

Dated: March 29, 2007.

John C. Dugan,

Comptroller of the Currency, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, April 3, 2007.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 20th day of March, 2007.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: April 2, 2007.

By the Office of Thrift Supervision.

John M. Reich,

Director.

[FR Doc. 07-1716 Filed 4-9-07; 8:45 am]

BILLING CODE 4810-33-P; 6210-01-P; 6714-01-P; 6720-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2006-24826; Airspace Docket No. 06-ANM-3]

Establishment of Class E Airspace; Nucla, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the northwest boundary description of a final rule that was published in the *Federal Register* on February 23, 2007 (72 FR 8100) Federal Register Docket No. FAA-2006-24826, Airspace Docket No. 06-ANM-3.

DATES: *Effective Date:* 0901 UTC, May 10, 2007. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, Federal Aviation Administration, Western Service Area, System Support Group, 1601 Lind Avenue, SW., Renton, WA 98057; telephone: (425) 917-6714.

SUPPLEMENTARY INFORMATION:

History

Federal Register Docket FAA-2006-24826, Airspace Docket No. 06-ANM-3, published on February 23, 2007 (72 FR 8100), establishes Class E Airspace at Hopkins Field, Nucla, CO, effective May 10, 2007. An error was discovered in the northwest geographic boundary of the

Class E airspace. This action corrects this error.

Correction to Final Rule

■ Accordingly, pursuant to the authority delegated to me, the legal description as published in the *Federal Register* February 23, 2007 (72 FR 8100), Federal Register Docket No. FAA-2006-24826, Airspace Docket No. 06-ANM-3, and incorporated by reference in 14 CFR 71.1, is corrected as follows:

PART 71—[AMENDED]

§ 71.1 [Amended]

* * * * *

ANM CO E5 Nucla, CO [Corrected]

Hopkins Field, CO

(Lat. 38°14'20" N., long. 108°33'48" W.)

That airspace extending upward from 700 feet above the surface within a 6.0-mile radius of Hopkins Field and within 4 miles each side of the 317° bearing from Hopkins Field extending from the 6.0-mile radius of Hopkins Field northwest to 12.0 miles from Hopkins Field; that airspace extending upward from 1,200 feet above the surface beginning at lat. 38°45'00" N., long. 109°00'00" W.; to lat. 38°30'00" N., long. 108°30'00" W.; to CONES VOR/DME; to DOVE CREEK VORTAC; to lat. 38°30'00" N., long. 109°10'00" W.; to point of beginning.

* * * * *

Issued in Seattle, Washington, on March 30, 2007.

Steven M. Osterdahl,

Director of Operations, En Route and Oceanic, Western Service Area.

[FR Doc. E7-6649 Filed 4-9-07; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9322]

RIN 1545-BG26

Anti-Avoidance and Anti-Loss Reimportation Rules Applicable Following a Loss on Disposition of Stock of Consolidated Subsidiaries

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations under section 1502 of the Internal Revenue Code (Code). These regulations provide guidance to corporations filing consolidated returns. These regulations apply an anti-avoidance rule and revise

an anti-loss reimportation rule that applies following a disposition of stock of a subsidiary at a loss. The text of the temporary regulations also serves as the text of the proposed regulations (REG-156420-06) set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the *Federal Register*.

DATES: *Effective Date:* These regulations are effective April 10, 2007.

Applicability Date: For dates of applicability, see §§ 1.1502-32T(k) and 1.1502-35T(j)(2).

FOR FURTHER INFORMATION CONTACT:

Theresa Abell, (202) 622-7700 or Phoebe Bennett, (202) 622-7770 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Section 1.1502-35 currently addresses loss duplication. The rule generally applies whenever there is a disposition of loss shares of subsidiary stock or a subsidiary is deconsolidated. The regulation includes several specific anti-abuse rules, including a rule intended to prevent a group from getting the benefit of a loss on the stock of one of its subsidiaries and then reimporting the same economic loss back to into the group (or its successor) in order to claim a duplicative benefit from the one loss.

