

transfers occurring on or after February 10, 2009. See § 1.367(b)–4, as contained in 26 CFR part 1 revised as of April 1, 2008, for transfers occurring on or after February 21, 2006, and before February 10, 2009.

(g) *Expiration date.* This section expires on or before February 10, 2012.

■ **Par. 6.** Section 1.1248–1 is amended by revising paragraphs (b) and (g) and adding paragraph (h) to read as follows:

§ 1.1248–1 Treatment of gain from certain sales or exchanges of stock in certain foreign corporations.

* * * * *

(b) [Reserved]. For further guidance, see § 1.1248–1T(b).

* * * * *

(g) *Effective/applicability date.* (1) The third sentence in paragraph (a)(1), paragraph (a)(4), and paragraph (a)(5), *Example 4*, of this section apply to income inclusions that occur on or after July 30, 2007. A taxpayer may elect to apply paragraph (a)(4) of this section to income inclusions in open taxable years provided that it consistently applies paragraph (a)(4) of this section for income inclusions in the first year for which the election is applicable and in all subsequent years.

(2) [Reserved]. For further guidance, see § 1.1248–1T(g)(2).

(h) [Reserved]. For further guidance, see § 1.1248–1T(h).

■ **Par. 7.** Section 1.1248–1T is added to read as follows:

§ 1.1248–1T Treatment of gain from certain sales or exchanges of stock in certain foreign corporations (temporary).

(a) [Reserved]. For further guidance, see § 1.1248–1(a).

(b) *Sale or exchange.* For purposes of section 1248(a), the term *sale or exchange* includes the receipt of a distribution which is treated as an exchange for stock under section 302(a) (relating to distributions in redemption of stock), section 331(a)(1) (relating to distributions in complete liquidation of a corporation), or section 331(a)(2) (relating to distributions in partial liquidation of a corporation). For purposes of section 1248(a), gain recognized by a shareholder under section 301(c)(3) in connection with a distribution of property by a corporation with respect to its stock shall be treated as gain from the sale or exchange of stock of such corporation.

(c) through (f) [Reserved]. For further guidance, see § 1.1248–1(c) through (f).

(g) *Effective/applicability dates.* (1) [Reserved]. For further guidance, see § 1.1248–1(g)(1).

(2) Paragraph (b) of this section applies to distributions that occur on or after February 10, 2009.

(h) *Expiration date.* This section expires on or before February 10, 2012.

Linda M. Kroening,

Acting Deputy Commissioner for Services and Enforcement.

Approved: January 13, 2009.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9442]

RIN 1545–BA11

Consolidated Returns; Intercompany Obligations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (TD 9442) that were published in the **Federal Register** on Monday, December 29, 2008 (73 FR 79324) under section 1502 of the Internal Revenue Code providing guidance regarding the treatment of transactions involving obligations between members of a consolidated group.

DATES: This correction is effective February 11, 2009, and is applicable on December 29, 2008.

FOR FURTHER INFORMATION CONTACT: Frances Kelly, (202) 622–7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under section 1502 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9442) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

■ Accordingly, the publication of the final regulations (TD 9442), which was the subject of FR Doc. E8–30718, is corrected as follows:

■ 1. On page 79325, column 2, in the preamble, under the paragraph heading “A. Anti-Abuse Rules”, second paragraph of the column, first to fifth

lines from the bottom of the paragraph, the language “from the deemed satisfaction and reissuance model, these final regulations also adopt more specific rules regarding such transfers (described in part C.3.a. of this Preamble).” is corrected to read “from the deemed satisfaction-reissuance model, these final regulations also adopt more specific rules regarding such transfers (described in part C.3.a. of this preamble).”.

■ 2. On page 79325, column 3, in the preamble, under the paragraph heading “C. Exceptions and Related Provisions”, third paragraph of the column, first line from the bottom of the paragraph, the language “satisfaction-reissuance.” is corrected to read “satisfaction and reissuance.”.

■ 3. On page 79327, column 1, in the preamble, under the paragraph heading “5. Exceptions to the Application of Section 108(e)(4)”, first paragraph of the column, fifth line from the bottom of the paragraph, the language “short term debt exceptions for both” is corrected to read “short-term debt exceptions for both”.

Guy Traynor,

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

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9442]

RIN 1545–BA11

Consolidated Returns; Intercompany Obligations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD 9442) that were published in the **Federal Register** on Monday, December 29, 2008 (73 FR 79324) under section 1502 of the Internal Revenue Code providing guidance regarding the treatment of transactions involving obligations between members of a consolidated group.

