer stock.

When To File

File Form 8725 by the 90th day following receipt of any portion of the greenmail. If you need more time to file, use Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns, by the due date of Form 8725. Form 7004 does not extend the time for payment of tax.

Where To File

File Form 8725 at the following address:
Internal Revenue Service Center
Cincinnati, OH 45999

Rounding Off to Whole Dollars

You may show money items on the return as whole dollars. To do so, drop any amount less than 50 cents and increase any amount from 50 cents through 99 cents to the next higher dollar.

Amended Return

To amend a previously filed Form 8725, file a corrected Form 8725 and write “Amended” at the top of the form.

Attachments

If more space is needed, attach separate sheets to Form 8725. Be sure to put your name and identifying number on each sheet.

Signature

See the instructions for the Signature section of your federal income tax return.

Interest and Penalties

Interest. Interest is charged on taxes not paid by the due date at a rate determined under section 6621.

Late filing of return. A penalty of 5% a month or part of a month, up to a maximum of 25%, is imposed on the net amount due if Form 8725 is not filed when due.

Late payment of tax. Generally, the penalty for not paying tax when due is ½ of 1% of the unpaid amount, up to a maximum of 25%, for each month or part of a month the tax remains unpaid. The penalty is imposed on the net amount due.

Specific Instructions

Name and address. Enter the name shown on your most recently filed federal income tax return. Include the room, suite, apartment, or other unit number after the street address. If the Post Office does not deliver mail to the street address and the taxpayer has a P.O. box, show the box number instead of the street address.

Identifying number. If you are an individual, enter your social security number. If you are a nonresident or resident alien and you do not have and are not eligible for a social security number, enter your individual taxpayer identification number (ITIN). Other filers should enter their employer identification number.

Tax Computation

Line 1. Enter the net proceeds received from the sale of the stock subject to the excise tax.

Column 2(a). For each separate acquisition of stock subject to the excise tax, enter the date acquired (for example, the trade date for stock traded on an exchange or over the counter). See section 1223 for special rules on determining the holding period of stock received in an exchange, for stock that has the same basis in whole or in part as it would have in the hands of another person, for stock subject to the “wash sale” rules of section 1091, etc.

Column 2(c). The cost or other basis of stock is generally the cost of the stock plus purchase commissions. If you inherited the stock, received it as a gift, received it in a tax-free exchange, or reacquired stock in a “wash sale” transaction subject to the rules of section 1091, you may not be able to use the actual cash cost as the basis. If you do not use cash cost, attach an explanation of your basis. Be sure to adjust your basis by subtracting all the nontaxable distributions you received before the sale. Also adjust your basis for any stock splits. For more information, see Pub. 551, Basis of Assets.

Line 4. If you realized any other income that is subject to the excise tax, enter the amount of the income on line 4.

Line 5. You must include the recognized portion of the amount on line 5 as income on your federal income tax return.

Line 6. You may not claim a deduction on your federal income tax return for the amount shown on line 6.

Line 7. If you filed Form 7004, enter the amount of tax paid, if any, when you filed that form.

Line 8. You must pay the tax due in full when you file Form 8725. Make your check or money order payable to the “United States Treasury.” Write your name, address, identifying number, and “Form 8725” on the check or money order.

Line 9. The IRS will refund the amount on line 9 if you owe no other taxes.

Paid Preparer Use Only

A paid preparer must sign Form 8725 and provide the information in the Paid Preparer Use Only section at the end of the form if the preparer was paid to prepare the form and is not an employee of the filing entity. The preparer must give you a copy of the form in addition to the copy to be filed with the IRS.

If you are a paid preparer, enter your Preparer Tax Identification Number (PTIN) in the space provided. Include your complete address. If you work for a firm, you also must enter the firm's name and the EIN of the firm. However, you cannot use the PTIN of the tax preparation firm in place of your PTIN.

You can apply for a PTIN online or by filing Form W-12, IRS Paid Preparer Tax Identification Number (PTIN) Application and Renewal. For more information about applying for a PTIN online, visit the IRS website at www.irs.gov/ptin.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

Section 6109 requires you to provide your identifying number. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. Failure to provide this information in a timely manner or providing false or fraudulent information may subject you to penalties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must

be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping 5 hr., 30 min.

Learning about the law or the form 1 hr.

Preparing, copying, assembling, and sending the form to the IRS 1 hr., 7 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send your comments to:

Internal Revenue Service
Tax Forms and Publications
SE:W:CAR:MP:TFP
1111 Constitution Ave., NW, IR-6526
Washington, DC 20224

DO NOT send Form 8725 to this address. Instead, see *Where To File* earlier.