The current anti-loss reimportation rule generally disallows reimported losses that duplicate a loss recognized and allowed with respect to the disposition of subsidiary stock. The term "subsidiary" is defined in § 1.1502-1(c) to mean a corporation that is a member of a consolidated group but is not the common parent of the group. Taxpayers have attempted to avoid the anti-loss reimportation rule by first deconsolidating a subsidiary and then selling loss shares of the subsidiary's stock. The loss on the stock is one that was reflected in the subsidiary's attributes at the time of the deconsolidation and is thus one that the anti-loss reimportation rule is intended to address. But because the sale occurs after the subsidiary ceases to be a member of the group, taxpayers take the position that the loss recognized is not with respect to "subsidiary" stock and therefore is not subject to the anti-loss reimportation rule. Thus, after obtaining the tax benefit of its economic loss (on the disposition of the stock), the group would be free to reimport the loss and then (directly or through a successor group) claim a second tax benefit for its one economic loss.

The IRS and Treasury Department believe that the duplication of a group

loss distorts group income, and is therefore inappropriate, regardless of whether or not a duplicative recognition of the loss occurs while the subsidiary is a member. In either case, the group would obtain more than a single tax benefit for one economic loss. The IRS and Treasury Department recognize that such transactions remain subject to, and reimportation will be prevented by, other principles of law, such as the Step-Transaction Doctrine and other anti-avoidance rules of law. However, the IRS and Treasury Department have concluded that tax administration would be better served by revising the current anti-loss reimportation rule to address these situations more directly.

Accordingly, these final and temporary regulations revise the anti-loss reimportation rule to clarify that losses reflected in the basis of subsidiary stock at the time of deconsolidation may not be recognized and reimported into the group, regardless of whether the stock losses are recognized when the subsidiary is a member of the group. To discourage further structuring to avoid its purposes, the loss reimportation rule is also revised to replace the list of events that cause the application of the rule with a list of criteria that identify reimportation transactions that will be treated as subject to the rule.

In addition, the temporary regulations add a general anti-avoidance rule under § 1.1502-35T(g)(6), which provides that appropriate adjustments will be made if a taxpayer acts with a view to avoid the purposes of § 1.1502-35. The temporary regulations also remove § 1.1502-35(h) (continued applicability of other rules of law) because it unnecessarily duplicates § 1.1502-80(a), which provides that other rules of law apply to members of consolidated groups unless otherwise provided in the regulations.

The temporary regulations that revise the anti-loss reimportation rule apply to reimportation events that occur on or after *April 10, 2007 if they occur with respect to stock of a subsidiary sold on or after March 7, 2002, or with respect to stock of a subsidiary or former subsidiary sold on or after April 10, 2007.* The temporary regulations provide a general anti-avoidance rule that applies on or after April 10, 2007.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12666. Therefore, a regulatory assessment is not required. These temporary regulations address situations in which taxpayers inappropriately attempt to recognize

duplicative tax losses by attempting to avoid the application of the anti-loss reimportation rule. For this reason, it has been determined pursuant to 5 U.S.C. 553(b)(B) that prior notice and public procedure are impracticable and contrary to the public interest. For the same reason, it has been determined pursuant to 5 U.S.C. 553(d)(3) that good cause exists to make these temporary regulations effective upon the date of publication. For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble to the cross-reference notice of the proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Phoebe Bennett, Office of the 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 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *.
Sections 1.1502-32T and 1.1502-35T also issued under 26 U.S.C. 1502 * * *.

■ **Par. 2.** Section 1.1502-32 is amended by revising paragraph (b)(3)(iii)(D) and adding paragraph (k) to read as follows:

§ 1.1502-32 Investment adjustments.

* * * * *

(b) * * *

(3) * * *

(iii) * * *

(D) [Reserved]. For further guidance, see § 1.1502-32T(b)(3)(iii)(D).

* * * * *

(k) [Reserved]. For further guidance, see § 1.1502-32T(k).

■ **Par. 3.** Section 1.1502-32T is amended by revising paragraphs (a) through (b)(4)(iii) and adding paragraph (k) to read as follows:

§ 1.1502-32T Investment adjustments (temporary).