DATES: This correction is effective February 11, 2009, and is applicable on December 29, 2008.

FOR FURTHER INFORMATION CONTACT: Frances Kelly, (202) 622-7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under section 1502 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9442) contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

■ Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.1502-13 is amended as follows:

1. The second sentence of paragraph (g)(3)(i)(B) is revised.
2. Paragraph (g)(3)(i)(B)(1)(vi) is revised.
3. Paragraph (g)(7)(ii) *Example 4.* (ii) is revised.
4. The paragraph title for paragraph (g)(7)(ii) *Example 4.* (iv) is added.
5. The sixth sentence of paragraph (g)(7)(ii) *Example 5.* (i) is revised.

§ 1.1502-13 Intercompany transactions.

- (g) * * *
- (3) * * *
- (i) * * *
- (B) * * *

In making this determination, if a creditor or debtor realizes an amount in a transaction in which a creditor assigns all or part of its rights under an intercompany obligation to the debtor, or a debtor assigns all or part of its obligations under an intercompany obligation to the creditor, the transaction will be treated as an extinguishment and will be excepted from the definition of “triggering transaction” only if either of the exceptions in paragraphs (g)(3)(i)(B)(5) or (6) of this section apply. * * *

(1) * * *
 (vi) The stock of the transferee member (or a higher-tier member other than a higher-tier member of an 80-percent chain that includes the

transferor and transferee) is disposed of within 12 months from the assignment of the intercompany obligation, unless at the time of the assignment, the transferor member, transferee member (or in the case of successive section 351 exchanges, each transferor and transferee member) and the debtor member are all in the same 80-percent chain; and all of the stock of the transferee (or in the case of successive section 351 exchanges, the lowest-tier transferee) held by members of the group is disposed of as part of the same plan or arrangement, either directly or indirectly, to persons that are not members of the group.

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- (7) * * *
- (ii) * * *

Example 4. * * *
 (ii) *No deemed satisfaction and reissuance.* Because the assignment of the B note is an exchange to which section 351 applies and neither S nor B recognize gain or loss, the transaction is not a triggering transaction under paragraph (g)(3)(i)(B)(1) of this section, and the note is not treated as satisfied and reissued under paragraph (g)(3)(ii) of this section.

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- (iv) *Transferee loss subject to limitation.*
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Example 5. * * *
 (i) * * * The terms and conditions of the note are not modified in connection with the sales transaction, the transaction does not result in a change in payment expectations, and no amount of income, gain, deduction, or loss is recognized by S, B, or T with respect to the note.

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

[FR Doc. E9-2828 Filed 2-10-09; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9445]

RIN 1545-BF21

Procedures for Administrative Review of a Determination That an Authorized Recipient Has Failed To Safeguard Tax Returns or Return Information

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations regarding administrative review procedures for certain government agencies and other authorized recipients of returns or return information whose receipt of returns and return information may be suspended or terminated because they do not maintain proper safeguards. The regulations provide guidance to responsible IRS personnel and authorized recipients as to these administrative procedures.

DATES: *Effective Date:* These regulations are effective on February 11, 2009.

Applicability Date: These regulations apply to all authorized recipients of returns and return information that are subject to the safeguard requirements set forth in section 6103(p)(4) on or after February 11, 2009.

FOR FURTHER INFORMATION CONTACT: Wendy L. Kribell, (202) 622-4570 (not a toll-free number).

Background

This document contains final regulations amending the Procedure and Administration Regulations (26 CFR Part 301) under section 6103(p)(4), (p)(7), and (q) of the Internal Revenue Code (Code). Section 6103 protects returns and return information from disclosure except to certain government agencies and other authorized recipients, including State tax agencies as provided in section 6103(d). Section 6103(p)(4) provides that certain authorized recipients must establish procedures satisfactory to the IRS for safeguarding the returns and return information. The IRS reviews, on a regular basis, safeguards established by these authorized recipients. If the IRS determines that an authorized recipient has failed to maintain adequate safeguards or has made any unauthorized inspections or disclosures of returns or return information, section 6103(p)(4) authorizes the IRS to terminate or suspend disclosure of returns and return information to the authorized recipient until the IRS is satisfied that adequate steps have been taken to ensure adequate safeguards or prevent additional unauthorized inspections or disclosures.

Section 6103(p)(7) requires the Secretary to prescribe regulations providing for administrative review of an IRS determination that a State tax agency has failed to meet the safeguarding requirements. Former § 301.6103(p)(7)-1 contained procedures to allow State tax agencies, prior to a suspension or termination of disclosure, to appeal a preliminary finding by the IRS of inadequate safeguards or