

Actions	Compliance	Procedures
<p>(3) If no cracks are found during the inspection required in paragraph (e)(1) of this AD, do the following:</p> <p>(i) inspect tubing for proper thickness and make any appropriate reinforcements</p> <p>(ii) repetitively inspect main landing gear leg support for cracks</p>	<p>Inspect for tubing thickness of the airplane within 50 hours TIS after the initial inspection required in paragraph (e)(1) of this AD. Reinforce prior to further flight after the inspection required in paragraph (e)(3)(i) of this AD. Repetitively inspect main landing gear leg support within 50 hours TIS after the initial inspection required by paragraph (e)(1) of this AD and thereafter at intervals not to exceed 50 hours TIS.</p>	<p>Inspect following procedures in OMF Alert Service Bulletin No. 1107/0002, dated September 16, 2003. Reinforce with instructions from the manufacturer. Contact an Ostmecklenburgische Flugzeugbau GmbH (OMF) representative at 1-819-377-1177 for repair instructions and incorporate these instructions. Summarize and copy all correspondence and send to FAA at the address specified in paragraph (f) of this AD.</p>

#### May I Request an Alternative Method of Compliance?

(f) You may request a different method of compliance or a different compliance time for this AD by following the procedures in 14 CFR 39.19. Unless FAA authorizes otherwise, send your request to your principal inspector. The principal inspector may add comments and will send your request to the Manager, Standards Office, Small Airplane Directorate, FAA. For information on any already approved alternative methods of compliance, contact Karl Schletzbaum, Aerospace Engineer, ACE-112, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri, 64106; telephone: 816-329-4146; facsimile: 816-329-4149.

#### May I Get Copies of the Documents Referenced in This AD?

(g) You may get copies of the documents referenced in this AD from Ostmecklenburgische Flugzeugbau GmbH, Flughafenstraße, 17039 Trolenhagen, Federal Republic of Germany. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

#### Is There Other Information That Relates to This Subject?

(h) LBA Airworthiness Directive No. 2003-272, dated October 7, 2003, and OMF Alert Service Bulletin 1107/0002, dated September 16, 2003, pertain to the subject of this AD.

Issued in Kansas City, Missouri, on August 11, 2004.

**John R. Colomy,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

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**BILLING CODE 4910-13-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-129274-04]

RIN 1545-BD57

#### Guidance Under Section 1502; Treatment of Loss Carryovers From Separate Return Limitation Years

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

**ACTION:** Notice of proposed rulemaking by cross reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the Treasury Department and the IRS are issuing temporary regulations providing guidance regarding the treatment of certain losses available to acquired subsidiaries as a result of an election made under the section 1502 regulations. The text of these proposed regulations also serves as the text of the temporary regulations set forth in this issue of the **Federal Register**. These regulations apply to corporations filing consolidated returns.

**DATES:** Written and electronic comments and requests for a public hearing must be received by November 16, 2004.

**ADDRESSES:** Send submissions to CC:PA:LPD:PR (REG-129274-04), Room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:PA:LPD:PR (REG-129274-04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at: <http://www.irs.gov/regs> or via the Federal eRulemaking Portal at

[www.regulations.gov](http://www.regulations.gov) (indicate IRS and REG-129274-04 or RIN 1545-BD57).

#### FOR FURTHER INFORMATION CONTACT:

Concerning submission of comments or requesting a hearing, Treena Garrett, (202) 622-7180; concerning the proposed regulations, Sean McKeever, (202) 622-7750 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

#### Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 1502 of the Internal Revenue Code (Code). The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

#### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Further, it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations will primarily affect affiliated groups of corporations that have elected to file consolidated returns, which tend to be larger businesses. Moreover, the number of taxpayers affected and the average burden are minimal. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

## Comments and Request for a Public Hearing

Before these proposed regulations are adopted as final regulations, the IRS will consider any electronic or written comments (a signed original and eight (8) copies) that the IRS timely receives. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

## Drafting Information

The principal author of these regulations is Sean McKeever, Office of 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.

## Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

## 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 \* \* \*

**Par. 2.** Section 1.1502-32 is amended by revising paragraph (b)(4)(v)(A) and (C).

### § 1.1502-32 Investment adjustments.

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(v) [The text of this proposed paragraph is the same as the text of § 1.1502-32T(b)(4)(v)(A) and (C) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 04-18834 Filed 8-17-04; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

[REG-130863-04]

RIN 1545-BD56

### Corporate Reorganizations; Transfers of Assets or Stock Following a Reorganization

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations that provide guidance regarding the effect of certain transfers of assets or stock on the qualification of certain transactions as reorganizations under section 368(a). This document also contains proposed regulations that provide guidance on the continuity of business enterprise requirement and the definition of a party to a reorganization. These regulations affect corporations and their shareholders.

**DATES:** Written or electronic comments must be received by November 16, 2004.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-130863-04), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-130863-04), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at <http://www.irs.gov/regs> or via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS-REG-130863-04).

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Jeffrey B. Fienberg, (202) 622-7770; concerning submissions and the hearing, Lanita Van Dyke, (202) 622-3215 (not toll-free numbers).

### SUPPLEMENTARY INFORMATION:

#### Background and Explanation of Provisions

On March 2, 2004, the IRS and Treasury Department published in the **Federal Register** (69 FR 9771) a notice of proposed rulemaking (REG-165579-02) that would amend § 1.368-2(k) to provide that a reorganization otherwise qualifying under section 368(a) will not be disqualified as a result of the transfer or successive transfers to one or more corporations controlled in each transfer

by the transferor corporation of part or all of (i) the assets of any party to the reorganization or (ii) the stock of any party to the reorganization other than the issuing corporation (hereinafter the March 2004 proposed regulations). The March 2004 proposed regulations also include amendments to the continuity of business enterprise (COBE) regulations under § 1.368-1(d) and the definition of a party to a reorganization under § 1.368-2(f).

While the March 2004 proposed regulations address transfers of assets and stock to corporations controlled by the transferor corporation, they do not address whether a transaction that otherwise qualifies as a reorganization continues to qualify when, pursuant to the plan of reorganization, assets or stock of the acquired corporation is distributed to a corporation or partnership following the reorganization. In addition, they do not provide guidance on whether a transaction that otherwise qualifies as a reorganization continues to qualify when, pursuant to the plan of reorganization, acquired assets are transferred to a partnership in which the transferor owns an interest. These proposed regulations expand the March 2004 regulations to address these situations.

The IRS and Treasury Department received comments regarding the March 2004 proposed regulations. Comments not addressed in this document are still being considered.

#### A. Distributions

These proposed regulations provide that a transaction otherwise qualifying as a reorganization under section 368(a) will not be disqualified as a result of a subsequent distribution of the acquired assets or stock if (i) no transferee receives substantially all of the acquired assets, substantially all of the assets of the acquired or surviving corporation in a transaction otherwise qualifying as a reorganization under section 368(a)(1)(B) or section 368(a)(1)(A) by reason of section 368(a)(2)(E), or stock constituting control of the acquired corporation, (ii) the transferee is either a member of the qualified group (as defined in § 1.368-1(d)(4)(ii)) or a partnership the business of which is treated as conducted by a member of the qualified group under § 1.368-1(d)(4)(iii), and (iii) the COBE requirement is satisfied. For this purpose, the term substantially all as used in this regulation has the same meaning as in section 368(a)(1)(C). The IRS and Treasury Department believe that the types of asset and stock distributions described in these