(a) through (b)(3)(iii)(C) [Reserved].
For further guidance, see § 1.1502-32(a) through (b)(3)(iii)(C).

(D) *Loss disallowed under § 1.1502-35T(g)(3)(ii).* Any loss or deduction the use of which is disallowed pursuant to § 1.1502-35T(g)(3)(ii) (other than duplicating items that are carried back to a consolidated return year of the group), and with respect to which no waiver described in paragraph (b)(4) of this section is filed, is treated as a noncapital, nondeductible expense incurred during the taxable year that such loss would otherwise be absorbed.

(b)(3)(iv) through (b)(4)(iii) [Reserved].
For further guidance, see § 1.1502-32(b)(3)(iv) through (b)(4)(iii).

* * * * *

(k) *Effective date*—(1) *Applicability date.* Paragraph (b)(3)(iii)(D) of this section applies to any original consolidated Federal income tax return due (without extensions) after April 10, 2007.

(2) *Expiration date.* The applicability of paragraphs (b)(3)(iii)(D) and (k) of this section will expire on April 9, 2010.

■ **Par. 4.** Section 1.1502-35 is amended by:

- 1. Revising paragraphs (g)(3) and (h).
- 2. Adding new paragraph (g)(6).
- 3. Revising paragraph (j).

The revisions and additions read as follows:

§ 1.1502-35 Transfers of subsidiary stock and deconsolidations of subsidiaries.

* * * * *

(g) * * *

(3) [Reserved]. For further guidance, see § 1.1502-35T(g)(3).

* * * * *

(6) [Reserved]. For further guidance, see § 1.1502-35T(g)(6).

(h) [Reserved]. For further guidance, see § 1.1502-35T(h).

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(j) *Effective dates*—(1) *In general.* This section applies with respect to stock transfers, deconsolidations of subsidiaries, determinations of worthlessness, and stock dispositions on or after March 10, 2006. For rules applicable before March 10, 2006, see § 1.1502-35T(j) as contained in 26 CFR part 1 in effect on January 1, 2006.

(2) [Reserved]. For further guidance, see § 1.1502-35T(j)(2).

* * * * *

■ **Par. 5.** Section 1.1502-35T is amended by revising paragraphs (c)(4)(ii) through (j) to read as follows:

§ 1.1502–35T Transfers of subsidiary stock and deconsolidations of subsidiaries (temporary).

* * * * *

(c)(4)(ii) through (g)(2) [Reserved]. For further guidance, see § 1.1502–35(c)(4)(ii) through (g)(2).

(3) *Anti-loss reimportation rule*—(i) *Conditions for application.* This paragraph (g)(3) applies when—

(A) A member of a group (the selling group) recognized and was allowed a loss with respect to a share of stock of S, a subsidiary or former subsidiary of the selling group;

(B) That stock loss was duplicated (in whole or in part) in S's attributes (duplicating items) at the earlier of the time that the loss was recognized or that S ceased to be a member; and

(C) Within ten years of the date that S ceased to be a member, there is a reimportation event. For this purpose, a reimportation event is any event after which a duplicating item is a reimported item. A reimported item is any duplicating item that is reflected in the attributes of any member of the selling group, including S, or, if not reflected in the attributes, would be properly taken into account by any member of the selling group (for example as the result of a carryback) (a reimported item).

(ii) *Effect of application.* Immediately before the time that a reimported item (or any portion of a reimported item) would be properly taken into account (but for the application of this paragraph (g)(3)), such item (or such portion of the item) is reduced to zero and no deduction or loss is allowed, directly or indirectly, with respect to that item.

(iii) *Operating rules.* For purposes of this paragraph (g)(3)—

(A) The terms member, subsidiary, and group include their predecessors and successors to the extent necessary to effectuate the purposes of this section;

(B) The determination of whether a loss is duplicative is made under the principles of paragraph (d)(4) of this section; and

(C) The reduction of a reimported item (other than duplicating items that are carried back to a consolidated return year of the selling group) is a noncapital, nondeductible expense within the meaning of § 1.1502–32(b)(3)(iii).

(g)(4) through (g)(5) [Reserved]. For further guidance, see § 1.1502–35(g)(4) through (g)(5).

