

engaged in the conduct of a trade or business in the United States. * * *

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(4) [Reserved]

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(e) *Effective dates*—(1) *General rule.* Except as provided in paragraph (e)(2) of this section, this section is effective for taxable years beginning October 13, 1992, and for payments of interest described in section 884(f)(1)(A) made (or treated as made under paragraph (b)(7) of this section) during taxable years of the payor beginning after such date. * * *

(2) *Special rule.* Paragraphs (a)(1), (a)(2)(i)(A), (a)(2)(iii), (b)(1), (b)(3), (b)(5)(i), (b)(6)(i), (b)(6)(ii), and (c)(2)(i) of this section are effective for taxable years beginning on or after June 6, 1996.

Par. 9. In § 1.884-5, paragraphs (e)(4)(ii) and (g) are revised to read as follows:

§ 1.884-5 Qualified resident.

* * * * *

(e) * * *

(4) * * *

(ii) *Presumption for banks.* A U.S. trade or business of a foreign corporation that is described in § 1.884-4(a)(2)(iii) shall be presumed to be an integral part of an active banking business conducted by the foreign country in its country of residence provided that a substantial part of the business of the foreign corporation in both its country of residence and the United States consists of receiving deposits and making loans and discounts. This paragraph shall be effective for taxable years beginning on or after June 6, 1996.

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(g) * * * Except as provided in paragraph (e)(4)(ii) of this section, this section is effective for taxable years beginning on or after October 13, 1992.

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Par. 10. Section 1.897-1 is amended as follows:

1. In paragraph (f)(1)(iii) the language “stock,” is removed.

2. Paragraph (f)(2)(i) is revised to read as follows:

§ 1.897-1 Taxation of foreign investments in United States real property interests, definition of terms.

* * * * *

(f) * * *

(2) * * *

(i) Held for the principal purpose of promoting the present conduct of the trade or business,

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PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 11. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 12. In § 602.101, the table in paragraph (c) is amended by adding in numerical order “§ 1.884-2 * * * 1545-1070”.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: February 28, 1996.

Leslie Samuels,

Assistant Secretary of the Treasury.

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Office of Foreign Assets Control

31 CFR Part 500

Foreign Assets Control Regulations; Humanitarian Donations to North Korea

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: This rule amends the Foreign Assets Control Regulations to authorize by general license all transactions with respect to the donation of funds to the United Nations and the American and International Red Cross for humanitarian assistance in the Democratic People's Republic of Korea, as well as all transactions incident to the donation of goods to meet basic human needs to the Democratic People's Republic of Korea from third countries by persons subject to U.S. jurisdiction.

EFFECTIVE DATE: March 5, 1996.

FOR FURTHER INFORMATION CONTACT:

Steven I. Pinter, Chief of Licensing, tel.: 202/622-2480, or William B. Hoffman, Chief Counsel, tel.: 202/622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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Background

As part of the October 21, 1994 United States–Democratic People's Republic of Korea (“DPRK”) Agreed Framework, the United States undertook to ease economic sanctions against the DPRK. Since that time, the DPRK has experienced severe flooding and is in need of emergency disaster assistance. As a separate measure, to facilitate the provision of humanitarian aid to the DPRK by private and nongovernmental persons, the Treasury Department is amending the Foreign Assets Control Regulations, 31 CFR part 500 (the “Regulations”), by amending § 500.573 to authorize, by general license, the donation of funds for humanitarian assistance to the United Nations, related UN programs and specialized agencies, the American Red Cross and the International Committee of the Red Cross. Amended § 500.573 also authorizes by general license transactions incident to the donation to the DPRK from third countries of goods to meet basic human needs by persons subject to U.S. jurisdiction. Goods meeting basic human needs are defined by reference to § 773.5 and supplement no. 7 to part 773 of the Commerce Department's Export Administration Regulations, 15 CFR parts 768–799.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601–612, does not apply.

List of Subjects in 31 CFR Part 500

Administrative practice and procedure, Banks, banking, Cambodia, Exports, Fines and penalties, Finance, Foreign investment in the United States, Foreign trade, Imports, Information and informational materials, International organizations, North Korea, Reporting and recordkeeping requirements,

Securities, Services, Travel restrictions, Trusts and estates, Vietnam.

For the reasons set forth in the preamble, 31 CFR part 500 is amended as set forth below:

1. The authority citation for part 500 continues to read as follows:

T4Authority: 50 U.S.C. App. 1-44; E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p. 748.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Section 500.573 is revised to read as follows:

§ 500.573 Certain donations of funds and goods to meet basic human needs authorized.

