

recording intervals specified in Appendix M to this part. Compliance with this paragraph is required no later than February 2, 2011.

■ 9. Amend Appendix E to part 125 by revising item 88, and adding items 89 through 91 and footnote 19 to read as follows:

#### Appendix E to Part 125—Airplane Flight Recorder Specifications

\* \* \* \* \*

Parameter	Range	Accuracy (sensor input)	Seconds per sampling interval	Resolution	Remarks
* 88. All cockpit flight control input forces (control wheel, control column, rudder pedal) <sup>18 19</sup> .	* Full range Control wheel $\pm 70$ lbs. Control column $\pm 85$ lbs. Rudder pedal $\pm 165$ lbs.	* $\pm 5\%$ .....	* 1	* 0.3% of full range ..	* For fly-by-wire flight control systems, where flight control surface position is a function of the displacement of the control input device only, it is not necessary to record this parameter. For airplanes that have a flight control break away capability that allows either pilot to operate the control independently, record both control force inputs. The control force inputs may be sampled alternately once per 2 seconds to produce the sampling interval of 1.
89. Yaw damper status.	Discrete (on/off) .....	.....	0.5		
90. Yaw damper command.	Full range .....	As installed .....	0.5	1% of full range.	
91. Standby rudder valve status.	Discrete .....	.....	0.5		

<sup>18</sup> For all aircraft manufactured on or after April 7, 2010, the seconds per sampling interval is 0.125. Each input must be recorded at this rate. Alternately sampling inputs (interleaving) to meet this sampling interval is prohibited.

<sup>19</sup> For all 737 model airplanes manufactured between August 19, 2000, and April 6, 2010: The seconds per sampling interval is 0.5 per control input; the remarks regarding the sampling rate do not apply; a single control wheel force transducer installed on the left cable control is acceptable provided the left and right control wheel positions also are recorded.

Issued in Washington, DC, on November 20, 2008.

Robert A. Sturgell,  
Acting Administrator.

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 301

[TD 7964]

#### Procedure and Administration; Tax Shelter Registration; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains a correction to temporary regulations (TD 7964) that were published in the **Federal Register** on Wednesday, August 15, 1984 (49 FR 32712) relating to tax shelter registration. In addition, the text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the Notice of Proposed Rulemaking in the Proposed Rules section of this issue of the **Federal**

**Register.** Changes to the applicable tax law were made by the Tax Reform Act of 1984. The regulations affect organizers, sellers, investors and certain other persons associated with investments that are considered tax shelters.

**DATES:** This correction is effective December 2, 2008, and is applicable after August 31, 1984.

**FOR FURTHER INFORMATION CONTACT:** Charles D. Wien, (202) 622-3070 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

The temporary regulations that are the subject of this document are under sections 6707 and 6111 of the Internal Revenue Code prior to The American Jobs Creation Act of 2004, Public Law 108-357 (118 Stat. 1418), which was enacted on October 22, 2004.

##### Need for Correction

As published, temporary regulations (TD 7964) contain an error that may prove to be misleading and is in need of clarification.

##### List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes,

Penalties, Reporting and recordkeeping requirements.

#### Correction of Publication

■ Accordingly, 26 CFR part 301 is corrected by making the following correcting amendment:

#### PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read, in part, as follows:

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

■ **Par. 2.** Section 301.6111-1T A-30 is amended by revising the first sentence to read as follows:

#### § 301.6111-1T Questions and answers relating to tax shelter registration.

\* \* \* \* \*

A-30. No. The performance of an act described in A-27 through A-29 of this section will not constitute participation in the organization or management of a tax shelter unless the person performing the act is related to the tax shelter (or any principal organizer of the tax shelter) or the person participates in the

entrepreneurial risks or benefits of the tax shelter. \* \* \*

\* \* \* \* \*

**Guy Traynor,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. E8-28525 Filed 12-1-08; 8:45 am]

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## DEPARTMENT OF JUSTICE

### 28 CFR Part 73

[Docket No. OAG 124; A.G. Order No. 3018-2008]

#### **Amendments to the Justice Department Regulations Regarding Countries Whose Agents Do Not Qualify for the Legal Commercial Transaction Exemption Provided in 18 U.S.C. 951(d)(4)**

**AGENCY:** National Security Division, Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule makes two amendments to the Department of Justice regulations regarding countries whose agents do not qualify for the legal commercial transaction exemption provided in 18 U.S.C. 951(d)(4).

