DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–27594; Airspace Docket No. 07–ASO–3]

Establishment of Class D and E Airspace; Aguadilla, PR; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the final rule (FAA–2007–27594; 07–ASO–3), which was published in the **Federal Register** of May 8, 2007, (72 FR 25962), establishing Class D and E airspace at Aguadilla, PR. This action corrects errors in the summary and legal description for the Class E4 airspace at Aguadilla, PR.

DATES: *Effective Date:* Effective 0901 UTC, July 5, 2007. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Mark D. Ward, Manager, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Background

Federal Register Document 07–2250, Docket No. FAA–2007–27594; 07–ASO–3, published May 8, 2007, (72 FR 25962), establishes Class D and E4 airspace at Aguadilla, PR. Errors were discovered in the summary and legal description describing the Class E4 airspace area. In line 13 of the summary, Class E should read Class D. In the legal description for the Class E4 airspace, the navigation aid, Borinquen VORTAC, and geographical coordinates, Lat. 18°29′53″ N, long. 67°06′30″ W, were omitted. This action corrects those errors. Class E airspace designations for airspace areas designated as an extension to a Class D surface area are published in Paragraph 6004 of FAA Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Need for Correction

As published, the final rule contains errors in the summary and legal description of the Class E4 airspace area. Accordingly, pursuant to the authority delegated to me, the summary and legal description for the Class E4 airspace area at Aguadilla, PR, incorporated by reference at § 71.1, 14 CFR 71.1, and published in the **Federal Register** on May 8, 2007, (72 FR 25962), is corrected by making the following correcting amendment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

■ In consideration of the foregoing, the Federal Aviation Administration corrects the adopted amendment, 14 CFR part 71, by making the following correcting amendment:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Corrected]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D Surface Area.

* * * * *

ASO PR E4 Aguadilla, PR [Corrected]

Rafael Hernandez Airport, PR
(Lat. 18°29′42″ N., long. 67°07′46″ W.)
Borinquen VORTAC
(Lat. 18°29′53″ N., long. 67°06′30″ W.)

That airspace extending upward from the surface within 2.4 miles each side of the Borinquen VORTAC 257° radial extending from the 4.5 mile radius to 7 miles west of the VORTAC. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

On page 25962, column 2, line 13 of the Summary, correct the Class E and Class E4, changing ''Class E and Class E4'' to ''Class D and E4''.

* * * * *

Issued in College Park, Georgia, on April 26, 2007.

Mark D. Ward,

Group Manager, System Support Group, Eastern Service Center.

[FR Doc. 07–3503 Filed 7–19–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9342]

RIN 1545–BE85

Guidance Under Section 1502; Amendment of Tacking Rule Requirements of Life-Nonlife Consolidated Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations under section 1502 concerning the requirements for including insurance companies in a life-nonlife consolidated return. These regulations conform the consolidated return rules to certain changes in law. These regulations affect corporations filing life-nonlife consolidated returns.

DATES: *Effective Date:* These regulations are effective July 20, 2007.

Applicability Date: For dates of applicability, see §§ 1.1502–47(b) and 1.1502–76(d).

FOR FURTHER INFORMATION CONTACT: Ross Poulsen (202) 622–7790 or Marcie Barese (202) 622–7790 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 1504(c) of the Internal Revenue Code permits life companies to join in the filing of a consolidated return with nonlife corporations with certain restrictions, the principal one of which is that a life company must be a member of the affiliated group (without regard to section 1504(b)(2)) for five taxable years before it may join in the filing of the consolidated group's return. Section 1.1502–47 contains an exception to this requirement (the tacking rule) for transactions that meet certain conditions. The original tacking rule contained five conditions, including ''the separation condition.''

Before 1981, section 843 required all insurance companies taxed under Subchapter L to adopt a calendar year

tax year. The consolidated return regulations required all members of a consolidated group to adopt the tax year of the common parent, but, in order to accommodate section 843, required a fiscal-year consolidated group to change its tax year to a calendar year if, on the last day of its fiscal year, it included an insurance company required by section 843 to use a calendar year (Old § 1.1502–76(a)(2)). In 1981, an amendment to section 843 became effective, providing that, under regulations prescribed by the Secretary, an insurance company joining in the filing of a consolidated return may adopt the fiscal year of the common parent corporation.

On April 25, 2006, temporary regulations (TD 9258) were published in the **Federal Register** (71 FR 23856) amending the tacking rule of the life-nonlife consolidated return regulations and the regulations relating to taxable years of members of a consolidated group. A notice of proposed rulemaking (REG–133036–05) cross-referencing those temporary regulations was published in the **Federal Register** (71 FR 23882) on the same day. The temporary regulations removed the separation condition of the tacking rule and Old § 1.1502–76(a)(2).

