

REGULATION 3A

C Corporation

◆ Formation

◆ Taxation of a C Corporation

◆ Corporate Distribution

◆ Corporate Liquidation

NOTES

PASS KEY

	EVENT		INCOME	BASIS
1.	Taxable	=	FMV	FMV
2.	Non-taxable	=	N - 0 - N E	A.B (NBV)

Nothing changed
Nothing happened

I. FORMATION

A. CORPORATION TAX CONSEQUENCES

1. No Gain or Loss Recognized (Nontaxable Event)

There is no gain or loss recognized when the corporation issues stock in exchange for property in the following transactions: 1) formation, 2) purchase of treasury stock, and 3) resale of treasury stock.

法人側：株式の発行（自己株式の取引を含む）に際して損益を認識することはない。

2. Basis of Property (Corporation Receives)

Q：出資資産の法人側での basis はいくらになるのか？

≪受験テクニック≫「株主が（負債付き）資産のみを出資してその法人の株式のみを取得している」という設定の問題（←出題頻度が非常に高い）では、時間節約のためにこの受験テクニックで解こう！

The basis of the property received from the transferor/shareholder is the **greater** of:
以下のいずれか大きいほう。

a. Adjusted basis (NBV) of the property : shareholders

株主側の資産のadjusted basis (NBV)

b. Liability assumed by the corporation.

法人が引き受けた負債の金額

MC1

上記以外の複雑な設定の問題（特にTBS）では、以下の「計算式」を用いて、出資資産の法人側でのbasisを計算する。【TBS #4 ~5: Released 2006 (p.3A-30)】でこのパターンの演習を行う。

Adjusted basis (NBV) of property transferred: S/H

+ Gain recognized by S/H

Corporation's basis of property received

B. SHAREHOLDER TAX CONSEQUENCES

1. No Gain or Loss Recognized (Nontaxable Event)

Q : 株主が認識すべき gain / loss の金額はいくらになるのか？

株主側 – 原則ルール (法人の設立 : 出資 = 原則非課税) : Sec.351 の要件をすべて満たしている場合、現物 (property) を出資するのと交換に株式を取得した株主は、原則、その損益を一切認識しない (損益の認識は将来に繰り延べられる)。※ **Service** 出資は常に課税。

暗記

Shareholders will not recognize gain or loss if the following conditions have been met:

a. **80% Control** (must exist immediately after the transaction).

①資産 (“property”) を出資した者 (達) が出資直後にその法人を②支配 (control = voting AND nonvoting stock の80%以上を所有) していること。

※ここでのいう資産はサービス以外の全て。∴80%の計算に現金の出資者も含まれる。

b. **No Boot is Received** by the shareholder.

現物を出資するのと交換に③その法人の株式のみを取得していること。

The following items will trigger gain recognition:

Q : 支配 (control) の要件を満たしているのに、現物を出資した株主が gain を認識するのは？

(1) Property subject to **(excess) liability**

負債付き資産を出資して、liability assumed by corporation (債務免除額) > A.B. (NBV) of contributed property (※ **出資資産が複数ある場合にはその合計額**) となる場合、その超過部分について、gain を認識しなければならない。

(2) **Boot received** (cash / non-money boot)

その法人の株式以外のもの (cash / non-money boot ※ **C.O.D.** を除く) を受領した株主は、その範囲でgain を認識しなければならない。認識するgain の性質 (capital vs. ordinary) は、出資した現物の種類によって異なる。なお、loss については、同種資産の交換と同様に、一切認識されない (控除できない) ので注意。

2. Basis of Stock (To Shareholder)

Q : 取得した株式のbasis はいくらになるのか？

a. **Cash—Amount contributed**

b. **Services—Fair market value** (and taxable to shareholder) ※報酬の現物支給と同じ！

c. **Property—Adjusted basis (NBV)**

原則、出資した資産のadjusted basis (NBV) を引き継ぐ。

d. **<Liabilities>**

Q : 負債付き資産を出資した場合の株式のbasisはいくらになるのか？

負債付き資産を出資して法人にその負債を引き受けてもらった場合には、取得した株式のbasis の計算上、**法人に引き受けてもらった負債の金額分 (債務免除額 : C.O.D.)** だけ、減算する。※ **Excess liability の状態でなければ gain を認識することはないので注意！**

Gain recognized : Excess liability – The amount of liabilities assumed by corporation that exceeds the adjusted basis of contributed properties generates gain.

負債付き資産を出資して liability assumed by corporation (債務免除額 : **C.O.D.**) > A.B. (NBV) of contributed property (※ **出資資産が複数ある場合にはその合計額**) となる場合、その超過部分について、gain を認識しなければならない。gain を認識し課税を受けた分だけ、

株式の basis は増加し、その結果、株式の basis はちょうどゼロになる。この規定は、株式の basis がマイナスの値にならないようにするための規定である。下記の計算式の考え方は同種資産の交換と同じ！

$$\begin{array}{r}
 \text{Adjusted basis (NBV) of contributed property} \\
 \left\{ \begin{array}{l} - \text{Liability assumed by corporation} \\ + \text{Gain recognized} \end{array} \right. \\
 \hline
 \text{Shareholder's basis of stock}
 \end{array}$$

ちょうど 0 !

