

Friday, December 21, 2007 (72 FR 72582) regarding the reduction of the number of separate foreign tax credit limitation categories under section 904(d) of the Internal Revenue Code. These regulations affect taxpayers claiming foreign tax credits and provide guidance needed to comply with the statutory changes made by the American Jobs Creation Act of 2004 (AJCA).

DATES: The correction is effective March 21, 2008.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Parry, (202) 622-3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final and temporary regulations (TD 9368) that are the subject of the correction are under section 904 of the Internal Revenue Code.

Need for Correction

As published, final and temporary regulations (TD 9368) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final and temporary regulations (TD 9368), which were the subject of FR Doc. E7-24782, is corrected as follows:

1. On page 72585, column 1, in the preamble, under the paragraph heading “V. Post-1986 Undistributed Earnings and Post-1986 Foreign Income Taxes of a Foreign Corporation as of the End of the Corporation’s Last Pre-2007 Taxable Year”, second line of the first paragraph of the column, the language “described in section 959(c)(1)(A),” is corrected to read “described in section 959(c)(1) and (2),”.

2. On page 72586, column 3, in the preamble, under the paragraph heading “VI. Separate Limitation Losses and Overall Foreign Losses”, first line of the second paragraph of the column, the language “Section 1.904-12T(h)(4) provides that” is corrected to read “Section 1.904(f)-12T(h)(4) provides that”.

3. On page 72586, column 3, in the preamble, under the paragraph heading “VI. Separate Limitation Losses and Overall Foreign Losses”, first line of the third paragraph of the column, the language “Section 1.904-12T(h)(5) provides that” is corrected to read “Section 1.904(f)-12T(h)(5) provides that”.

4. On page 72586, column 3, in the preamble, under the paragraph heading “VI. Separate Limitation Losses and Overall Foreign Losses”, sixth line of the third paragraph of the column, the

language “rules of § 1.904-12T(g)(1) and (2)” is corrected to read “rules of § 1.904(f)-12T(g)(1) and (2)”.

LaNita Van Dyke,

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

[FR Doc. E8-5683 Filed 3-20-08; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9388]

RIN 1545-BH24

Classification of Certain Foreign Entities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary and final regulations relating to certain business entities included on the list of foreign business entities that are always classified as corporations for Federal tax purposes. The regulations are needed to make the Federal tax classification of Bulgarian public limited liability companies consistent with the Federal tax classification of public limited liability companies organized in other countries of the European Economic Area. The regulations will affect persons owning an interest in a Bulgarian aktsionerno druzhestvo on or after January 1, 2007. The text of the temporary regulations serves as the text of the proposed regulations (REG-143468-07) set forth in the notice of proposed rulemaking on this subject in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on March 21, 2008.

Applicability Date: For the dates of applicability of these regulations, see § 301.7701-2T(e)(7).

FOR FURTHER INFORMATION CONTACT: S. James Hawes, (202) 622-3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The IRS and the Treasury Department issued final regulations concerning the Federal tax classification of entities under section 7701 of the Internal Revenue Code on December 18, 1996. See TD 8697 (1997-1 CB 215; 61 FR 66584) and §§ 301.7701-1 through

301.7701-3. Under those regulations, a business entity that is not specifically classified as a corporation can elect its classification for Federal tax purposes under certain circumstances. Section 301.7701-2(b)(8) provides a list of certain foreign business entities that are nevertheless always classified as corporations for Federal tax purposes. This list is known as the per se corporation list. The foreign business entities on this list are referred to as per se corporations. Recent changes in European law require the IRS and the Treasury Department to amend the per se list. See § 601.601(d)(2)(ii)(b).

On October 8, 2001, the Council of the European Union adopted Council Regulation 2157/2001 (2001 Official Journal of the European Communities, L 294/1) (the EU Regulation) to provide for a new business entity called the European public limited liability company, which is also known as a Societas Europaea or SE. The EU Regulation entered into force October 8, 2004. The EU Regulation provides general rules that govern the formation and operation of an SE. With respect to many issues, however, the EU Regulation defers to the laws of the country in which the SE has its registered office. An SE must have a registered office in one of the Member States of the European Economic Area, which includes Norway, Iceland, Liechtenstein, and every country in the European Union. For further background, see TD 9197 (2005-1 CB 985; 70 FR 19697) and Notice 2004-68 (2004-43 IRB 706). See § 601.601(d)(2)(ii)(b).

