



**Part II** Organizational Action *(continued)*

17 List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ See Attachment

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18 Can any resulting loss be recognized? ▶ See Attachment

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19 Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ See Attachment

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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 ▶ Ajay Patel Date ▶ 9/13/2023

<b>Paid Preparer Use Only</b>	Print your name ▶ <u>AJAY PATEL</u>	Preparer's signature	Title ▶ <u>SVP, CAO</u>	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Print/Type preparer's name					
	Firm's name ▶				Firm's EIN ▶	
	Firm's address ▶				Phone no.	

**Assertio Holdings, Inc. (85-0598378)**  
**(as acquiror of Spectrum Pharmaceuticals, Inc.)**

**Attachment to Form 8937**

**Part II**

**Line 14 – Describe the organizational action and, if applicable, the date of the action or the date against which shareholders’ ownership is measured for the action.**

On July 31, 2023, Assertio Holdings, Inc., a Delaware corporation (“**Assertio**”), completed the acquisition and merger in accordance with an Agreement and Plan of Merger, dated as of April 24, 2023 (the “**Agreement**”), by and among Spade Merger Sub 1, Inc., a Delaware corporation and a wholly-owned subsidiary of Assertio (“**Merger Sub**”), and Spectrum Pharmaceuticals, Inc., a Delaware corporation (“**Spectrum**”).

Pursuant to the Agreement, Merger Sub merged with and into Spectrum, with Spectrum surviving and continuing its corporate existence under the laws of the State of Delaware as a direct, wholly-owned subsidiary of Assertio (the “**Merger**”).

In the Merger, each share of common stock, par value \$0.001 per share, of Spectrum issued and outstanding (other than cancelled shares and any dissenting shares) (the “**Spectrum Common Stock**”) was automatically converted into the right to receive (A) a number of validly issued, fully paid and nonassessable shares of common stock of Assertio (“**Assertio Common Stock**”) equal to the Exchange Ratio (as defined in the Agreement) (the “**Upfront Consideration**”), and (B) one contingent value right (a “**CVR**”), which represents the right to receive the Milestone Payments (as defined in that certain Contingent Value Rights Agreement (the “**CVR Agreement**”), dated as of July 31, 2023, between Assertio and Computershare Trust Company, N.A. as Rights Agent), at the times and in the form provided for in the CVR Agreement (the Upfront Consideration plus one CVR, collectively, the “**Merger Consideration**”). The CVR is settleable in cash, additional shares of Assertio Common Stock or a combination of cash and additional shares of Assertio Common Stock, at Assertio’s sole discretion.

**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.**

Assertio and Spectrum intended that, for U.S. federal income tax purposes, the Merger qualifies as a “reorganization” within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (“**IRC**”). Although not free from doubt, for U.S. federal income tax purposes, Assertio intends to treat the CVRs (regardless of whether Milestone Payments, if any, pursuant to the CVRs are in the form of Assertio common stock or cash) as additional non-stock consideration paid (*i.e.*, taxable “boot”) in respect of Spectrum Common Stock exchanged in the Merger as part of a “closed transaction.” As such, the fair market value of the CVRs as of the effective time of the Merger would be treated as consideration received for the Spectrum Common Stock in the Merger. Former shareholders of Spectrum who participated in the Merger (“**Former Spectrum Shareholders**”) are urged to consult their tax advisors regarding the proper characterization of the receipt of the CVRs as a “closed transaction” or “open transaction” and the ownership of the CVRs thereafter.

Pursuant to IRC Section 356(a), a Former Spectrum Shareholder will recognize gain (but not loss) with respect to shares of Spectrum Common Stock exchanged in the Merger in an amount equal to the lesser of

(i) any gain realized with respect to such shares and (ii) the fair market value of the CVRs as of the effective time of the Merger. A Former Spectrum Shareholder's gain realized will equal the difference between (i) the fair market value of the Assertio Common Stock and the CVRs received, in each case, as of the effective time of the Merger and (ii) such Former Spectrum Shareholder's tax basis in the shares of Spectrum Common Stock exchanged therefor (excluding any basis allocable to fractional shares as described below). Gain must be calculated separately for each block of Spectrum Common Stock exchanged in the Merger if such blocks were acquired at different times or for different prices.