取得した株式の basis を計算する過程で Excess Liability になるかどうか判明する。

まとめ：取得した株式の basis の計算上のポイント！

MC2&3

+ Cash contributed by shareholder

出資した現金の金額

+ FMV of services rendered by shareholder in exchange for interest

サービスを提供して取得した 株式（出資したサービス）の時価

+ Adjusted basis (NBV) of property contributed

出資した資産の adjusted basis ← 原則 Nontaxable event ∴ adjusted basis (NBV) を引き継ぐ。

- Liabilities contributed by shareholder and assumed by corporation

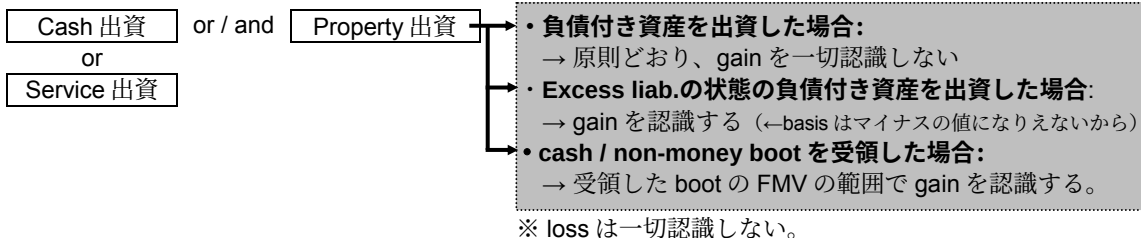
「法人」に引き受けてもらった負債額（＝債務免除額）

- Cash received / Non-money boot received

受領したその法人の株式以外のもの

+ Gain recognized ← (1) Excess liability or (2) Cash / Non-money boot received

<株主の出題パターン>



（補足）パートナーの現物抛出（p.4A-5）＜ 株主の現物出資（上記）＜ 同種資産の交換（p.1-14）の順に、より複雑な設定が出題されるといえる。

II. TAXATION OF A C CORPORATION

A. Double Taxation

Corporations pay income tax at the corporate level. There is a progressive tax based on income of the corporation, with the minimum tax rate equal to 15% (for taxable income between \$0 and \$50,000). Dividends paid to the shareholders are also subject to tax at the shareholder level, thus creating the concept of double taxation.

普通法人（C corporation）が稼得した所得に対しては、法人レベル、株主レベルで二重に所得税が課されている状態となる。米国では、原則として二重課税（double taxation）が行われている。

B. Due Date of Tax Return: March 15

The due date of the corporate tax return (Form 1120) is the 15th day of the 3rd month following the end of the corporation's tax year. An automatic 6-month extension of time to file (but NOT time to pay) is available by filing a Form 7004.

法人の申告期限は、calendar year を採用している場合、3月15日。

延長に関する申請書を提出することにより、自動的に、申告書の提出期限を6ヵ月延長することが可能（calendar year の場合、9月15日まで）。

C. Estimated Tax Payments

Q：法人の予定納税について

1. Corporations Other Than Large Corporations—Lower of:

以下のいずれか小さい金額を4分割で予定納税しておく必要がある。

a. 100% of the tax shown on the return for the current year

当年度の納税見込額の100%。実際の所得か年換算法に基づいた所得をベースに計算する（actual income / annualized income method）。

b. 100% of the tax shown on the return for the preceding year (Note: This alternative cannot be used if the corporation owed not tax for the preceding year or the preceding tax year was less than 12 months)

前年度の納税額の100%（※ 但し、前年度が12ヶ月あり税負担額があった場合に限り）。

2. Large Corporations

Must pay 100% of the tax as shown on the current year return.

大規模法人（直近3年のうち1年でも課税所得が100万ドル以上になった普通法人）は、上記 a：当年度の納税見込額の100%を予定納税しなければならない。b：前年度の納税額の100%を予定納税するのは認められない。但し、第1回目の予定納税額の計算を除く。

An underpayment penalty will be assessed if these payments are not made and the amount owed on the return is \$500 or more.

予定納税が不十分だと、予定納税の過少納付による罰則金（underpayment penalty）が課せられる。

但し、申告納税額が\$500未満の場合・特別な事由がある場合には、罰則金は課せられない。

納税者に対する罰則金のまとめは、Topic 4B：Federal Tax Procedures。

<参考> Form 1120 Page 1 の構成

<Gross Business Income>

Gross receipts or sales less returns and allowances	(総収入または売上－返品など)
— Cost of goods sold	(売上原価)
= Gross profit	(売上純利益)
Dividends	(受取配当金)
Interest	(受取利息)
Gross rents	(賃貸収入)
Gross royalties	(ロイヤルティ収入)
Net capital gains / other gains	(譲渡益：純キャピタル・ゲインなど)
Other income	(その他の所得)

<Deductions : Business Expenses & Losses>

Compensation of officers	(役員報酬)
Salaries and wages	(給与賃金)
Repairs and maintenance	(修繕維持費)
Bad debts	(貸倒損失)
Rents	(賃借料)
Taxes and licenses	(諸税金)
Interest	(支払利息)
Charitable contributions	(寄付金)
Depreciation	(減価償却費)
Depletion	(減耗償却費)
Advertising	(広告宣伝費)
Pension, profit sharing, etc. plans	(年金費用等)
Employee benefit programs	(福利厚生費)
Domestic production activities deduction	(国内製造活動控除)
Other deductions	(その他の費用損失項目 例：交際接待費の50%)

Net operating loss (NOL) deduction	(欠損金控除)
Special deductions: DRD	(特別控除：受取配当控除)

= Taxable Income	(課税所得)

<参考> Topic 4A : Partnership の Form1065 Page 1 の構成と見比べてみよう。Form 1065 Page 1 には、Separate-line items は記載されておらず、NOL deduction ・DRD などもない。

D. Bonus Accrual (Non Shareholder Employee)

Bonuses paid by a corporation using accrual basis are deductible in the taxable year when all events have occurred that establish a liability with reasonable accuracy, if they are paid within **2.5 months** after the year end.

発生主義を採用している法人が、当課税年度の労働に対して（株主ではない）従業員にボーナス等を支給する場合、当課税年度末より 2.5 ヶ月以内に実際に支払われたのであれば、発生した年度に控除可。

E. Charitable Contributions

The deduction for charitable contributions is limited to **10% of taxable income before the charitable contributions deduction, the dividends received deduction, a net operating loss carryback (but after carryforward), a capital loss carry back (but after carryforward) and domestic production deduction**. Excess contributions over 10% limitation may be carried forward for **5 years**.

寄付金は、①寄付金控除、②受取配当控除、③欠損金繰戻し、④キャピタル・ロス繰戻し、⑤国内製造活動控除を控除する前の課税所得 **1** の10% を上限として控除可。※ 2.5 ヶ月ルール適用。

控除しきれなかった上限額以上の寄付については、翌期以降、5年間繰越しが可能。

F. Life Insurance Expense (Premium)

Life insurance premiums on officer's lives (key employee) paid by the corporation are not deductible where the corporation is directly or indirectly the beneficiary.