On May 30, 2006, temporary regulations (TD 9264) were published in the **Federal Register** (71 FR 30591), in part, amending the regulations relating to taxable years of members of a consolidated group. A notice of proposed rulemaking (REG–134317–05) cross-referencing those temporary regulations was published in the **Federal Register** (71 FR 30640) on the same day. The temporary regulations eliminated impediments to the electronic filing of the statement made under § 1.1502–76(b)(2)(ii).

The IRS and Treasury Department considered several comments responding to the proposed and temporary regulations. After consideration of these comments, the final regulations adopt the provisions of the proposed regulations without substantive change and the corresponding temporary regulations are removed.

Explanation and Summary of Comments

Effective Date of § 1.1502–47

The IRS received two comments from the public relating to the effective date of Prop. Reg. § 1.1502–47 and Temp. Reg. § 1.1502–47T. The proposed and temporary regulations are effective for taxable years for which the due date (without extensions) for filing returns is after April 25, 2006, (their date of publication). Several commentators noted that the preamble to the temporary regulations indicated that the purpose of the separation condition was largely eliminated in 1984 after Congress repealed the three phase system of life insurance company taxation, and it became even less relevant after Congress suspended taxation on distributions from policyholders surplus accounts made during 2005 and 2006. On that basis, these commentators requested that the effective date of the final regulations be applicable retroactively for all open tax years. While making this request, however, the commentators recognized that retroactive application of the regulations would present serious administrative concerns. The IRS and Treasury Department agree with the commentators that retroactive application of the final regulations raises significant questions of administrability. Therefore, in the interest of sound tax administration, the IRS and Treasury Department decline to adopt this suggestion.

Alternatively, the commentators requested that these final regulations be applicable for returns due after the effective date of the temporary regulations. We agree with this suggestion. Accordingly, the temporary regulations are applicable to returns due (without extensions) after April 25, 2006, and on or before the effective date of these final regulations. These final regulations are applicable to returns due (without extensions) after their effective date.

Comments on Prop. Reg. § 1.1502–76 and Temp. Reg. § 1.1502–76T

One commentator raised several concerns with the proposal to remove Old § 1.1502–76(a)(2). First, the commentator reads both the language of section 843 and the legislative history of the amendment to section 843 as demonstrating congressional intent to create a choice, when an insurance company joins a fiscal-year consolidated group, of whether the group remains on the fiscal year (requiring the joining insurance member to adopt the fiscal year) or adopts a calendar year tax year. Amended section 843 provides that (under regulations) an insurance company joining in the filing of a consolidated return ''may adopt'' the taxable year of the common parent corporation. The legislative history of amended section 843 acknowledges that ''[s]ome life companies may not want to adopt a [fiscal] year * * *.'' S. Rep. No. 94–938, at 455–56 (1976).

The IRS and Treasury Department do not agree with the commentator's interpretation of the statute or the legislative history. The election discussed in the legislative history is the election under section 1504(c) allowing a life company to join in the consolidated return of a nonlife group. The legislative history notes that ''[i]f this election is not made, existing law will continue to apply.'' The legislative history goes on to state:

> It is understood that although generally companies will probably desire to file consolidated returns with the life or other mutual insurance companies, some may choose to continue to file separate returns under existing law. Where this occurs, it is likely to arise from the fact that the parent corporation (whose year the other members joining in the filing of the consolidated return must follow) uses a fiscal year as its taxable year. Some life companies may not want to adopt a taxable year other than a calendar year since filings with State insurance commissioners are required by these life companies on a calendar year basis.

S. Rep. No. 94–938, at 455–56 (1976).

Rather than suggesting that the group has an election to change its taxable year when a newly-joining life company does not desire to adopt the group's fiscal year, the legislative history suggests that Congress expected, in such cases, that no section 1504(c) election would be made and the life company would continue filing separately. Further, the legislative history is clear that Congress amended section 843 in order to accommodate the consolidated return rules relating to taxable years of members of consolidated groups, not to modify or override them.

The sole purpose of Old § 1.1502–76(a)(2) was to conform the consolidated rules to section 843. Once section 843 was amended, not only was the purpose of Old § 1.1502–76(a)(2) eliminated, but Old § 1.1502–76(a)(2) was no longer operative because it only applies to groups with ''an includible insurance company required by section 843 to file its return on the basis of a calendar year * * *.'' For these reasons, the IRS and Treasury Department decline to create a regulatory election allowing fiscal-year consolidated groups to switch to a calendar year upon including an insurance company in its consolidated group.

