

- 4. By revising the text of paragraph (e), *Example 4.*, the first sentence of paragraph (iv), and paragraph (v).
- 5. By revising the text of paragraph (e), *Example 6.*, paragraph (i).
- 6. By revising the text of paragraph (g)(5) *Examples 1.* and *2.*, first sentence of paragraph (i).
- 7. By revising the text of paragraph (g)(5) *Example 3.*, first three sentences of paragraph (i), and paragraph (ii).
- 8. By revising the text of the first sentence of paragraph (j).

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

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- (d)
- (4) * * *
- (i) * * *
- (B) * * *

(2) Any liabilities of the subsidiary that have been taken into account for tax purposes.

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(8) Higher-tier. A subsidiary is higher-tier with respect to a member if or to the extent investment adjustments under § 1.1502-32 with respect to the stock of the latter member would affect investment adjustments with respect to the stock of the former member.

(9) Lower-tier. A subsidiary is lower-tier with respect to a member if or to the extent investment basis adjustments under § 1.1502-32 with respect to the stock of the former member would affect investment adjustments with respect to the stock of the latter member.

(e) * * *

Example 3. * * *

(v) *Effect of subsequent stock sale.* P recognizes \$0 gain/loss on the Year 6 sale of its remaining S common stock. No amount of suspended loss remains to be allowed under paragraph (c)(5) of this section.

Example 4. * * *

(iv) *Effect of subsequent asset sale on suspended loss.* Because P cannot establish that all or a portion of the loss recognized on the sale of Asset B was not reflected in the calculation of the duplicated loss of S2 on the date of the Year 4 stock sale and such loss is allocable to the period beginning on the date of the Year 4 disposition of the S2 stock and ending on the day before the first date on which S2 is not a member of the P group and is taken into account in determining consolidated taxable income (or loss) of the P group for a taxable year that includes a date on or after the date of the Year 4 disposition and before the first date on which S2 is not a member of the P group, such asset loss reduces the suspended loss pursuant to paragraph (c)(4) of this section. * * *

(v) *Effect of subsequent stock sale.* In year 6, when S1 sells its remaining S2 stock for \$100, it recognizes \$0 gain/loss. Pursuant to paragraph (c)(5) of this section, the remaining \$5 of the suspended loss is allowed on the P group's return for Year 6 when S1 sells its remaining S2 stock.

* * * * *

Example 6. * * * (i) In Year 1, P forms S with a contribution of \$80 in exchange for 80 shares of common stock of S which at that time represents all of the outstanding stock of S. S becomes a member of the P group. In Year 2, P contributes Asset A with a basis of \$50 and a value of \$20 in exchange for 20 shares of common stock of S in a transfer to which section 351 applies. In Year 4, in a transaction that is not part of a plan that includes the Year 1 and Year 2 contributions, P contributes the 20 shares of S common stock it acquired in Year 2 to PS, a partnership, in exchange for a 20 percent capital and profits interest in a transaction described in section 721. Immediately after the contribution to PS, S is a member of the P group. In Year 5, P sells its interest in PS for \$20.

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- (g) * * *
- (5) * * *

Example 1. Transfers of property in the avoidance of basis redetermination rule—(i) *Facts.* In Year 1, P forms S with a contribution of \$100 in exchange for 100 shares of common stock of S which at that time represents all of the outstanding stock of S. S becomes a member of the P group. In Year 2, P contributes 20 shares of common stock of S to PS, a partnership, in exchange for a 20 percent capital and profits interest in a transaction described in section 721. In Year 3, P contributes Asset A with a basis of \$50 and a value of \$20 to PS in exchange for an additional capital and profits interest in PS in a transaction described in section 721. Also in Year 3, PS contributes Asset A to S and P contributes an additional \$80 to S in transfers to which section 351 applies. In Year 4, S sells Asset A for \$20, recognizing a loss of \$30. The P group uses that loss to offset income of P. In Year 5, P sells its entire interest in PS for \$40.