**DATES:** *Effective Date:* December 2, 2008.  
**FOR FURTHER INFORMATION CONTACT:** John C. Demers, National Security Division, U.S. Department of Justice, Washington, DC 20530, (202) 514-1057.

**SUPPLEMENTARY INFORMATION:** This rule revises the Department's regulations in 28 CFR part 73 to make them consistent with the amended reporting requirements in 18 U.S.C. 951 for agents of foreign governments.

Section 951 prohibits anyone from "act[ing] in the United States as an agent of a foreign government without prior notification to the Attorney General." 18 U.S.C. 951(a). Section 951 exempts a broad category of conduct from its scope. Under section 951(d), an "agent of a foreign government" does not include "any person engaged in a legal commercial transaction." 18 U.S.C. 951(d)(4). In limited situations, however, this legal commercial transaction exemption does not apply. Specifically, under section 951(e)(2)(A), this exemption does not apply to the agents of certain countries. Before 1993, the statute provided that the countries to which the exemption did not apply were "the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Romania or Cuba." The Department's

implementing regulation, which became effective on November 6, 1989, repeated this list of countries.

Subsequently, Congress removed all but Cuba from the list of countries enumerated in section 951(e)(2)(A) and substituted for it a more general provision covering "Cuba or any other country that the President determines (and so reports to the Congress) poses a threat to the national security interest of the United States for purposes of this section." *See* Pub. L. 103-199 § 202 (Dec. 17, 1993) (amending section 951(e)(2)(A)). No corresponding change was made to the Justice Department's regulations.

This rule would make two amendments to the Department's regulations under 28 CFR part 73.2(a) to reflect the current statutory scope of the legal commercial transaction exemption. First, the proposed order would delete "the Soviet Union, the German Democratic Republic, Hungary, Czechoslovakia, Poland, Bulgaria, Romania or Cuba;" from 28 CFR 73.2(a). Second, the proposed order would add "Cuba or any other country that the President determines (and so reports to the Congress) poses a threat to the national security interest of the United States for purposes of 18 U.S.C. 951;" after the words "such person is an agent of" and before the words "has been convicted \* \* \*". These amendments would synchronize the statute and regulations.

#### **Administrative Procedure Act**

The rule pertains to a foreign affairs function of the United States. Accordingly, pursuant to 5 U.S.C. 553(a)(1), the requirements of 5 U.S.C. 553 do not apply. Furthermore, even if the requirements of 5 U.S.C. 553 did apply, the Department believes that good cause exists under 5 U.S.C. 553(b)(B) and (d)(3) for immediate implementation of this final rule without prior notice and comment. Such notice and comment would be unnecessary because this rule is a nondiscretionary ministerial action to conform the Department's regulations to 18 U.S.C. 951(e)(2)(A)'s amended reporting requirements for agents of foreign governments.

#### **Regulatory Flexibility Act**

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This rule merely conforms the Department's regulations to 18 U.S.C. 951(e)(2)(A)'s

amended reporting requirements for agents of foreign governments. Furthermore, this rule applies only to agents of a limited number of foreign governments.

#### **Executive Order 12866**

Because the amendments to 28 CFR part 73 involve a foreign affairs function of the United States, the provisions of Executive Order 12866, in particular the provisions requiring rules to be reviewed by the Office of Management and Budget, do not apply.

#### **Executive Order 12988**

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

#### **Executive Order 13132**

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federal summary impact statement.

#### **Unfunded Mandates Reform Act of 1995**

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

#### **Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a "major rule" as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

#### **Congressional Review Act**

The Department has determined that this action pertains to the foreign affairs function of the United States and accordingly is not a "rule" as that term is used by the Congressional Review Act