The IRS and the Treasury Department stated in Notice 2004-68 that the SE is properly classified as a per se corporation for Federal tax purposes. Consequently, the IRS and the Treasury Department issued regulations modifying § 301.7701-2(b)(8) to include the SE on the per se corporation list. Those regulations included certain public limited liability companies organized in Member States that did not already appear on the per se list. See TD 9197 and TD 9235 (2006-1 CB 338; 70 FR 74658). With the entry of Bulgaria into the European Union on January 1, 2007, an SE can now have its registered office in Bulgaria.

Explanation of Provisions

Bulgaria’s SE is called an aktsionerno druzhestvo. The IRS and the Treasury Department stated in Notice 2007-10 (2007-4 IRB 354) that § 301.7701-2(b)(8) would be modified to include the aktsionerno druzhestvo on the per se corporation list. The temporary regulations in this document make that

modification. In accordance with Notice 2007–10, these regulations will be effective for any Bulgarian aktsionerno druzhestvo formed on or after January 1, 2007.

Notice 2007–10 also stated that the regulations would be effective for any Bulgarian aktsionerno druzhestvo formed before January 1, 2007, upon a 50 percent or greater change of ownership in such entity subsequent to that date. See section 7805(b)(1)(C) and § 601.601(d)(2)(ii)(b). The temporary regulations therefore provide that a Bulgarian aktsionerno druzhestvo formed before January 1, 2007, will become a per se corporation on the date that, in the aggregate, a 50 percent or more interest in the entity is owned by a person or persons who were not owners of the entity as of January 1, 2007. In the case of a partnership, an interest means a capital or profits interest. In the case of a corporation, an interest means an equity interest in the entity measured by vote or value.

The standard provided by these temporary regulations for determining the application of the regulations to a Bulgarian aktsionerno druzhestvo formed before January 1, 2007, clarifies the standard described in Notice 2007–10 and the standard to be applied with respect to entities listed in § 301.7701–2(b)(8), including those entities listed in TD 8697, TD 9197, and TD 9235. Comments are requested with respect to this clarification.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. Chapter 5) does not apply to this regulation. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the Special Analyses section of the preamble to the notice of proposed rulemaking published in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Drafting Information

The principal author of these regulations is S. James Hawes of the Office of Associate Chief Counsel (International); however, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 301.7701–2(b)(8)(vi) and (e)(7) are added and the paragraph heading for paragraph (e) is revised to read as follows:

§ 301.7701–2 Business entities; definitions.

* * * * *

(b) * * *

(8) * * *

(vi) [Reserved]. For further guidance, see § 301.7701–2T(b)(8)(vi).

* * * * *

(e) Effective/applicability date. * * *

(7) [Reserved]. For further guidance, see § 301.7701–2T(e)(7).

■ **Par. 3.** Section 301.7701–2T is added to read as follows:

§ 301.7701–2T Business entities; definitions (temporary).

(a) through (b)(8)(v) [Reserved]. For further guidance, see § 301.7701–2(a) through (b)(8)(v).

(b)(8)(vi) *Certain European entities.* The following business entity formed in the following jurisdiction:

Bulgaria, Aktsionerno Druzhestvo.

(c) through (e)(6) [Reserved]. For further guidance, see § 301.7701–2(c) through (e)(6).

(7) The reference to the Bulgarian entity in paragraph (b)(8)(vi) of this section applies to such entities formed on or after January 1, 2007, and to any such entity formed before such date from the date that, in the aggregate, a 50 percent or more interest in such entity is owned by any person or persons who were not owners of the entity as of January 1, 2007. For purposes of the preceding sentence, the term *interest* means—

(i) In the case of a partnership, a capital or profits interest; and

(ii) In the case of a corporation, an equity interest measured by vote or value.

(8) *Expiration date.* The applicability of this section expires on or before March 18, 2011.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: March 12, 2008.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4006 and 4007

RIN 1212–AB11

Premium Rates; Payment of Premiums; Variable-Rate Premium; Pension Protection Act of 2006

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is a final rule to amend PBGC's regulations on Premium Rates and Payment of Premiums. The amendments implement provisions of the Pension Protection Act of 2006 (Pub. L. 109–280) that change the variable-rate premium for plan years beginning on or after January 1, 2008, and make other changes to the regulations. (Other provisions of the Pension Protection Act of 2006 that deal with PBGC premiums are the subject of separate rulemaking proceedings.)

DATES: Effective April 21, 2008. (For information about applicability of the amendments made by this rule, see Applicability in the **SUPPLEMENTARY INFORMATION**.)

FOR FURTHER INFORMATION CONTACT: John H. Hanley, Director, Legislative and Regulatory Department; or Catherine B. Klion, Manager, or Deborah C. Murphy, Attorney, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026; 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Background

Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA).