

date of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Determine from the airplane modification records whether any of the retrofit kits listed in the service bulletin have been installed in the airplane, in accordance with the service bulletin.

(i) If no kit has been installed, no further action is required by this paragraph.

(ii) If any kit has been installed, within one year after the effective date of this AD, remove any black film insulation blanket, and perform a visual inspection to detect corrosion of all airplane structure in contact with the black insulation, in accordance with the service bulletin.

(A) If any corrosion is found that is within the limits specified in the service bulletin, prior to further flight, repair in accordance with the service bulletin.

(B) If any corrosion is found that is beyond the limits specified in the service bulletin, prior to further flight, repair in accordance with a method approved by the New York Aircraft Certification Office (ACO), ANE-170, FAA Engine and Propeller Directorate.

(2) Install the AN4C aluminized (silver) film insulation in accordance with the service bulletin.

(b) Within one year after the effective date of this AD, accomplish the requirements of paragraph (b)(1), (b)(2), and (b)(3) of this AD, in accordance with the following Bombardier service bulletins, as applicable.

S.B. 8-25-89, Revision E, dated July 6, 1994;
S.B. 8-25-90, Revision C, dated July 5, 1994;
S.B. 8-25-91, Revision D, dated July 20, 1994;

S.B. 8-25-92, Revision E, dated July 20, 1994;

S.B. 8-25-93, Revision C, dated July 20, 1994; or

S.B. 8-21-66, Revision C, dated March 24, 1995.

(1) Remove any black Orcon film insulation from the flight compartment and forward fuselage of the airplane, the passenger compartment, the air conditioning ducts, and the delivery and recirculation ducts of the air conditioning system in the rear fuselage, in accordance with the applicable service bulletin.

(2) Perform a visual inspection to detect corrosion of all airplane structure in contact with the black insulation, in accordance with the applicable service bulletin.

(i) If any corrosion is found that is within the limits specified in the service bulletin, prior to further flight, repair in accordance with the applicable service bulletin.

(ii) If any corrosion is found that is beyond the limits specified in the service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, New York ACO.

(3) Install the AN4C aluminized (silver) film insulation in accordance with the applicable service bulletin.

(c) Airplanes on which the actions required by paragraph (b) of this AD are performed prior to accomplishment of the actions required by paragraph (a) of this AD are not required to accomplish the actions required by paragraph (a).

(d) As of the effective date of this AD, no person shall install black Orcon film

insulation, part number AN46B/AN36B, on any airplane.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with the following Bombardier service bulletins:

Service bulletin No.	Revision level	Date
S.B. 8-21-68	Original	July 20, 1994.
S.B. 8-25-89	E	July 6, 1994.
S.B. 8-25-90	C	July 5, 1994.
S.B. 8-25-91	D	July 20, 1994.
S.B. 8-25-92	E	July 20, 1994.
S.B. 8-25-93	C	July 20, 1994.
S.B. 8-21-66	C	Mar. 25, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadian airworthiness directives CF-94-25R1 and CF-94-26R1, both dated June 30, 1995.

(h) This amendment becomes effective on October 28, 1998.

Issued in Renton, Washington, on September 14, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-25120 Filed 9-22-98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 10

[Docket No. 98N-0361]

Administrative Practices and Procedures; Internal Agency Review of Decisions

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; withdrawal.

SUMMARY: The Food and Drug Administration (FDA) published in the **Federal Register** of June 16, 1998 (63 FR 32733), a direct final rule to implement the new Dispute Resolution provision of the Federal Food, Drug, and Cosmetic Act, as amended by the Food and Drug Administration Modernization Act of 1997 (FDAMA). The comment period closed on August 31, 1998. FDA is withdrawing the direct final rule because the agency received significant adverse comment.

EFFECTIVE DATE: The direct final rule published at 63 FR 32733, June 16, 1998, is withdrawn on September 23, 1998.

FOR FURTHER INFORMATION CONTACT: Suzanne M. O'Shea, Office of the Chief Mediator and Ombudsman (HF-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-3390.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, the direct final rule published on June 16, 1998, at 63 FR 32733 is withdrawn.