Another comment noted that the legislative history of the amendment to section 843 contemplates that the Secretary will write regulations that require insurance companies adopting the fiscal year of a consolidated group to maintain adequate records reconciling all of the items on its fiscal year tax return with the corresponding

items on its calendar year statements filed with State insurance commissioners. Since the amendment to section 843, the input received by the IRS and Treasury Department from taxpayers has not suggested a need for guidance in this area. However, the IRS and Treasury Department welcome comments on this topic.

The final comment suggested that a rule be added allowing an insurance company that joins a fiscal-year consolidated group and leaves the group before the end of the group's tax year to maintain its calendar year. The comment observed that, without such a rule, § 1.1502–76T(a) and section 843 create unnecessary work for such an insurance company because upon joining the group, the insurance company would be required to adopt the common parent's fiscal year under § 1.1502–76T(a)(1) and upon leaving the group, the insurance company would have to readopt a calendar year under section 843.

The IRS and Treasury Department decline to adopt this suggestion because they believe that the number of taxpayers affected by such a scenario would be too minimal to justify the creation of a special rule.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Pursuant to 5 U.S.C. 553(d)(3) it has been determined that a delayed effective date is unnecessary because this rule finalizes currently effective temporary rules regarding including life insurance companies in a life-nonlife consolidated return. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations primarily affect affiliated groups of corporations with one or more life insurance company members, which tend to be larger businesses. Moreover, the number of taxpayers affected is minimal. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Marcie Barese, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entries for §§ 1.1502–47T and 1.1502–76T to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1502–47 also issued under 26 U.S.C. 1502, 1503(c) and 1504(c). * * *

■ **Par. 2.** Section 1.1502–47 is amended by revising paragraphs (b)(2) and (d)(12)(v).

The revisions read as follows:

§ 1.1502–47 Consolidated returns by life-nonlife groups.

* * * * *

(b) * * *

(2) *Tacking rule effective dates*—(i) *In general.* Paragraph (d)(12)(v) of this section applies to any original consolidated Federal income tax return due (without extensions) after July 20, 2007.

(ii) *Prior law.* For original consolidated Federal income tax returns due (without extensions) after April 25, 2006, and on or before July 20, 2007, see § 1.1502–47T as contained in 26 CFR part 1 in effect on April 1, 2007. For original consolidated Federal income tax returns due (without extensions) on or before April 25, 2006, see § 1.1502–47 as contained in 26 CFR part 1 in effect on April 1, 2006.

* * * * *

(d) * * *

(12) * * *

(v) *Tacking rule.* The period during which an old corporation is in existence and a member of the group engaged in active business is included in (or tacks onto) the period for the new corporation if the following four conditions listed in this paragraph (d)(12)(v) are met. For purposes of this paragraph (d)(12)(v), a new corporation is a corporation (whether or not newly organized) during the period its eligibility depends upon the tacking rule. The four conditions are as follows—

(A) The first condition is that, at any time, 80 percent or more of the new corporation's assets it acquired (other than in the ordinary course of its trade or business) were acquired from the old corporation in one or more transactions described in section 351(a) or 381(a). This asset test is applied by using the fair market values of assets on the date they were acquired and without regard to liabilities. Assets acquired in the ordinary course of business will be excluded from total assets only if they were acquired after the new corporation became a member of the group (determined without section 1504(b)(2)). In addition, assets that the old corporation acquired from outside the group in transactions not conducted in the ordinary course of its trade or business are not included in the 80 percent (but are included in total assets) if the old corporation acquired those assets within five calendar years before the date of their transfer to the new corporation.

(B) The second condition is that at the end of the taxable year during which the first condition is first met, the old corporation and the new corporation must both have the same tax character. For purposes of this paragraph (d)(12), a corporation's tax character is the section under which it would be taxed (i.e., sections 11, 802, 821, or 831) if it filed a separate return. If the old corporation is not in existence (or adopts a plan of complete liquidation) at the end of that taxable year, this paragraph (d)(12)(v)(B) will apply to the old corporation's taxable year immediately preceding the beginning of the taxable year during which the first condition is first met.

(C) The third condition is that, at the end of the taxable year during which the first condition is first met, the new corporation does not undergo a disproportionate asset acquisition under paragraph (d)(12)(viii) of this section.

(D) The fourth condition is that, if there is more than one old corporation, the first two conditions apply to all of the corporations. Thus, the second condition (tax character) must be met by all of the old corporations transferring assets taken into account in meeting the test in paragraph (d)(12)(v)(A) of this section.

* * * * *

§ 1.1502–47T [Removed]

■ **Par. 3.** Section 1.1502–47T is removed.

■ **Par. 4.** Section 1.1502–76 is amended by revising paragraphs (a), (b)(2)(ii)(D), and (d).

