



**Part II Organizational Action** (continued)

**17** List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶  
PLEASE SEE ATTACHED STATEMENT

**18** Can any resulting loss be recognized? ▶ PLEASE SEE ATTACHED STATEMENT

**19** Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶  
PLEASE SEE ATTACHED STATEMENT

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

**Sign Here**

Signature ▶ *BK* Date ▶ 1.10.2020

Print your name ▶ BRENDAN KENNEDY Title ▶ President and Chief Executive Officer

**Paid Preparer Use Only**

Print/Type preparer's name <u>BRANDON NETT</u>	Preparer's signature <u><i>Brandon Nett</i></u>	Date <u>1.10.2020</u>	Check <input type="checkbox"/> if self-employed	PTIN <u>P00543148</u>
Firm's name ▶ <u>ANDERSEN TAX LLC</u>			Firm's EIN ▶ <u>33-1197384</u>	
Firm's address ▶ <u>1200 FIFTH AVENUE, SUITE 1600, SEATTLE, WA 98101</u>			Phone no. <u>206-577-7880</u>	

**Tilray, Inc.**  
**EIN: 82-4310622**  
**Attachment to IRS Form 9937**  
**Report of Organizational Action Affecting Basis of Securities**

**CONSULT YOUR TAX ADVISOR**

*The information contained herein is being provided pursuant to the requirements of Section 6045B of the Internal Revenue Code of 1986, as amended (the "Code"), and includes a general summary regarding the application of certain U.S. federal income tax laws and regulations relating to the effects of the Merger (as defined below) on a stockholder's tax basis in the common stock of Tilray, Inc. ("Tilray"). 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 stockholders. Tilray does not provide tax advice to its stockholders. The descriptions in questions 14 through 19 below are being provided pursuant to Section 6045B of the Code as a convenience to stockholders and their tax advisors when establishing specific tax positions. You are urged to consult your own tax advisor regarding the particular consequences of the Merger to you, including the applicability and effect of all U.S. federal, state, local, and foreign tax laws.*

**14. Describe the organization action and, if applicable, the date of the action or the date against which stockholders' ownership is measured for the action:**

On December 12, 2019, Privateer Holdings, Inc. (**Privateer**), Tilray, and Downriver Merger Sub LLC (**Merger Sub**) closed the following transactions: first, Tilray (a non-consolidated subsidiary of Privateer) formed Merger Sub, a wholly owned single member limited liability company that is disregarded for U.S. federal income tax purposes. Second, Privateer engaged in a downstream merger with and into Merger Sub, wherein Merger Sub survived and Privateer ceased its separate legal existence (the **Merger**).

As a result of the Merger, each share of Privateer's Class 1 common stock and Class 2 common stock (collectively "Privateer Common Stock") was converted into the right to receive the applicable portion of the stock merger consideration. The stock merger consideration is comprised of 16,666,667 shares of Tilray Class 1 common stock and 58,333,333 shares of Tilray Class 2 common stock (collectively the "Tilray Common Stock"), less the number of shares of Tilray Class 2 common stock issuable upon the exercise of certain Privateer options that will be assumed by Tilray, less a number of shares of Tilray Class 2 common stock equal to the amount by which certain Privateer transaction expenses exceed \$1 million (divided by the Tilray closing price).

No fractional shares of Tilray were issued. Shareholders received cash in lieu of fractional shares.

**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:**

Privateer common stockholders who received cash in lieu of fractional shares may recognize taxable gain or loss as described below. Please note that no Privateer common stockholder received cash for more than a single share of Tilray Class 1 common stock or Tilray Class 2 common stock as a result of the exchange.

A Privateer common stockholder who receives cash in lieu of a fractional share of Tilray Common Stock will be treated as having received Tilray Common Stock, and then as having exchanged the fractional share for cash in a redemption by Tilray. As a result, such Privateer common stockholder will generally recognize gain or loss equal to the difference between the amount of cash received and the basis of the fractional share in Tilray Common Stock.

The aggregate tax basis of Tilray Common Stock received by a Privateer Common Stockholder will be the same as the aggregate basis of the Privateer Common Stock for which it was exchanged, decreased by any basis allocable to the fractional share (described above) that is deemed to be received with respect to the cash received in lieu of receiving a fractional share.

Any person who acquired Privateer Common Stock at different times and at different prices will need to calculate a separate tax basis for each block of Privateer Common Stock and then separately determine the tax basis of Tilray Common Stock received in the exchange. Furthermore, pursuant to the Agreement and Plan of Merger and Reorganization, Privateer Class 1 and Class 2 common stock exchanged for Tilray Class 1 and Class 2 common stock, respectively, must be separately tracked on a class-by-class basis. As such, affected shareholders must determine their basis in Tilray Common Stock on a class-by-class and block-by-block basis. Affected shareholders should consult their tax advisors for further information and reporting obligations.

With respect to the final exchange, holders of Privateer Common Stock surrendered 61,905,034 shares of Privateer Common Stock in exchange for 72,787,975 shares of Tilray Common Stock (of which 6,565,127 shares of Tilray Common Stock remain subject to escrow), resulting in an exchange ratio of 1.1758.

**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 date:**

The calculation of the change in basis is described in Part II, Box 15. For further guidance, please refer to Code Section 358, which states that shareholder basis in shares received is equal to their basis in shares surrendered, less the fair market value of cash or other property received in the exchange, increased by gain recognized and any amounts treated as a dividend. To reiterate, since there is no other property received, no cash received (notwithstanding any shareholders who received cash in lieu of a fractional share), no gain recognized (notwithstanding any shareholders who received cash in lieu of a fractional share), and no dividend treatment associated with the Merger, shareholders who received Tilray Common Stock in exchange for their Privateer Common Stock should have an aggregate basis in Tilray Common Stock (including fractional shares) equal to their aggregate basis in their Privateer Common Stock.

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

Sections 301, 302, 351, 354, 358, 368, 1001, 1012, 1221, and 1223

**18. Can any resulting loss be recognized?**

The Merger is intended to qualify as a tax-free reorganization for U.S. federal income tax purposes under Section 368(a) of the Code. Assuming that this characterization is correct,

Privateer common stockholders generally will not recognize any loss for U.S. federal income tax purposes. Loss, if any, may be recognized with respect to the hypothetical fractional share redemption associated with the receipt of cash in lieu of fractional shares.

**19. Provide any other information necessary to implement the adjustment, such as the reportable tax year:**

The Merger occurred on December 12, 2019. In the case of shareholders who are calendar year taxpayers, the reportable tax year is 2019.

This information is being provided pursuant to the requirements of section 6045B of the Code, and includes a general summary regarding the application of certain U.S. federal income tax laws and regulations related to the effects of the Merger. It does not constitute tax advice and does not purport to be complete or describe the tax consequences that may apply to particular persons or categories of persons. Holders of Tilray Common Stock are encouraged to consult their tax advisors regarding the particular consequences of the Merger to them (including the applicability and effect of all federal, state, local, and foreign laws) and should read the Agreement and Plan of Merger and Reorganization, noting the discussion under the heading Conversion of Shares found in section 1.5. The information provided herein remains subject to the Agreement and Plan of Merger and Reorganization in all respects. The Agreement and Plan of Merger and Reorganization may be accessed at [www.sec.gov](http://www.sec.gov)

None of the statements on this Form 8937 are intended to be legal or tax advice, which should be obtained from your legal or tax advisor(s).