Pursuant to IRC Section 358(a), a Former Spectrum Shareholder's aggregate tax basis in Assertio Common Stock received in the Merger (including any fractional shares of Assertio Common Stock deemed received and exchanged for cash, as discussed below, but excluding shares of Assertio Common Stock received pursuant to the CVRs, if any) will be equal to the aggregate tax basis of the shares of Spectrum Common Stock surrendered in exchange therefor, increased by any gain recognized with respect to the Spectrum Common Stock exchanged (excluding any gain recognized with respect to fractional shares for which cash is received (as discussed below)), and decreased by the fair market value of the CVRs as of the effective time of the Merger (as discussed below). Accordingly, Former Spectrum Shareholders will generally have an adjusted tax basis in the Assertio Common Stock received in the Merger approximately equal to the adjusted tax basis in the share(s) of Spectrum Common Stock surrendered in exchange therefor.

#### Cash in Lieu of Fractional Shares

Former Spectrum Shareholders that receive cash in lieu of fractional shares of Assertio Common Stock will be treated as having received such fractional share pursuant to the Merger and then as having exchanged such fractional share for cash. Accordingly, Former Spectrum Shareholders will be considered to have a basis in the fractional share determined as if such fractional share was received in the Merger. Such Former Spectrum Shareholders will generally recognize gain or loss on any cash received in lieu of a fractional share equal to the difference between the amount of cash received and the tax basis in the Spectrum Common Stock surrendered in the Merger that was allocated to such fractional share.

#### **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.**

One reasonable method to determine the fair market value of each share of Assertio Common Stock as of the effective time of the Merger is to use the mean of the highest and lowest quoted price on July 31, 2023, which is \$5.66 (high of \$5.78 and low of \$5.53). Former Spectrum Shareholders should consult with their own tax advisors with respect to the fair market value of the Assertio Common Stock as of the effective time of the Merger.

Assertio expects to report on IRS Form 1099-B the fair market value, as of the effective time of the Merger, of the CVRs issued in connection with the Merger. Assertio's views and actions (and the fair market value figure ascribed to the CVRs) are not dispositive with respect to the tax treatment or fair market value of the CVRs and are not binding on the IRS as to the Former Spectrum Shareholders' tax treatment of the receipt of CVRs or the fair market value of the CVRs.

Former Spectrum Shareholders who acquired Spectrum Common Stock at different times or for different prices should allocate the tax basis in such Spectrum Common Stock to the Assertio Common Stock received in the Merger, in a manner that reflects, to the greatest extent possible, blocks of Spectrum Common Stock that were acquired on the same date and at the same price. Former Spectrum Shareholders

should consult their tax advisors with respect to identifying the bases of the shares of Assertio Common Stock received in the Merger.

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

IRC Sections 356(a), 358(a), 358(b) and 368(a)

IRC Section 1001 (Former Spectrum Shareholder who receive cash in lieu of fractional shares).

**Line 18 – Can any resulting loss be recognized?**

No loss may be recognized by Former Spectrum Shareholders upon the receipt of the Merger Consideration. Former Spectrum Shareholders will generally recognize gain or loss on any cash received in lieu of fractional shares of Assertio Common Stock equal to the difference between the amount of cash received and the tax basis in the Spectrum Common Stock surrendered in the Merger that was allocated to such fractional share.

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

The adjustment to tax basis would be taken into account in the tax year of a holder during which the Merger occurred (e.g., 2023 for a calendar year taxpayer).

Additional information regarding the Merger (including a discussion of the U.S. federal income tax considerations relating to the Merger) may be found at Assertio Holdings, Inc. Form S-4, Registration No. 333-272355, U.S. Securities and Exchange Commission.