The revisions read as follows:

§ 1.1502–76 Taxable year of members of group.

(a) *Taxable year of members of group.* The consolidated return of a group must be filed on the basis of the common parent's taxable year, and each subsidiary must adopt the common parent's annual accounting period for the first consolidated return year for which the subsidiary's income is includible in the consolidated return. If any member is on a 52–53-week taxable year, the rule of the preceding sentence shall, with the advance consent of the Commissioner, be deemed satisfied if the taxable years of all members of the group end within the same 7-day period. Any request for such consent shall be filed with the Commissioner of Internal Revenue, Washington, DC 20224, not later than the 30th day before the due date (not including extensions of time) for the filing of the consolidated return.

(b) * * *

(2) * * *

(ii) * * *

(D) *Election*—(*1*) *Statement.* The election to ratably allocate items under this paragraph (b)(2)(ii) must be made in a separate statement entitled, ''THIS IS AN ELECTION UNDER § 1.1502–76(b)(2)(ii) TO RATABLY ALLOCATE THE YEAR'S ITEMS OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF THE MEMBER].'' The election must be filed by including a statement on or with the returns including the items for the years ending and beginning with S's change in status. If two or more members of the same consolidated group, as a consequence of the same plan or arrangement, cease to be members of that group and remain affiliated as members of another consolidated group, an election under this paragraph (b)(2)(ii)(D)(*1*) may be made only if it is made by each such member. Each statement must also indicate that an agreement, as described in paragraph (b)(2)(ii)(D)(*2*) of this section, has been entered into. Each party signing the agreement must retain either the original or a copy of the agreement as part of its records. See § 1.6001–1(e).

(*2*) *Agreement.* For each election under this paragraph (b)(2)(ii), the member and the common parent of each affected group must sign and date an agreement. The agreement must—

(*i*) Identify the extraordinary items, their amounts, and the separate or consolidated returns in which they are included;

(*ii*) Identify the aggregate amount to be ratably allocated, and the portion of the amount included in the separate and consolidated returns; and

(*iii*) Include the name and employer identification number of the common parent (if any) of each group that must take the items into account.

* * * * *

(d) *Effective/applicability date*—(1) *Taxable years of members of group effective date.* (i) *In general.* Paragraph (a) of this section applies to any original consolidated Federal income tax return due (without extensions) after July 20, 2007.

(ii) *Prior law.* For original consolidated Federal income tax returns due (without extensions) after April 25, 2006, and on or before July 20, 2007, see § 1.1502–76T as contained in 26 CFR part 1 in effect on April 1, 2007. For original consolidated Federal income tax returns due (without extensions) on or before April 25, 2006, see § 1.1502–76 as contained in 26 CFR part 1 in effect on April 1, 2006.

(2) *Election to ratably allocate items effective date*—(i) *In general.* Paragraph (b)(2)(ii)(D) of this section applies to any original consolidated Federal income tax return due (without extensions) after July 20, 2007.

(ii) *Prior law.* For original consolidated Federal income tax returns due (without extensions) after May 30, 2006, and on or before July 20, 2007, see § 1.1502–76T as contained in 26 CFR part 1 in effect on April 1, 2007. For original consolidated Federal income tax returns due (without extensions) on or before May 30, 2006, see § 1.1502–76 as contained in 26 CFR part 1 in effect on April 1, 2006.

§ 1.1502–76T [Removed]

■ **Par. 5.** Section 1.1502–76T is removed.

§ 1.502–35 [Amended]

§ 1.502–76 [Amended]

■ **Par. 6.** For each entry in the ''Location'' column of the following table, remove the language in the ''Remove'' column and add the language in the ''Add'' column in its place:

Location	Remove	Add
§ 1.1502–35(c)(4)(ii)(B)	§ 1.1502–76T(b)(2)(ii)(D)	§ 1.1502–76(b)(2)(ii)(D).
§ 1.1502–76(b)(2)(ii)(A)(*2*)	paragraph (b)(2)(ii)(D) of § 1.1502–76T	paragraph (b)(2)(ii)(D) of this section.

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

Approved: July 16, 2007.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E7–14084 Filed 7–19–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9344]

RIN 1545–BG24

Change to Office to Which Notices of Nonjudicial Sale and Requests for Return of Wrongfully Levied Property Must Be Sent

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the discharge of liens under section 7425 and return of wrongfully levied upon property under section 6343 of the Internal Revenue Code (Code) of 1986. These temporary regulations clarify that such notices and claims should be sent to the IRS official and office specified in the relevant IRS publications. The temporary regulations will affect parties seeking to provide the IRS with notice of a nonjudicial foreclosure sale and parties making administrative requests for return of wrongfully levied property. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.