会社役員等 (officer / key employee) に対してかけている生命保険料は、その法人が保険金の受取人である場合、控除できない。死亡時に受領する生命保険金は非課税。

Beneficiary	Proceeds	Premium
Corporation	Not taxable	Not deductible
Employee	—	Deductible

G. Dividend Received Deduction (DRD)

In an attempt to prevent triple taxation of earnings, domestic corporations (those that are not personal service corporations, personal holding companies, or personally taxed S corporations) are allowed a "dividends received deduction." The amount of this deduction depends on the percentage that the corporation owns of the investee corporation that paid the dividends.

DRDの目的は三重課税以上の多重課税を回避（軽減）∴「法人」が受取る配当に適用される。

※ 保有期間が45 日以下の株式に対する受取配当には、DRDは適用されない。

<u>Percentage Ownership</u>	<u>Dividends Received Deduction</u>
0% to < 20%	70%
20% to < 80%	80%
80% to 100%	100%

Taxable Income Limitation : Lower of: DRDとして控除可能な金額は以下のいずれか小さい方。

a. 70% (or 80%) of dividends received

b. 70% (or 80%) of "taxable income computed without regard to the DRD, any NOL deductions, or capital loss carryback" **2**

但し、上記 b.の控除制限規定は、もし原則の 70% (80%) DRDを控除した場合に NOL を発生させたり増加させるのであれば適用されない。∴ 原則どおり、受取った配当の70%(80%)を控除可。

GAAP vs. TAX SUMMARY

特に★印付きの項目は要チェック！

	GAAP INCOME STATEMENTS	IRC TAX RETURN	TEMP	PERM	NONE
GROSS INCOME:					
Gross Sales	Income	Income			✓
Installment Sales	Income	Income when received	✓		
★ Rents and Royalties in Advance	Income when earned	Income when received	✓		
State Tax Refund	Income	Income (tax benefit rule)			✓
Dividends	Equity Method	Income is subsidiary's earnings	✓		
★ 100/80/70% Exclusion	No exclusion	100/80/70% Excluded forever		✓	
ITEMS NOT INCLUDIBLE IN "TAXABLE INCOME":					
★ Interest on Municipal Bond	Income	Not taxable income		✓	
★ Life Insurance Proceeds	Income	Not taxable income		✓	
Gain / Loss on Treasury Stock	Not reported	Not reported			✓
ORDINARY EXPENSES:					
Cost of Goods Sold	Uniform capitalization rules	Uniform capitalization rules			✓
Domestic Production Deduction	n/a	Deduct		✓	
Officers' Compensation (Top)	Expense	\$1,000,000 limit			✓
★ Bad Debt	Allowance (estimated)	Direct write-off (accrual only)	✓		
Estimated Liability for Contingency	Expense (accrue estimated)	No deduction until paid	✓		
★ Interest Expense					
Business Loan	Expense	Deduct			✓
Tax-free Investment 例:地方債	Expense	NOT deductible		✓	
Taxable Investment	Expense	Deduct up to taxable invest. income	✓		✓
★ Charitable contributions	All expensed	Limited to 10% of 11 5 yrs c/f	✓	✓	✓
Loss on Abandonment / Casualty	Expense	Deduct ※NO \$100&10%AGI			✓
Loss on Worthless Subsidiary	Expense	Deduct			✓
Depreciation					
Straight Line vs. MACRS	Slow depreciation	Fast depreciation	✓		
★ Section 179 Expense Deduction	Not allowed (must depreciate)	\$500,000 (2010-2011)	✓		
Different Basis of Asset	Use GAAP basis	Use tax basis		✓	
★ Amortization					
Organizational Expenditures	Expense	Deduct up to \$5,000 ; Excess 180 mths amortization 株式発行関連費用を除く	✓	✓	✓
Research and Development	Expense	Expense/Amortize 60 mths	✓		
Intangible (other than goodwill)	Amortize (finite lives)	Amortize over 15 years	✓		
Goodwill	Impairment Test (Not amortized)	Amortize over 15 years	✓		
Depletion					
Percentage vs. Straight Line (cost)	Cost over years	Percentage of sales	✓		
Percentage in Excess of Cost	Not allowed	Percentage of sales		✓	
Profit and Pension Expense	Expense accrued	No deduction until paid	✓		
Accrued Expense (50% owner / family)	Expense accrued	No deduction until paid	✓		
State Taxes (Paid)	Expense	Deduct			✓
★ Meals and Entertainment	Expense	Generally 50% deductible		✓	
GAAP EXPENSE ITEMS THAT ARE NOT TAX DEDUCTIONS:					
★ Life Insurance Expense (corporation)	Expense	NOT deductible		✓	
(employee)	Expense	Deductible			✓
★ Fines & Penalties	Expense	Not deductible		✓	
★ Lobbying/Political Expense	Expense	No deduction		✓	
★ Federal Income Taxes	Expense	Not deductible		✓	
SPECIAL ITEMS:					
Net Capital Gain	Income	Income			✓
★ Net Capital Loss	Reported as a loss	Not deductible 内部通算のみ	✓		
Carryback / Carryover (3 yrs back and 5 yrs forward)	Not applicable	Unused loss allowed as a STCL			
Related Shareholder	Report as loss	Not deductible		✓	
★ Net Operating Loss	Report as loss	2 rs back or 20 yrs forward	✓		

H. Schedule M-1

The reconciliation of the corporation's income per books and its taxable income before the NOL deduction and DRD must be provided on Schedule M-1 of Form 1120.

