

Exela Technologies, Inc.
EIN: 47-1347291
Date of Action: July 11, 2023
Attachment to Form 8937

The information contained herein is being provided pursuant to the requirements of Section 6045B of the Internal Revenue Code of 1986, as amended, and includes a general summary regarding the application of certain U.S. federal income tax laws and regulations relating to the effects of the Exchange (as defined below) on the tax basis of the new notes issued by Exela Intermediate LLC (the "Issuer"), a wholly owned disregarded subsidiary of Exela Technologies, Inc. (the "Company"), and Exela Finance Inc. (the "Co-Issuer" and, together with the Issuer, the "Issuers"), a wholly-owned corporate subsidiary of the Company, (the "New Notes") to holders of the Issuers' 11.500% First-Priority Senior Secured Notes due 2026 (the "Old Notes") in exchange therefor. The information contained herein does not constitute tax advice and does not purport to be complete or to describe the consequences that may apply to particular categories of holders. Neither of the Issuers provides tax advice to holders of its debt obligations. Holders should consult their own tax advisers regarding the particular tax consequences of the Exchange to them, including the applicability and effect of all U.S. federal, state and local and foreign tax laws.

Part I – Reporting Issuer

Line 10. CUSIP

30162R AC5 (144A) / U3002E AC2 (Reg S)

Part II – Organizational Action

Line. 14. Describe the organizational action and, if applicable, the date of the action or the date against which shareholder's ownership is measured for the action.

On July 11, 2023, holders of the Old Notes exchanged their Old Notes for newly issued 11.500% First-Priority Senior Secured Notes due 2026, i.e., the New Notes (the "Exchange"). The Exchange resulted in the issuance of approximately \$1,017 million aggregate principal amount of the New Notes to participating holders in respect of validly tendered (and not validly withdrawn) Old Notes, which is equivalent to \$800 of the New Notes per \$1,000 principal amount of the Old Notes validly tendered (and not validly withdrawn).

Line. 15. Describe the quantitative effect of the organizational action on the basis of the security in the hands of a U.S. taxpayer as an adjustment per share or as a percentage of old basis.

Under U.S. federal income tax law, the exchange of an existing debt instrument for a new debt instrument is a "significant modification" of the existing debt instrument and results in an exchange of the existing debt instrument for the new debt instrument for U.S. federal income tax purposes if, based on all the facts and circumstances and taking into account all modifications of the existing debt instruments collectively, the legal rights or obligations that are altered and the degree to which they are altered are economically significant. In addition to this general rule, the Treasury Regulations provide specific rules under which certain modifications will be treated as giving rise to a significant modification. Under one of those specific

rules, the exchange of an Old Note for a New Note should be treated as resulting in a material change in yield. Accordingly, we believe that the Exchange will be treated as a significant modification of the Old Notes for U.S. federal income tax purposes.

The Exchange will be a fully taxable transaction, and a holder participating in the Exchange will recognize gain or loss in connection with the Exchange as described below unless the Exchange qualifies as a tax-deferred “recapitalization” under Section 368(a)(1)(E) of the Code. For the Exchange to qualify as a recapitalization, both the Old Notes and the New Notes must be treated as “securities” under the relevant provisions of the Code. Neither the Code nor the Treasury Regulations define the term “security,” and it has not been clearly defined by judicial decisions. Whether a debt instrument is a security for U.S. federal income tax purposes is determined based on all of the terms of the debt instrument, as well as all of the surrounding facts and circumstances. Relevant factors include whether the holder of the debt instrument is subject to a material level of entrepreneurial risk relating to the issuer’s business and the holder’s degree of participation and continuing interest in the issuer’s business. Many authorities have held that the term to maturity of the debt instrument is one of the most significant factors in determining whether a debt instrument is a security. In this analysis, debt instruments with a term of ten years or more generally have qualified as securities, whereas debt instruments with a term of less than five years generally have not qualified as securities. A published IRS ruling suggests that, for this purpose, the term of a new debt instrument should include the term of the debt instrument exchanged therefor if such debt instruments have different interest rates but otherwise identical terms. It is unclear whether this would apply where the new debt instrument has terms differing from the old debt instrument in other respects. In this case, the Old Notes (which have a term of approximately 4.5 years) were previously received in a recapitalization in exchange for notes that had a term of 6 years. Based on the foregoing, it is possible that the Old Notes and the New Notes would qualify as securities, but there is no certainty in the position. If the Old Notes and the New Notes were to qualify as securities, the Exchange could qualify as a recapitalization with the U.S. federal income tax consequences discussed below; otherwise, the Exchange would be a taxable exchange of an Old Note for a New Note, with the U.S. federal income tax consequences as discussed further below.

If the Exchange qualifies as a recapitalization, a tendering holder of an Old Note:

- would not recognize any gain or loss on the Exchange;
- would have an initial tax basis in the New Note received in exchange for such Old Note equal to the tendering holder’s adjusted tax basis in such Old Note immediately prior to the Exchange; and
- would have a holding period in the New Note received in exchange for such Old Note that includes the holding period of such Old Note.

If the Exchange does not qualify as a recapitalization and therefore is treated as a taxable exchange, a tendering holder of an Old Note:

- would be required to include in gross income any gain or (subject to possible application of the wash sale rules) loss realized on the Exchange, which amount realized would be equal to the issue price of the New Note received in exchange for such Old Note;
- would have an initial tax basis in the New Note received in exchange for such Old Note equal to the issue price of such New Note;
- and would have a holding period in the New Note exchanged therefor that starts on the day after the Exchange.

The issue price of the New Note will be determined based on whether the New Note or the Old Note are considered “publicly traded” for U.S. federal income tax purposes. If the New Note is considered to be publicly traded, the issue price of the New Note will equal its fair market value as of the date the New Note is issued. We believe that the New Notes are likely considered “publicly traded” for this purpose. We intend to provide information regarding the issue price of the New Notes within 90 days of the date of the issuance of the New Notes in a manner consistent with the applicable Treasury Regulations.

The information contained herein does not constitute tax advice and does not purport to be complete or describe the consequences that may apply to all holders of the debts described. Holders are advised to consult their own tax advisor regarding the adjustment to basis.

Line. 16. Describe the calculation of the change in basis and the data that supports the calculation, such as the market values of securities and the valuation dates.

See answer to Line 15.

Line. 17. List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based.

IRC Sections 354, 358, 368, 1001, 1011, 1012, and 1273.

Line. 18. Can any resulting loss be recognized?

Generally, no loss would be expected to be recognized if the Exchange is treated as a “recapitalization” under Section 368(a)(1)(E) of the Code. However, if the Exchange is treated as a taxable transaction, a holder would be expected to recognize (subject to possible application of the wash sale rules) loss if the aggregate tax basis in the Old Note is greater than the issue price of the New Note exchanged therefor.

Holders of the Old Notes should consult their own tax advisors regarding the tax consequences of the Exchange to them.

Line. 18. Provide any other information necessary to implement the adjustment, such as the reportable tax year.

The reportable tax year is 2023 with respect to calendar year taxpayer.