

companies to compete with foreign-based companies in domestic and export markets.

#### List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs, Reporting and Record keeping requirements.

■ Under the authority vested in the Attorney General by section 201(h) of the CSA (21 U.S.C. 811(h)), and delegated to the Administrator of the DEA by 28 CFR 0.100, and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby amends 21 CFR part 1308 as follows:

#### PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES [Amended]

■ 1. The authority citation for 21 CFR Part 1308 continues to read as follows:

**Authority:** 21 U.S.C. 811, 812, 871b, unless otherwise noted.

■ 2. Section 1308.11 is amended by adding paragraphs (g)(6) and (g)(7) to read as follows:

#### § 1308.11 Schedule I.

\* \* \* \* \*

(g) \* \* \*

(6) Alpha-methyltryptamine (AMT), its isomers, salts and salts of isomers—7432.

(7) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DIPT), its isomers, salts and salts of isomers—7439.

Dated: March 27, 2003.

**John B. Brown III,**

*Deputy Administrator.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 1 and 602

[TD 9048]

RIN 1545-BB95

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

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

**ACTION:** Corrections to final and temporary regulations.

**SUMMARY:** This document corrects final and temporary regulations published in the **Federal Register** on March 14, 2003 (68 FR 12287). The final and temporary

regulations redetermine the basis of stock of a subsidiary member of a consolidated group immediately prior to certain transfers of such stock and certain deconsolidations of a subsidiary member and also suspend certain losses recognized on the disposition of stock of a subsidiary member.

**DATES:** This document is effective on March 14, 2003.

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

#### SUPPLEMENTARY INFORMATION:

##### Background

The final and temporary regulations that are the subject of these corrections are under section 1502 of the Internal Revenue Code.

##### Need for Correction

As published, the final and temporary regulations contain errors that may prove to be misleading and are in need of clarification. In particular, this document supplies text omitted from § 1.1502-35T(b)(3)(i)(C) and (b)(3)(ii)(C), and clarifies § 1.1502-35T(f)(1). In addition, the final and temporary regulations inadvertently removed the text for §§ 1.1502-21T(b)(3)(ii)(C) and 1.1502-32T(b)(4)(v). The missing text is supplied.

##### Correction of Publication

Accordingly, the publication of the final and temporary regulations (TD 9048) that were the subject of FR Doc. 03-6119, is corrected as follows:

■ 1. On page 12288, column 3, second full paragraph, in the preamble under the paragraph heading “*Basis Reduction Rule for Worthless Stock and Stock of a Subsidiary With No Separate Return Year*”, second full paragraph, lines 17 and 18 from the bottom of the paragraph, the language “as expired, but not as absorbed by the group, as of the beginning of the group’s” is corrected to read “as expired, but not as a noncapital, nondeductible expense for purposes of § 1.1502-32,”.

■ 2. On page 12291, column 2, § 1.1502-21T, paragraphs (b)(2) through (b)(3)(iv) is corrected to read as follows:

#### § 1.1502-21T Net operating losses (temporary).

\* \* \* \* \*

(b)(2) through (b)(3)(ii)(B) [Reserved]. For further guidance, see § 1.1502-21(b)(2) through (b)(3)(ii)(B).

(b)(3)(ii)(C) *Partial waiver of carryback period for 2001 and 2002 losses—(1) Application.* The acquiring group may make the elections described in paragraphs (b)(3)(ii)(C)(2) and (3) of

this section with respect to an acquired member or members only if it did not file a valid election described in § 1.1502-21(b)(3)(ii)(B) with respect to such acquired member or members on or before May 31, 2002.

(2) *Partial waiver of entire pre-acquisition carryback period.* If one or more members of a consolidated group become members of another consolidated group after June 25, 1999, then, with respect to all consolidated net operating losses attributable to the member for the taxable year ending during either 2001 or 2002, or both, the acquiring group may make an irrevocable election to relinquish the portion of the carryback period for such losses for which the corporation was a member of another group, provided that any other corporation joining the acquiring group that was affiliated with the member immediately before it joined the acquiring group is also included in the waiver and that the conditions of this paragraph are satisfied. The acquiring group cannot make the election described in this paragraph with respect to any consolidated net operating losses arising in a particular taxable year if any carryback is claimed, as provided in paragraph (b)(3)(ii)(C)(4) of this section, with respect to any such losses on a return or other filing by a group of which the acquired member was previously a member and such claim is filed on or before the date the election described in this paragraph is filed. The election must be made in a separate statement entitled “THIS IS AN ELECTION UNDER SECTION 1.1502-21T (b)(3)(ii)(C)(2) TO WAIVE THE PRE-[insert first day of the first taxable year for which the member (or members) was a member of the acquiring group] CARRYBACK PERIOD FOR THE CNOLS ATTRIBUTABLE TO THE [insert taxable year of losses] TAXABLE YEAR(S) OF [insert names and employer identification numbers of members].” Such statement must be filed as provided in paragraph (b)(3)(ii)(C)(5) of this section.