財務会計上の純利益を、① 欠損金控除・② 受取配当控除 前の課税所得 = ② に調整する別表である。

※ TBS 対策：財務会計の内容ではあるが、永久差異・一時差異の区別もできるようにしておこう。

Schedule M-1 Reconciliation of Income (Loss) per Books With Income Tax Return			
1 Net Income (or Loss) Per Books	\$875,000	7 - <u>Income Recorded on Books This Year</u>	
2 + Federal Income Tax [per books]	\$384,500	<u>Not Included on This Return:</u>	
※ 連邦所得税を加算		- Tax-exempt Interest	\$3,500
3 + Excess Capital Losses over Gains	\$5,000	- Life Insurance Proceeds	\$100,000
※ 純キャピタルロスを加算			
4 + <u>Income Subject to Tax Not Recorded on Books This Year:</u>			
+ Installment Sale Income	\$8,500		
+ Rents Received in Advance	\$15,000		
5 + <u>Expenses Recorded on Books This Year</u>		8 - <u>Deductions on This Return Not Charged</u>	
<u>Not Deducted on This Return</u>		<u>Against Book Income This Year:</u>	
+ Book Depreciation	\$14,000	- Tax Depreciation	\$28,000
+ Contribution ※ ①の10%上限超過分	\$0	- Contribution Carryover	\$0
+ Meals & Entertainment [50%]	\$4,200	- Sec. 179 Expense Deduction	\$20,000
+ Allowance for Doubtful Accts. [Incr]	\$15,000	- Direct Bad Debt Write Offs	\$8,650
+ Warranty Accrual	\$8,500	- Actual Warranty Costs	\$7,500
+ Different Basis of Assets	\$0	- Different Basis of Assets	\$0
+ Expense of Organizational Costs	\$0	- Amortization of Organizational Cost	\$500
+ Goodwill Impairment per books	\$5,000	- Goodwill Amortization per Return	\$9,200
+ Pension Expense Accrued	\$12,000	- Pension Expense Paid	\$11,350
+ Penalties	\$1,000		
+ Life Insurance Expense (corporation)	\$0		
+ Interest Expense on Tax-free Invest.	\$0		
6 Add Lines 1 through 5	<u>\$1,347,700</u>	9 Add Lines 7 and 8	<u>\$188,700</u>
		10 <u>Income (line 28 page 1)</u>	<u>\$1,159,000</u>

I. Consolidated Return (80%)

An affiliated group is a parent-subsidiary chain of corporations in which at least 80% of the combined voting power of all outstanding stock AND 80% of total value of all outstanding stock (except nonvoting preferred) of each corporation are owned by includible corporations.

関連会社グループ(**affiliated group**)とは、親子関係にあり、親会社の子会社の議決権の80%以上 および 総株式価値の80%以上を保有している企業グループをいう。⇒ 連結納税の選択可。

J. Corporate Alternative Minimum Tax (AMT) ※ 個人のAMT：p.2-8~9も参照のこと。

REGULAR TAXABLE INCOME	
• Long term contract • Installment sales • Excess depreciation (after 1986)	} Add or subtract AMT ADJUSTMENTS
• Pre '1987 ACRS excess depreciation • Private activity bond Tax exempt interest income • Percentage of depletion	} Addback TAX PREFERENCES
• Municipal interest income Tax exempt interest income • Increase CSV life insurance • Non SL depreciation (after 1989 with salvage value) • 70% Dividend rec. deduction (under 20% ownership)	} Adjusted Current Earnings Increase/Decrease (neg. adj limited to past positive)
AMTI	} \$40,000 less 25% of AMTI over \$150,000
<AMT EXEMPTION>	
A.M.T.base x 20%	
TENTATIVE AMT TAX	
<TAX CREDITS>	
TENTATIVE MINIMUM TAX	
<REGULAR TAX >	
ALTERNATIVE MINIMUM TAX	

K. Personal Holding Company Tax (PHC Tax) – Self-assessed

Personal holding companies (PHC) – corporations **more than 50% owned by 5 or less individuals** (either directly at any time during the last half of the tax year) and having **60%** of adjusted ordinary gross income consisting of dividends from and unrelated domestic corporation; **taxable** interest; royalties; net rent (if less than 50% of ordinary gross income). Corporations deemed to be personal holding companies are taxed an additional 15 % on PHC net income not distributed.

PHCとは、次の2つの要件（両方とも）に合致する法人をいう。

① 課税年度の下半期のいずれの時点において、5人以下の個人により直接または間接的に50% 超の株式が所有されている。② その法人の一定の調整を加えたG I の60% 以上がPHC所得（配当、利息、ロイヤルティ、賃貸所得など）で構成されている。

※ 年度末から2.5カ月以内までに株主に十分な配当（同意配当：consent dividends 可）を行えば、PHC Tax / AET を回避できる。

L. Accumulated Earnings Tax (AET) – **NOT** Self-assessed

The accumulated earnings tax (tax rate 15 %) is imposed on regular C corporation (those that are not *personal holding companies*, *tax-exempt corporations*, or *passive foreign investment corporations*) whose accumulated earnings are in excess of **\$250,000** (**\$150,000** personal service corporation) if improperly retained instead of being distributed as dividends to shareholders.

PHCに該当しない全ての普通法人 (C corporation) が対象となる。

二重課税を回避する目的で法人の利益を配当せずに「不必要に」留保している場合、通常の法人税に追加して、一律15%の税率でAETが課せられる。

但し、①累積で\$250,000 (\$150,000) もしくは②事業を行う上で必要な資金 (reasonable business needs) のいずれか**大きい金額**までは、社内に利益を留保することが認められている。

III. CORPORATE DISTRIBUTIONS (NONLIQUIDATING DISTRIBUTIONS)

A. CORPORATION PAYING DIVIDENDS

1. Distribution (Nontaxable Event)

The general rule is the payment of a dividend does not create a taxable event. A dividend is a reduction of retained earnings/earnings and profits.

法人側：株主への分配は、法人にとって、原則非課税。

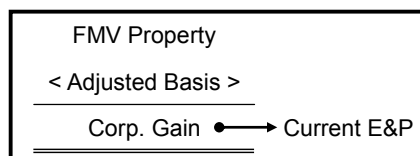
2. Distribution of **Appreciated Property** (Taxable Event)

The corporation recognizes gain as if the property had been sold (i.e., FMV less adjusted basis). The gain increases current E&P.

Q：法人が認識すべき「gain」はいくらになるのか？

含み益 (FMV > A.B.) がある資産を株主へ分配する場合、法人は、あたかも当該資産をその FMV で売却したかのように、gain を認識する。⇒ **法人の Current E&P が増加する！**

認識する gain の性質は分配した資産の種類によって異なる。Sec. 1231 gain となった場合には、Sec. 1245 recapture 等の対象となるので注意。



B. SHAREHOLDER RECEIVING DIVIDENDS

1. Three Categories of Distributions

Amounts received that represent a portion of a corporation's earnings and profits are taxable **dividends income**. Amounts that do not represent a portion of the corporation's earnings and profits are first credited as **return of capital** to the extent of the individual's basis in the stock.