(6) *General anti-avoidance rule applicable on or after April 10, 2007.* If a taxpayer acts with a view to avoid the purposes of this section, appropriate

adjustments will be made to carry out the purposes of this section.

(h) *Application of other rules of law.* See § 1.1502–80(a) regarding the general applicability of other rules of law.

(i) [Reserved]. For further guidance, see § 1.1502–35(i).

(j)(1) [Reserved]. For further guidance, see § 1.1502–35(j)(1).

(2) *Transactions after April 10, 2007*—(i) *Effective date.* Paragraph (g)(3) of this section applies to reimported items if the related stock loss is recognized on or after April 10, 2007. Paragraph (g)(3) (other than paragraph (g)(3)(i)(A)) of this section also applies with respect to the duplication of subsidiary stock loss recognized in dispositions (described in § 1.1502–35(g)(3)(i)(A), as contained in 26 CFR part 1, revised as of January 1, 2007) on or after March 7, 2002, if the reimportation event with respect to that loss occurs on or after April 10, 2007. For rules applicable to losses reimported before April 10, 2007, see § 1.1502–35(g)(3), as contained in 26 CFR part 1 in effect on January 1, 2007. Paragraphs (g)(6) and (h) of this section apply on or after April 10, 2007. For rules applicable prior to April 10, 2007, see § 1.1502–35 as contained in 26 CFR part 1 in effect on January 1, 2007.

(ii) *Expiration date.* The applicability of paragraphs (g)(3), (g)(6), and (h) of this section will expire on April 9, 2010.

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Linda M. Kroening,

Acting Deputy Commissioner for Services and Enforcement.

Approved: March 29, 2007.

Eric Solomon,

Assistant Secretary of the Treasury.

[FR Doc. E7–6541 Filed 4–9–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 04011–2010–4114–02; I.D. 040407D]

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Modification of the Yellowtail Flounder Landing Limit for the U.S./Canada Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; landing limit.

SUMMARY: NMFS announces that the Administrator, Northeast (NE) Region, NMFS (Regional Administrator), is increasing the Georges Bank (GB) yellowtail flounder trip limit to 25,000 lb (11,340 kg) for NE multispecies days-at-sea (DAS) vessels fishing in the U.S./Canada Management Area. This action is authorized by the regulations implementing Amendment 13 to the NE Multispecies Fishery Management Plan and is intended to prevent under-harvesting of the Total Allowable Catch (TAC) for GB yellowtail flounder while ensuring that the TAC will not be exceeded during the 2006 fishing year. This action is being taken to provide additional opportunities for vessels to fully harvest the GB yellowtail flounder TAC under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective April 5, 2007, through April 30, 2007.

FOR FURTHER INFORMATION CONTACT: Tobey Curtis, Fishery Management Specialist, (978) 281–9273, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Regulations governing the GB yellowtail flounder landing limit within the U.S./Canada Management Area are found at § 648.85(a)(3)(iv)(C) and (D). The regulations authorize vessels issued a valid limited access NE multispecies permit and fishing under a NE multispecies DAS to fish in the U.S./Canada Management Area, as defined at § 648.85(a)(1), under specific conditions. The TAC for GB yellowtail flounder for the 2006 fishing year (May 1, 2006 - April 30, 2007) is 2,070 mt. The regulations at § 648.85(a)(3)(iv)(D) authorize the Regional Administrator to increase or decrease the trip limits in the U.S./Canada Management Area to prevent over-harvesting or under-harvesting the TAC allocation. On March 8, 2007, the 10,000–lb (4,536–kg) trip limit for GB yellowtail flounder was reduced to 5,000 lb (2,268 kg) in the Eastern U.S./Canada Area to prevent over-harvesting the TAC (72 FR 10426), and the requirement to only use a haddock separator trawl in the Eastern U.S./Canada Area was removed. Currently, NE multispecies vessels fishing in the Eastern U.S./Canada Area under a NE multispecies day-at-sea (DAS) with trawl gear must use either a haddock separator trawl or a flounder trawl net, as specified at § 648.85(a)(3)(iii). Based upon the most