(3) *Partial waiver of pre-acquisition extended carryback period.* If one or more members of a consolidated group become members of another consolidated group, then, with respect to all consolidated net operating losses attributable to the member for the taxable year ending during either 2001 or 2002, or both, the acquiring group may make an irrevocable election to relinquish the portion of the carryback period for such losses for which the corporation was a member of another group to the extent that such carryback period includes one or more taxable

years that are prior to the taxable year that is 2 taxable years preceding the taxable year of the loss, provided that any other corporation joining the acquiring group that was affiliated with the member immediately before it joined the acquiring group is also included in the waiver and that the conditions of this paragraph are satisfied. The acquiring group cannot make the election described in this paragraph with respect to any consolidated net operating losses arising in a particular taxable year if a carryback to one or more taxable years that are prior to the taxable year that is 2 taxable years preceding the taxable year of the loss is claimed, as provided in paragraph (b)(3)(ii)(C)(4) of this section, with respect to any such losses on a return or other filing by a group of which the acquired member was previously a member and such claim is filed on or before the date the election described in this paragraph is filed. The election must be made in a separate statement entitled "THIS IS AN ELECTION UNDER SECTION 1.1502-21T (b)(3)(ii)(C)(3) TO WAIVE THE PRE- [insert first day of the first taxable year for which the member (or members) was a member of the acquiring group] EXTENDED CARRYBACK PERIOD FOR THE CNOLS ATTRIBUTABLE TO THE [insert taxable year of losses] TAXABLE YEAR(S) OF [insert names and employer identification numbers of members]." Such statement must be filed as provided in paragraph (b)(3)(ii)(C)(5) of this section.

(4) *Claim for a carryback.* For purposes of paragraphs (b)(3)(ii)(C)(2) and (3) of this section, a carryback is claimed with respect to a consolidated net operating loss if there is a claim for refund, an amended return, an application for a tentative carryback adjustment, or any other filing that claims the benefit of the net operating loss in a taxable year prior to the taxable year of the loss, whether or not subsequently revoked in favor of a claim based on a 5-year carryback period.

(5) *Time and manner for filing statement.* A statement described in paragraph (b)(3)(ii)(C)(2) or (3) of this section that relates to consolidated net operating losses attributable to a taxable year ending during 2001 must be filed with the acquiring consolidated group's timely filed (including extensions) original or amended return for the taxable year ending during 2001, provided that such original or amended return is filed on or before October 31, 2002. A statement described in paragraph (b)(3)(ii)(C)(2) or (3) of this section that relates to consolidated net operating losses attributable to a taxable

year ending during 2002 must be filed with the acquiring consolidated group's timely filed (including extensions) original or amended return for the taxable year ending during 2001 or 2002, provided that such original or amended return is filed on or before September 15, 2003.

(b)(3)(iii) and (b)(3)(iv) [Reserved]. For further guidance, see § 1.1502-21(b)(3)(iii) and (b)(3)(iv).

\* \* \* \* \*

■ 3. On page 12292, column 1, § 1.1502-32T, paragraphs (b)(4) through (b)(4)(v) is corrected to read as follows:

**§ 1.1502-32T Investment adjustments (temporary).**

\* \* \* \* \*

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

(b)(4)(v) *Special rule for loss carryovers of a subsidiary acquired in a transaction for which an election under § 1.1502-20T(i)(2) is made—(A) Expired losses.* Notwithstanding § 1.1502-32(b)(4)(iv), to the extent that S's loss carryovers are increased by reason of an election under § 1.1502-20T(i)(2) and such loss carryovers expire or would have been properly used to offset income in a taxable year for which the refund of an overpayment is prevented by any law or rule of law as of the date the group files its original return for the taxable year in which S receives the notification described in § 1.1502-20T(i)(3)(iv) and at all times thereafter, the group will be deemed to have made an election under § 1.1502-32(b)(4) to treat all of such expired loss carryovers as expiring for all Federal income tax purposes immediately before S became a member of the consolidated group.