Any excess amounts are then taxable as a **capital gain**.

普通法人 (C corporation) からの分配は、税法上 3 つに分類され、税法上の取扱いが異なる。

残り	→ (c) Capital gain	→ Taxable
Stock basis	→ (b) Return of capital	→ Nontaxable (Reduces stock basis)
E & P	→ (a) Dividend	→ Taxable

Q : 配当所得として課税対象となる金額はいくら？

株主側 : 通常の分配－原則ルール : 株主は、法人の E&P (= CEP+AEP) の金額までを dividend として扱う。通常の分配は、株主にとって、一般に taxable event だといえる。

The **amount of distribution** to a shareholder is the cash plus the **FMV** of other property received (reduced by liabilities assumed).

分配の中身は上記 3 つに分類されることになるが、分類すべき対象となるのは、**分配額** : 分配により受領した現金 (cash) の金額 及び 受領した資産 (property) の分配日における FMV (※ A.B. ではない!) の合計となる。

<補足> 分配により受領した資産に負債が付いていて、株主がその負債を引き受けた場合には、受領した資産の分配日における FMV から株主が引き受けた負債額を差し引いた金額が、**分配額** となる。分配を行う法人側に十分な E&P がある場合には、その金額が dividend として課税対象となる。

Distributions are deemed to come from **current E&P first** and then from accumulated E&P.

法人の E&P からの分配は、まず CEP から、次に AEP から行われたものとして扱われる。

例 : CEP > 0 (当期黒字)、AEP < 0 (累積赤字) の場合、CEP までが dividend として扱われる。

まず CEP から分配が行われたとみなされるから。※ 相殺しない。

例 : CEP < 0 (当期赤字)、AEP > 0 (累積黒字) の場合、分配日における CEP と AEP を相殺し、相殺後の金額がプラスであればその金額までが dividend として扱われる。

Distributions within the year are allocated based on the following rules:

Current E&P are allocated on a pro rata basis to each distribution. Accumulated E&P are applied in chronologically order, beginning with the earliest distribution.

< 1 課税年度中に複数回分配が行われた場合 > ※【TBS#10 (p.3A-54)】で演習する。

① まず CEP を各分配に比例配分する。

② 次に AEP を最初 (初回) の分配から順番に割り当てていく。

Current E&P : similar to book income, but computed by making **adjustments to taxable income**.

< CEP の求め方 >

CEP は、財務会計の net income に似たものと考えればよいが、Form 1120 の taxable income に対して調整を行い算出する。詳細は【TBS#9 (p.3A-48)】にまとめている。

2. Shareholder's Taxable Amount

The **taxable amount** of a dividend from a corp.s E&P depends upon the type of shareholder :

Individual Shareholders

- a. Cash dividends - amount received.
現金配当：受領した現金の金額。
- b. Property dividends - FMV of property received.
現物配当：受領日（分配日）におけるFMV。

Q：株主が現物配当として受領した資産（property）のbasisはいくらになるのか？

受領日（分配日）におけるFMV となる。

<補足> 株主が負債付き資産を受領した場合であっても、当該資産の basis の計算上、株主が引き受けた負債額を差し引かない。例：株主A氏は、\$4,000の負債が付いた資産（FMV \$10,000 A.B. \$3,000）の分配を受けた。当該資産の株主側での basis は、\$10,000となる。一方、分配額は負債を差し引いた\$6,000となる。

Corporation Shareholders (remember **DRD**)

法人株主が受領する配当についてはDRDが適用されるので、課税対象となる金額（"taxable" amount）が問われている場合には注意しよう。

IV. CORPORATE LIQUIDATION (LIQUIDATING DISTRIBUTIONS)

A. CORPORATION RECOGNIZED GAIN OR LOSS (Taxable Event)

1. Corporation recognizes gain or **loss** as if it sold the assets for the FMV

Q：法人が認識すべき gain/loss の金額はいくらになるのか？

法人側：株主へ資産（property）を分配するにあたり、そのgain / loss を認識する。

※ 清算に伴う分配においては、loss についても認識する。

B. SHAREHOLDER RECOGNIZED GAIN OR LOSS (Taxable Event)

1. Shareholders recognize gain or loss to extent FMV of assets received differs from the adjusted basis of stock.

Q：株主が認識すべき gain/loss の金額はいくらになるのか？

株主側：清算に伴う分配－原則ルール：会社の完全清算 (complete liquidation) に伴い受領した現金 (cash) 及び 受領した資産 (property) の分配日におけるFMV の合計金額から、株式の adjusted basis を差し引いて、原則、キャピタル・ゲインまたはロスを認識する。

※ 株式の償還 (stock redemption) が交換取引となる場合と同じ取扱いである。

Q：株主が清算に伴う分配により受領した資産（property）のbasisはいくらになるのか？

前述の通常の分配と同様、受領日（分配日）におけるFMVとなる。

C. PARENT / SUBSIDIARY LIQUIDATION (Nontaxable Event)

No gain or loss is recognized by either the parent corporation or the subsidiary corporation when the parent, who owns at least 80% liquidates its subsidiary.

80% 以上所有の子会社の完全清算では、株主である親会社側も、清算される子会社側も、gain / loss を認識しない。子会社の資産のbasis などすべてが、親会社にそのまま引き継がれる。

NOTES

MULTIPLE-CHOICE QUESTIONS

QUESTION 1.

FACTS: Gearty and Olinto organized The Pink Dress Corp., which issued voting common stock with a fair market value of \$240,000. They each transferred property in exchange for stock as follows:

	<u>Property</u>	<u>Adjusted basis</u>	<u>Fair- market value</u>	<u>Percentage of The Pink Dress Corp. stock acquired</u>
Gearty	Building	\$80,000	\$164,000	60%
Olinto	Land	\$10,000	\$ 96,000	40%

The building was subject to a \$20,000 mortgage that was assumed by the Pink Dress Corp. What was The Pink Dress Corp.'s basis in the building?

