

Dated: May 2, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9048]

Guidance Under Section 1502; Suspension of Losses on Certain Stock Dispositions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to Treasury Decision 9048, which was published in the **Federal Register** on Friday, March 14, 2003 (68 FR 12287) that redetermines the basis of stock of a subsidiary member or a consolidated group immediately prior to certain transfers of such stock and certain deconsolidations of a subsidiary member.

DATES: This correction is effective on March 14, 2003.

FOR FURTHER INFORMATION CONTACT: Aimee K. Meacham at (202) 622-7530 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

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

Need for Correction

As published, TD 9048 contains an error which may prove to be misleading and is 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 amendment:

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 * * *

§ 1.1502-35T [Corrected]

■ **PAR. 2.** Section 1.1502-35T(b)(2)(ii)(B) is amended by removing the word “or” at the end of the paragraph.

LaNita Van Dyke,

Acting Chief, Regulations Unit, Associate Chief Counsel, (Procedure and Administration).

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 311

[Administrative Instruction 81]

Privacy Act; Implementation

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Defense is exempting a system of records in its inventory of systems of records pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

EFFECTIVE DATE: January 28, 2003.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 601-4722.

SUPPLEMENTARY INFORMATION: The proposed rule was published on November 29, 2002, at 67 FR 71119-71120. One comment was received which has prompted a change in the final rule. The rule, as changed, is being adopted as final.

One public comment was received where the commenter expressed concern that the wording of the proposed rule appears to impute criminality to those individuals receiving background checks and appears to suspend the rights of those individuals interacting with the DoD. We disagree. As provided by law, the rule provides a basis for the Department to exempt specified records from certain provisions of the Privacy Act. It does not serve as a basis for making judgments regarding individuals on whom the Department conducts background checks. Neither does it act to suspend any rights the individual may be entitled to under DoD administered programs. The commenter observes that the rule is unnecessary and redundant. We disagree. The purpose of the rule is to preserve and protect the identity of a source who has been promised confidentiality in return for the information he or she is providing the Department. Because only a specific exemption can be claimed for the

records, the Department must establish the exemption in order to accomplish the desired objective. And finally, the commenter expresses the view that the scope of the rule is overly broad. We agree. The principal purpose of the claimed exemption is to protect the identity of a confidential source. We therefore have revised the rule so that the exemption is only being claimed for those provisions of the Act that are supportive of the overall purpose of the exemption.

Executive Order 12866, “Regulatory Planning and Review”

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive order.

Public Law 96-354, “Regulatory Flexibility Act” (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96-511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

Section 202, Public Law 104-4, “Unfunded Mandates Reform Act”

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more