(B) *Available losses.* Notwithstanding § 1.1502-32(b)(4)(iv), to the extent that S's loss carryovers are increased by reason of an election under § 1.1502-20T(i)(2) and such loss carryovers have not expired and would not have been properly used to offset income in a taxable year for which the refund of an overpayment is prevented by any law or rule of law as of the date the group files its original return for the taxable year in which S receives the notification described in § 1.1502-20T(i)(3)(iv) and at all times thereafter, the group may make an election under § 1.1502-32(b)(4) to treat all or a portion of such loss carryovers as expiring for all Federal income tax purposes immediately before S became a member of the consolidated group. Such election must be filed with the group's original return for the taxable year in which S receives the notification described in § 1.1502-20T(i)(3)(iv).

(C) *Effective date.* This paragraph (b)(4)(v) is applicable on and after March 7, 2002.

\* \* \* \* \*

**§ 1.1502-35T [Corrected]**

■ 4. On page 12293, column 1, § 1.1502-35T, paragraph (b)(3)(i)(C), line 2 from the bottom of the paragraph, the language "distributtee), section 351, or section 361" is corrected to read "distributtee), section 351, section 354, or section 361".

■ 5. On page 12293, column 1, § 1.1502-35T, paragraph (b)(3)(ii)(B), line 3 from the bottom of the paragraph, the language "of subsidiary member stock that they" is corrected to read "of the subsidiary member stock that they".

■ 6. On page 12293, column 1, § 1.1502-35T, paragraph (b)(3)(ii)(C) is correctly designated paragraph (b)(3)(ii)(D).

■ 7. On page 12293, column 1, § 1.1502-35T, new paragraph (b)(3)(ii)(C) is added to read as follows.

■ 8. On page 12293, column 2, § 1.1502-35T, paragraph (b)(6)(ii), line 2 from the bottom of the paragraph, the language "and paragraph (c) of this section are" is corrected to read "and paragraphs (c) and (f) of this section are".

■ 9. On page 12295, column 2, § 1.1502-35T, paragraph (e), the first sentence is revised to read as follows.

■ 10. On page 12297, column 2, § 1.1502-35T, paragraph (f)(1), lines 4 and 5 from the bottom of the paragraph, the language "as expired, but not as absorbed by the group, as of the beginning of the group's" is corrected to read "as expired, but shall not be treated as a noncapital, nondeductible expense for purposes of § 1.1502-32(b)(3)(iii), as of the beginning of the group's".

**§ 1.1502-35T Transfers of subsidiary member stock and deconsolidations of subsidiary members (temporary).**

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) \* \* \*

(C) The members of the group are allowed a worthless stock loss under section 165(g) with respect to all of the shares of the subsidiary member stock that they own immediately before the deconsolidation; or

\* \* \* \* \*

(e) *Examples.* For purposes of the examples in this section, unless otherwise stated, all groups file consolidated returns on a calendar-year basis, the facts set forth the only corporate activity, all transactions are

between unrelated persons, and tax liabilities are disregarded. \* \* \*

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, (Procedure and Administration).  
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## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Part 7

RIN 1024-AC89

#### Virgin Islands Coral Reef National Monument and Buck Island Reef National Monument

**AGENCY:** National Park Service, Interior.  
**ACTION:** Interim rule with request for comments.

**SUMMARY:** This interim rule relates to the prohibition on extractive uses contained in Presidential Proclamation No. 7399, which established the Virgin Islands Coral Reef National Monument (VICR), and Presidential Proclamation No. 7392, which expanded the boundaries of the existing Buck Island Reef National Monument (BUIS). This interim rule prohibits extractive uses, with some exceptions, and anchoring within VICR. For the purposes of protecting the objects identified in BUIS, Proclamation No. 7392 supersedes the limited authorization for extractive uses that was included in Proclamation 3443 of December 28, 1961, which created BUIS. Pursuant to Proclamation No. 7392, this interim rule prohibits all extractive uses and boat anchoring within BUIS except in deep sand areas or in emergencies (all other anchoring is subject to permit). This interim rule replaces the BUIS regulations stated in 36 CFR 7.73, which allowed for certain types of fishing and collecting, operation of watercraft, and anchoring. Proclamation Nos. 7399 and 7392 require the National Park Service to prepare management plans, which are to include guidelines for the management of vessels in the monument, within three years for VICR and two years for BUIS.