1. \$60,000
2. \$80,000
3. \$144,000
4. \$104,000

QUESTION 2.

SAME FACTS:

What was Gearty's basis in The Pink Dress Corp. stock?

1. \$164,000
2. \$80,000
3. \$60,000
4. \$0

QUESTION 3.

SAME FACTS:

What amount of gain did Gearty recognize on the exchange?

1. \$0
2. \$20,000
3. \$84,000
4. \$104,000

SOLUTION 1.

Choice 2 is correct.

The Pink Dress Corp.'s basis in the building is the same as Gearty's basis immediately prior to its contribution to the corporation.

Choice 1 is incorrect. The Pink Dress Corp.'s basis in the building is computed separately from any debt that it assumes related to the building.

Choice 3 is incorrect. The Pink Dress Corp. uses Gearty's basis, not the building's fair market value, as its basis. Furthermore, the debt assumed by The Pink Dress Corp. does not affect the basis of the building to The Pink Dress Corp.

Choice 4 is incorrect. The Pink Dress Corp. uses Gearty's basis, not the building's fair market value, as its basis.

SOLUTION 2.

Choice 3 is correct.

Gearty computes his basis as the basis of property and cash (none here) contributed, less the amount of any debt he is relieved of. Here he contributes property with an adjusted basis of \$80,000, but the \$20,000 debt he is relieved of must be subtracted, resulting in a net basis of \$60,000. This can also be thought of as giving Gearty a basis equivalent to the amount of equity he had in the contributed building.

Choice 1 is incorrect. The basis of Gearty's stock is based on his basis in the contributed property, not its fair market value.

Choice 2 is incorrect. Gearty must subtract the \$20,000 of debt he is relieved of from his \$80,000 basis in the property to arrive at his basis in the stock.

Choice 4 is incorrect. Because Gearty contributed property with a basis above zero, his basis in the stock is greater than zero.

SOLUTION 3.

Choice 1 is correct.

The formation of a corporation under these circumstances is a nontaxable event. Thus, Gearty would report zero gain upon the formation of the corporation.

Choices 2, 3, and 4 are incorrect. Because the formation of this corporation is a nontaxable event, no gain or loss would be reported by Gearty.

TBS #4-5 は、Released 2006 Simulation です。※2010年度の数値等にアップデートしています。

TASK-BASED SIMULATION 4: *Gain / Basis*



Gain / Basis

Authoritative Literature

Help

Jones, Mitchell, Carey, and Gorman are knowledgeable about landscape design. They have decided to pool their knowledge and resources to form Arrington Enterprises, Inc., a C corporation. They will provide professional services to area businesses and homeowners. All participants expect to work full time for Arrington Enterprises, and each expects to contribute sufficient assets to become a 25% shareholder with a total stock equity of \$50,000 each.

In addition to the skills that each brings to the new entity, the owners will contribute assets that will enhance the company's ability to provide quality technical design and planning services. These assets include a building, land, lawn care equipment, office furniture and equipment, and cash for initial operating expenses.

The table below shows the assets contributed by each shareholder. In all cases, the liabilities are recourse and are assumed by Arrington Enterprises, Inc. There are no tax avoidance purposes inherent in the assumption of shareholder liabilities.

<u>Shareholder Contributions to Arrington Enterprises, Inc.</u>					
	Noncash				
	Property	Liability	Basis in	Cash	Cash
	Contributed	associated	noncash		
	(Estimated	<u>with property</u>	property	<u>contributed</u>	distributed to
<u>Shareholder</u>	<u>FMV</u>)		<u>contributed</u>		<u>Shareholder</u>
Jones	120,000	60,000	100,000	0	10,000
Mitchell	80,000	50,000	40,000	20,000	0
Carey	40,000	20,000	20,000	30,000	0
Gorman	70,000	0	50,000	0	20,000

For the following two shareholders in Arrington Enterprises, Inc., determine the gain realized, gain recognized, and tax basis of the shares. If the value of a cell is zero, you must enter a zero (0) to receive credit for your answer.

Note: To use a formula in the spreadsheet, it must be preceded by an equal sign; e.g., = A1 + B1.