Example 2. Transfers effecting a reimportation of loss—(i) *Facts.* In Year 1, P forms S with a contribution of Asset A with a value of \$100 and a basis of \$120, Asset B with a value of \$50 and a basis of \$70, and Asset C with a value of \$90 and a basis of \$100 in exchange for all of the common stock of S and S becomes a member of the P group. * * *

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Example 3. Transfers to avoid recognition of gain—(i) *Facts.* P owns all of the stock of S1 and S2. The S2 stock has a basis of \$400 and a value of \$500. S1 owns 50% of the S3 common stock with a basis of \$150. * * *

(ii) *Analysis.* Pursuant to paragraph (b)(4) of this section, because S2 owns stock of S3 (another subsidiary of the same group) and, immediately after the sale of the S2 stock, S3 is a member of the group, then for purposes of applying paragraph (b) of this section, S2 is deemed to have transferred its S3 stock. Because S3 is a member of the group immediately after the transfer of the S2 stock and the S3 stock deemed transferred has a basis in excess of value, the group in the S3 stock is redetermined pursuant to paragraph (b)(1) of this section immediately prior to the sale of the S2 stock.

Accordingly, P would recognize only \$1 of gain on the sale of its S2 stock. However,

because the recapitalization of the S3 was structured with a view to, and has the effect of, avoiding the recognition of gain on a disposition of stock by invoking the application of paragraph (b) of this section, paragraph (g)(4)(i) of this section applies. Accordingly, paragraph (b) of this section does not apply upon P's disposition of the S2 stock and P recognizes \$100 gain on the disposition of the S2 stock.

* * * * *

(j) *Effective date.* This section applies with respect to stock transfers, deconsolidations of subsidiaries, determinations of worthlessness, and stock dispositions on or after March 10, 2006. * * *

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Guy R. Traynor,
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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9260]

RIN 1545-BF46

Application of Separate Limitations to Dividends From Noncontrolled Section 902 Corporations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to temporary regulations that were published in the **Federal Register** on Tuesday, April 25, 2006 (71 FR 24516) regarding the application of separate foreign tax credit limitations to dividends received from noncontrolled section 902 corporations under section 904(d)(4).

DATES: These corrections are effective April 25, 2006.

FOR FURTHER INFORMATION CONTACT: Ginny Chung, (202) 622-3850 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (TD 9260) that are the subject of this correction are under section 904 of the Internal Revenue Code.

Need for Correction

As published, (TD 9260) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

■ Accordingly, the publication of the temporary regulations (TD 9260) which was the subject of FR Doc. 06-3882, is corrected as follows:

§ 1.904-4 [Corrected]

■ 1. On page 24530, column 2, § 1.904-4, Instructional Par. 11., number 3, the language “3. In paragraph (e)(5)(iii), remove the language “and paragraph (9) of this section” and add the language “paid in taxable years beginning before January 1, 2003” in its place.” is corrected to read “3. In paragraph (e)(5)(iii), remove the language “and paragraph (g) of this section” and add the language “paid in taxable years beginning before January 1, 2003” in its place.”

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

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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 100**

[CGD05-06-064]

RIN 1625-AA08

Special Local Regulations for Marine Events; Atlantic Ocean, Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the “Ocean City Maryland Offshore Challenge”, a power boat race to be held on the waters of the Atlantic Ocean adjacent to the shoreline at Ocean City, MD. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the regulated area during the power boat race.

DATES: This rule is effective from 10 a.m. to 4 p.m. on September 10, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the

docket, are part of docket (CGD05-06-064) and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Dennis Sens, Project Manager, Inspections and Investigations Branch, at (757) 398-6204.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

On June 29, 2006, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Atlantic Ocean, Ocean City, MD in the **Federal Register** (71 FR 37019). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, support craft and other vessels transiting the event area. However, advance notifications will be made to affected waterway users via marine information broadcasts and area newspapers.

Background and Purpose

On September 10, 2006, the Offshore Performance Association, Inc. will conduct the “Ocean City Maryland Offshore Challenge”, on the waters of the Atlantic Ocean along the shoreline near Ocean City, MD. The event will consist of approximately 40 V-hull and twin-hull inboard hydroplanes racing in heats counter-clockwise around an oval race course. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Atlantic Ocean, Ocean City, Maryland.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation will prevent traffic from transiting a small segment of the Atlantic Ocean near Ocean City, MD during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be enforced. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, area newspapers and local radio stations, so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit this section of the Atlantic Ocean during the event.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would be in effect for only a limited period. Although the regulated area will apply to waters of the Atlantic Ocean near the Ocean City, Maryland shoreline, traffic may be allowed to pass through the regulated area with the permission of the Coast Guard patrol commander. In the case where the patrol commander authorizes passage through the regulated area during the event, vessels