**DATES:** This interim rule becomes effective on May 5, 2003. This interim rule will remain in effect until final regulations are adopted. Written comments on this interim rule are solicited from all interested parties, and these comments will be considered in developing the General Management Plans (GMP) and final regulations. Final

regulations will be adopted upon completion of the GMPs and review of all comments.

**ADDRESSES:** Comments should be addressed to: John H. King, Superintendent, Virgin Islands National Park, 1300 Cruz Bay Creek, St. John, Virgin Islands 00830. E-mail: [John\\_H\\_King@nps.gov](mailto:John_H_King@nps.gov). Mr. Joel A. Tutein, Superintendent, Buck Island Reef National Monument, 2100 Church Street, Lot #100, Christiansted, St. Croix, Virgin Islands 00820-4611. E-mail: [CHRI\\_Superintendent@nps.gov](mailto:CHRI_Superintendent@nps.gov).

**FOR FURTHER INFORMATION CONTACT:** For Virgin Islands Coral Reef: Contact Superintendent's Office, Virgin Islands National Park, between 8 a.m. and 5 p.m., Monday-Friday by phone at 340/776-6201 or by Fax at 340/693-9301. For Buck Island: Contact Superintendent's Office, Buck Island Reef National Monument, between 8 a.m. and 5 p.m., Monday-Friday, at 340/773-1460.

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 17, 2001, President Clinton established Virgin Islands Coral Reef National Monument (VICR) and enlarged and modified Buck Island Reef National Monument (BUIS). Presidential Proclamation Nos. 7399 and 7392, respectively.

In establishing VICR, Proclamation No. 7399 assigns management to the Secretary of the Interior through the National Park Service (NPS) under its existing authorities, but subject to the overriding purpose of protecting the monument's objects of historic or scientific interest. The acreage included is the smallest area compatible with the proper care and management of the objects to be protected. Proclamation No. 7399 contains six major provisions:

(1) It reserves only lands owned or controlled by the United States in the area.  
(2) It is subject to valid existing rights in the federal lands or resources within the area, if any, although the exercise of those rights could be regulated in order to protect the purposes of the monument.  
(3) The area is withdrawn from mineral and geothermal entry, location, sale, leasing or other disposition.

(4) Boat anchoring is prohibited, except for emergency and authorized administrative uses.

(5) All extractive uses are prohibited, except for bait fishing at Hurricane Hole and for blue runner (hardnose) line fishing in the area south of St. John, both by permit only. The Secretary may issue permits only "to the extent that

such fishing is consistent with the protection of the objects identified in this proclamation."

(6) A management plan, including vessel management planning, is to be prepared within three years.

Proclamation No. 7392, the "Buck Island Reef National Monument Boundary Enlargement", added approximately 18,135 marine acres to the existing Buck Island Reef National Monument. This acreage is the smallest area compatible with the proper care and management of the objects to be protected. The Proclamation added extensive coral reef and fisheries resources not originally within the monument boundaries including deep reefs, sea grass beds, shelf edge communities, and oceanic habitats. The area also contains significant cultural and historic objects including possible shipwrecks from the slave era. The Buck Island Proclamation states that:

For the purposes of protecting the objects identified above, the Secretary shall prohibit all boat anchoring, provided that the Secretary may permit exceptions for emergency or authorized administrative purposes, and may issue permits for anchoring in deep sand bottom areas, to the extent that it is consistent with the protection of the objects.

For the purposes of protecting the objects identified above, the Secretary shall prohibit all extractive uses. This prohibition supersedes the limited authorization for extractive uses included in Proclamation 3443 of December 28, 1961.

The Proclamations give the Secretary limited discretion in what activities and uses she may allow. She must prohibit all extractive uses, but she may allow very limited fishing in two areas at VICR and may permit certain very limited kinds of boat anchoring at BUIS.

The Proclamations differ from current regulations governing the areas. Note that NPS general regulations prohibit all commercial fishing in any unit of the National Park System except where specifically authorized by federal statutory law. However, NPS regulations at 36 CFR 2.3 allow recreational fishing under state law in all park units unless otherwise prohibited. The Proclamations and this interim regulation are generally more restrictive for both VICR and BUIS.

Commercial and recreational fishing were previously authorized by Territorial Government permit within the boundaries of the area that now constitutes VICR, with regulations on the taking of some species (*i.e.*, area and seasonal closures, size limits, gear restrictions, etc.) and prohibitions on the harvest or possession of others. Title 12, chapter 9A VIRR. The harvest of