	A	B	C	D
1		Gain realized	Gain recognized	Tax basis in shares
2	Jones			
3	Carey			

<日本語訳>

Gain / Basis	Authoritative Literature	Help																																																		
Jones, Mitchell, Carey , および Gorman 氏は、ランドスケープデザインに関して知識がある。彼らは知識を集結し Arrington Enterprises, Inc（普通法人）を設立することにした。彼らは事業者や自宅を所有する個人に対して専門的なサービスを提供するつもりだ。彼ら全員がフルタイムで業務を行う予定である。また、各人が十分な資産を出資し 25%の株主となる予定で、株主資本は各\$50,000となる。 なお、各人は新会社に対し知識（スキル）を出資すると同時に、質の高いサービスを提供するために会社の能力を高める資産を出資することとした。これらの資産には、建物、土地、芝刈り機、オフィス家具や備品、および初期の運用資金を賄うための現金などが含まれる。 下表には、各株主が出資した資産を記載している。すべての現物出資のケースにおいて、負債はリコースライアビリティであり Arrington Enterprises, Inc がその負債を引き受ける。租税回避目的としての株主負債の引受けはない。 <u>株主による Arrington Enterprises, Inc. への出資</u> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 15%;">株主</th> <th style="width: 15%;">現物出資 (見積時価)</th> <th style="width: 15%;">現物の負債額</th> <th style="width: 15%;">現物出資 (税務上の basis)</th> <th style="width: 15%;">現金出資額</th> <th style="width: 20%;">株主への 現金による分配</th> </tr> </thead> <tbody> <tr> <td>Jones 氏</td> <td style="text-align: right;">120,000</td> <td style="text-align: right;">60,000</td> <td style="text-align: right;">100,000</td> <td style="text-align: right;">0</td> <td style="text-align: right;">10,000</td> </tr> <tr> <td>Mitchell 氏</td> <td style="text-align: right;">80,000</td> <td style="text-align: right;">50,000</td> <td style="text-align: right;">40,000</td> <td style="text-align: right;">20,000</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Carey 氏</td> <td style="text-align: right;">40,000</td> <td style="text-align: right;">20,000</td> <td style="text-align: right;">20,000</td> <td style="text-align: right;">30,000</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Gorman 氏</td> <td style="text-align: right;">70,000</td> <td style="text-align: right;">0</td> <td style="text-align: right;">50,000</td> <td style="text-align: right;">0</td> <td style="text-align: right;">20,000</td> </tr> </tbody> </table> Arrington Enterprises, Inc の以下 2 人の株主について、実現利得、認識利得、株式の basis を求めなさい。 金額がゼロの場合にはゼロを入力すること。 注：スプレッドシートで公式を使用する際には、頭にイコール記号を付けること。例：=A1+B2 <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 20%;">A</th> <th style="width: 20%;">B</th> <th style="width: 20%;">C</th> <th style="width: 20%;">D</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1</td> <td></td> <td style="text-align: center;">Gain realized</td> <td style="text-align: center;">Gain recognized</td> <td style="text-align: center;">Tax basis in shares</td> </tr> <tr> <td style="text-align: center;">2</td> <td style="text-align: center;">Jones</td> <td style="background-color: #cccccc;"></td> <td style="background-color: #cccccc;"></td> <td style="background-color: #cccccc;"></td> </tr> <tr> <td style="text-align: center;">3</td> <td style="text-align: center;">Carey</td> <td style="background-color: #cccccc;"></td> <td style="background-color: #cccccc;"></td> <td style="background-color: #cccccc;"></td> </tr> </tbody> </table>			株主	現物出資 (見積時価)	現物の負債額	現物出資 (税務上の basis)	現金出資額	株主への 現金による分配	Jones 氏	120,000	60,000	100,000	0	10,000	Mitchell 氏	80,000	50,000	40,000	20,000	0	Carey 氏	40,000	20,000	20,000	30,000	0	Gorman 氏	70,000	0	50,000	0	20,000		A	B	C	D	1		Gain realized	Gain recognized	Tax basis in shares	2	Jones				3	Carey			
株主	現物出資 (見積時価)	現物の負債額	現物出資 (税務上の basis)	現金出資額	株主への 現金による分配																																															
Jones 氏	120,000	60,000	100,000	0	10,000																																															
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Carey 氏	40,000	20,000	20,000	30,000	0																																															
Gorman 氏	70,000	0	50,000	0	20,000																																															
	A	B	C	D																																																
1		Gain realized	Gain recognized	Tax basis in shares																																																
2	Jones																																																			
3	Carey																																																			

Solution

	A	B	C	D
1		Gain realized	Gain recognized	Tax basis in shares
2	Jones	20,000	10,000	40,000
3	Carey	20,000	0	30,000

以下では、4人の株主について解説をしている。

Gain Realized

Rule: The realized gain is calculated as the fair market value of the property contributed for value in the corporation less the shareholder's basis of that property.

※ Mitchell氏とCarey氏：出資した現金にはそもそも含み損益は発生していないので、出資した現物のFMVと adjusted basis (NBV) の差額で、realized gain / loss を計算する。

	Jones	Mitchell	Carey	Gorman
FMV of Property	120,000	80,000	40,000	70,000
Basis of Property	(100,000)	(40,000)	(20,000)	(50,000)
Realized Gain	20,000	40,000	20,000	20,000

(別解)

	Jones	Mitchell	Carey	Gorman
FMV of Stock	50,000	50,000	50,000	50,000
C.O.D.	60,000	50,000	20,000	0
Cash Received	10,000	0	0	20,000
Cash Contributed	0	(20,000)	(30,000)	0
Basis of Property	(100,000)	(40,000)	(20,000)	(50,000)
Realized Gain	20,000	40,000	20,000	20,000

Gain Recognized

Rule (1) Excess Liability : When property contributed is subject to a liability and liabilities exceed adjusted basis of contributed property, the excess amount is taxable gain to the shareholder.

負債付き資産を出資して liability assumed by corporation (債務免除額) > A.B. (NBV) of contributed property (※ **出資資産が複数ある場合にはその合計額**) となる場合、その超過部分について、gain を認識しなければならない。

Rule (2) Boot Received (cash / non-money boot) : The recognized gain is the gain that is reported (recognized) on the tax return of the taxpayer. If there is realized gain and boot (cash / non-money boot) received, gain may be recognized, but only to the extent of the boot. If there is no boot received, no gain is recognized for tax purposes.

その法人の株式以外のもの (cash / non-money boot ※ **C.O.D.** を除く) を受領した株主は、その範囲で gain を認識しなければならない。

	Jones	Mitchell	Carey	Gorman
Realized Gain	20,000	40,000	20,000	20,000
Cash Received	10,000	0	0	20,000
—Deferred Gain	10,000	40,000	20,000	0
=Recognized Gain	[A]10,000	[B]0	[C]0	[D]20,000

[A] Jones recognized \$10,000 gain and defer \$10,000 gain.

Jones氏は、\$60,000の負債付き資産を出資しその負債を法人に引き受けてもらっているが、損益の計算上は「交換差金 (boot) の受領」とは扱われない。従って、受領した現金\$10,000 を上限としてgain を認識する。※ 取得した株式の計算上は、いずれも「交換差金 (boot) の受領」として扱われる。

④	Realized Gain	\$20,000
	FMV of Boot Received	<u>\$10,000</u>

[B] Mitchell recognized \$0 gain and defer \$40,000 gain.**[C] Carey recognized \$0 gain and defer \$20,000 gain.**

Mitchell氏とCarey氏は、その法人の株式のみを取得しているので、Excess liabilityの状態にならないければ、一切 gainを認識しない。※ 株式のbasis を計算する過程でExcess liabilityとなるかどうか判明する！

[D] Gorman recognized \$20,000 gain.

Gorman氏は、受領した現金\$20,000を上限としてgain を認識する。

Tax Basis in Shares

Remember, the transfer of property is generally is a non-taxable event, which means that the basis is the adjusted basis (net book value) to the shareholder. [Note: In neither of these cases did the debt exceed the basis of the contributed property, so there was no taxable boot stemming from the debt relief.]