(a) The donation of funds for the purpose of contributing to the provision of humanitarian assistance to victims of natural disasters in North Korea is authorized, provided that such donations may only be made through the United Nations, related UN programs and specialized agencies, the American Red Cross and the International Committee of the Red Cross.

(b) With respect to transactions not within the scope of the general license contained in § 500.533 of this part, all transactions incident to the donation to North Korea of goods to meet basic human needs are authorized. For purposes of this section, *goods to meet basic human needs* shall be defined by reference to the Humanitarian License Procedure set forth in 15 CFR 773.5 (c) and (d) and supplement no. 7 to part 773 of the Export Administration Regulations.

(c) Note: Exports from the United States to North Korea or reexports to North Korea of U.S.-origin goods, or foreign goods containing U.S.-origin content or produced from U.S.-origin technical data, to meet basic human needs in North Korea may require authorization from the U.S. Department of Commerce.

Dated: February 28, 1996.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: February 29, 1996.

Dennis M. O'Connell

Acting Deputy Assistant Secretary
(Regulatory, Tariff & Law Enforcement).

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 23

RIN 0790-AF87

Grants and Agreements—Military Recruiting on Campus

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: The Department of Defense (DoD) adopts this final rule to implement Section 558 of the National Defense Authorization Act for Fiscal Year 1995, as it applies to grants. Section 558 states that funds available to the Department of Defense may not be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense from obtaining for military recruiting purposes: entry to campuses; access to students on campuses; or access to directory information pertaining to students. The rule implements the law, as it applies to grants, by requiring inclusion of a clause in DoD grants with institutions of higher education. It also extends the requirement, as a matter of policy, to DoD cooperative agreements, because they are very similar to grants.

DATES: This final rule is effective on April 8, 1996.

FOR FURTHER INFORMATION CONTACT: Mark Herbst, ODDR&E(R), 3080 Defense Pentagon, Washington, DC 20301-3080. Telephone (703) 614-0205.

SUPPLEMENTARY INFORMATION:

Responses to Comments

This final rule revises 32 CFR part 23, which was adopted as an interim-final rule on January 24, 1995 (at 60 FR 4544). In response to the publication of the interim-final rule, DoD received written comments from two associations and some telephonic comments. The responses to the comments are:

Comment 1: The clause is in the interim-final rule referred to "procedures established by the Secretary of Defense to implement section 558 of Public Law 103-337." It should refer to DoD's implementation of section 558, at 32 CFR part 216.

Response 1: Agree. At the time the interim-rule on grants and cooperative agreements was published 32 CFR part 216 had not been updated to implement section 558. Now that it has been updated (published elsewhere in the issue of the Federal Register), the clause in the final 32 CFR part 23 refers to it. The final rule also includes more

background and policy discussion, and more coverage on the grants officer's responsibilities, than did the interim-final rule—most of that discussion and coverage is based on 32 CFR part 216.

Comment 2: In implementing an earlier law that is similar to section 558, DoD recognized that it might, in some cases, find a subordinate element of an institution of higher education to be restricting military recruiters' access, but not the institution as a whole. In those cases, DoD established a policy (in 32 CFR part 216, before its recent update) that the subordinate element, but not the parent institution, would be denied DoD funds. If that policy is continued in 32 CFR part 216 when it is updated to implement section 558, the grants and cooperative agreements clause should be amended by adding:

(1) The following sentence after the first sentence of the clause: "A recipient will not be deemed to be such an institution if a subordinate element of the institution, but not the institution as a whole, has a policy of preventing or effectively prevents military recruiting of students;" and

(2) At the end of the clause the following two sentences: "If the Secretary determines that a subordinate element of an institution, but not the institution as a whole, has a policy of preventing or effectively prevents military recruiting of students, DoD may cease payment under, suspend, or terminate grants and agreements that relate solely to the relevant subordinate element, but may not take such action with respect to grant and agreements involving other elements of the institution or the institution as a whole."

Response 2: Adding the commenter's proposed sentences to the clause isn't necessary, for two reasons:

- The clause in the final rule has been amended to refer to "institution of higher education (as defined in 32 CFR part 216)." The definition in 32 CFR part 216 (which also appears in the final rule) incorporates the concept of the subordinate element of an institution of higher education that the comment sought to incorporate; and

- The final rule includes an expanded policy section that refers to the policy in 32 CFR part 216 concerning subordinate elements of institutions of higher education.

Comment 3: Under the interim-final rule, DoD will cease payments under existing grants and agreements, if a recipient is determined to have a policy of restricting military recruiters' access. This is unreasonable, since the institution already will have committed funds for personnel and other project