	Jones	Mitchell	Carey	Gorman
+Cash contributed	0	20,000	30,000	50,000
+A.B.(NBV) of property contributed	100,000	40,000	20,000	0
–Liabilities assumed by corp.(boot)	(60,000)	(50,000)	(20,000)	0
–Cash received (boot)	(10,000)	0	0	(20,000)
+Gain recognized	[A]10,000	[B]0	[C]0	[D]20,000
Tax basis in shares	40,000	10,000	30,000	50,000

[A] 受領した現金の金額\$10,000。

[B]&[C] Excess liability の状態とはならない。

[D] 受領した現金の金額\$20,000。

取得した株式の basis を計算する過程で Excess Liability になるかどうか判明する。

TASK-BASED SIMULATION 5: Balance Sheet

Balance Sheet	Authoritative Literature	Help
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SAME FACTS: Complete the Arrington Enterprises, Inc. balance sheet at formation by entering the correct values in each of the shaded cells in the balance sheet column of the table below. Also, enter the tax basis of each item in the shaded cells of the tax basis column below. If the value of a cell is zero, you must enter zero (0) to receive credit for your answer.

Note: To use a formula in the spreadsheet, it must be preceded by an equal sign; e.g., = A1 + B1.

<日本語訳>

前問と同一の問題設定に基づき、設立時の貸借対照表を完成させなさい。また、税務上の basis の金額を入力しなさい。金額がゼロの場合にはゼロを入力すること。

注：スプレッドシートで公式を使用する際には、頭にイコール記号を付けること。例：=A1+B2

	A	B	C
1			
2	Balance Sheet at Formation and Corporate Tax Basis in Property		
3		Balance sheet	Tax basis
4	Cash		
5	Property contributed by :		
6	Jones		
7	Mitchell		40,000
8	Carey		
9	Gorman		70,000
10	Total assets	0	0
11	Liabilities		-
12	Stockholders' Equity	200,000	-
13	Total liabilities and stockholder's equity	0	-

Solution

2	Balance Sheet at Formation and Corporate Tax Basis in Property		
3		Balance sheet	Tax basis
4	Cash	20,000	20,000
5	Property contributed by :		
6	Jones	120,000	110,000
7	Mitchell	80,000	40,000
8	Carey	40,000	20,000
9	Gorman	70,000	70,000
10	Total assets	330,000	260,000
11	Liabilities	130,000	-
12	Stockholders' Equity	200,000	-
13	Total liabilities and stockholder's equity	330,000	-

Rule: As discussed in the Financial and Regulation textbooks and presented in the lectures, GAAP financial statements generally record the assets and liabilities at their Fair Market Values (i.e., Financials use Fair Market Value).

財務会計上（法人の帳簿上）は、資産・負債をそのFMVで計上する。

Cells B4 and C4: Cash

Jones	\$	(10,000)
Mitchell		20,000
Carey		30,000
Gorman		(20,000)
Total Cash	\$	<u>20,000</u>

For the cash contributed, the Balance Sheet amount and the Tax Basis are the SAME.

現金については、帳簿上の計上金額も税法上のbasisも常に同じ。

Cell B6-9: Balance Sheet of Property from Jones, Mitchell, Carey, Gorman

The facts provide that Jones, Mitchell, Carey, Gorman transferred property with a fair market value of **\$120,000, \$80,000, \$40,000, \$70,000**. ※ 問題文より、各々のFMVを転記するだけ！

Cell B11: Liabilities on the Balance Sheet

Jones	\$	60,000
Mitchell		50,000
Carey		20,000
Gorman		0
Total Liabilities	\$	<u>130,000</u>

The facts provide that the liabilities were "assumed by Arrington Enterprises, Inc."

法人が引き受けた負債の金額を合計する。

Cell B12: Stockholders' Equity on the Balance Sheet (GIVEN, but detail provided)

Jones	\$	50,000
Mitchell		50,000
Carey		50,000
Gorman		50,000
Total S/E	\$	<u>200,000</u>

The facts provide that each shareholder contributed "sufficient assets to become a 25% shareholder with a total stock equity of \$50,000 each."

Cell C6: Tax Basis of Property from Jones

The facts provide that Jones transferred property with a tax basis of \$100,000 and that the corporation had to pay Jones \$10,000 to complete the transfer. The tax basis to the corporation would, therefore, be equal to the \$100,000 adjusted basis (NBV) value of the property (No Tax on Transfer means use Net Book Value) plus the \$10,000 gain recognized by Jones or a tax basis for the corporation of **\$110,000**.

A.B. (NBV) of property transferred : S/H	100,000
+ Gain recognized by S/H	10,000
Corporation's basis of property received	110,000

← 原則引き継ぐ！

← Gain/Basis TAB より

Cell C7: Tax Basis of Property from Mitchell (GIVEN, but detail provided)

The facts provide that Mitchell transferred property with a tax basis of \$40,000 and that Mitchell also paid the corporation \$20,000 in cash.

A.B. (NBV) of property transferred : S/H	40,000
+ Gain recognized by S/H	0
Corporation's basis of property received	40,000

← 原則引き継ぐ！

← 前問：Gain/Basis で演習済み

Cell C8: Tax Basis of Property from Carey

The facts provide that Carey transferred property with a tax basis of \$20,000 and that Carey also paid the corporation \$30,000 in cash.

A.B. (NBV) of property transferred : S/H	20,000
+ Gain recognized by S/H	0
Corporation's basis of property received	20,000

← 原則引き継ぐ！

← 前問：Gain/Basis で演習済み

Cell C9: Tax Basis of Property from Gorman (GIVEN, but detail provided)

The facts provide that Gorman transferred property with a net book value (tax basis) of \$50,000 and that the corporation had to pay Gorman \$20,000 to complete the transfer.

A.B. (NBV) of property transferred : S/H	50,000
+ Gain recognized by S/H	20,000
Corporation's basis of property received	70,000

← 原則引き継ぐ！

← 前問：Gain/Basis で演習済み

※ <<受験テクニック>> 「株主が（負債付き）資産のみを出資してその法人の株式のみを取得している」という設定の問題（←出題頻度が非常に高い）では、時間節約のために受験テクニックで解こう！

NOTES