Dated: September 16, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98-25363 Filed 9-22-98; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8783]

RIN 1545-AW45

Continuity of Interest Requirement for Corporate Reorganizations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Amendment to final regulations.

SUMMARY: This document amends final regulations providing guidance regarding satisfaction of the continuity of interest requirement for corporate reorganizations. The amendment to the final regulations affects corporations and their shareholders. This amendment to the final regulations is necessary to provide clarification regarding an example illustrating the relationship created in connection with potential reorganization.

DATES: *Effective date:* This amendment is effective September 23, 1998.

Applicability date: This amendment applies to transactions occurring after January 28, 1998, except that it does not apply to any transaction occurring pursuant to a written agreement which is (subject to customary conditions) binding on January 28, 1998, and at all times thereafter.

FOR FURTHER INFORMATION CONTACT: Phoebe Bennett, (202) 622-7750 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 28, 1998, the IRS published final regulations (REG-252231-96) in the **Federal Register** (63 FR 4174) relating to the continuity of interest (COI) requirement.

Explanation of Provisions

The final COI regulation provides that acquisitions of target (T) stock for cash by a corporation related to the issuing corporation (P) generally do not preserve continuity of interest. See § 1.368-1(e)(2). Two corporations are related if they are members of the same affiliated group as defined in section 1504, or if a purchase of P stock by another corporation would be treated as a distribution in redemption of P stock under section 304(a)(2). See § 1.368-1(e)(3). A corporation will be treated as related to another corporation if such relationship exists immediately before or immediately after the acquisition of T stock, or if the relationship is created in connection with the potential reorganization. See § 1.368-1(e)(3)(ii). Thus, a purchase by a corporation that was not initially related to P, but purchased T stock and became related to P in the potential reorganization, would not preserve continuity to the extent of the purchase.

Section 1.368-1(e)(6), *Example 2* was intended to illustrate this principle. In the example, A owns all of the stock of T. X, a corporation which owns 60 percent of the P stock and none of the T stock, buys A's T stock for cash prior to the merger of T into P. X exchanges the T stock for P stock in the merger

which, when combined with X's prior ownership of P stock, constitutes 80 percent of the stock of P. The example shows that X is related to P because X becomes affiliated with P in the merger.

Section 1.338-2(c)(3) provides that, by virtue of section 338, COI is satisfied for certain persons if, following a qualified stock purchase (QSP) of T by the purchasing corporation, the purchasing corporation or a member of the purchasing corporation's affiliated group acquired the T assets. Commentators have questioned whether § 1.338-2(c)(3) applies to the transaction described in *Example 2*. It is not intended that these final regulations provide guidance under section 338. To avoid any such implication, *Example 2* is amended so that X's acquisition of A's T stock is not a QSP.

In addition, the amendment to the final regulation illustrates the proper application of the related party rule that treats two corporations as related if a purchase of P stock by another corporation would be treated as a distribution in redemption of P stock under section 304(a)(2). See § 1.368-1(e)(3)(i). Commentators have questioned why, in *Example 2*, X is not already related to P under the section 304(a)(2) rule even before the merger, because X owned more than 50 percent of the P stock. Section 304(a)(2) requires that the issuing corporation control the acquiring corporation (within the meaning of section 304(c)). In *Example 2*, P is the issuing corporation and X is the acquiring corporation. X is not related to P under section 304(a)(2) because P does not control X; instead, X controls P. A sentence is added to *Example 2* to illustrate this point.

Applicability Date

The amendment to these final regulations applies to transactions occurring after January 28, 1998, except that it does not apply to any transaction occurring pursuant to a written agreement which is (subject to customary conditions) binding on January 28, 1998, and at all times thereafter.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C.

chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notices of proposed rulemaking preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of this amendment to the final regulations is Phoebe Bennett of the Office of the Assistant Chief Counsel (Corporate), IRS. However, other personnel from the IRS and Treasury Department participated in its development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is 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. In § 1.368-1, paragraph (e)(6) *Example 2* is revised to read as follows:

§ 1.368-1 Purpose and scope of exception of reorganization exchanges.

* * * * *

(e) * * *

(6) * * *

Example 2. Relationship created in connection with potential reorganization. Corporation X owns 60 percent of the stock of P and 30 percent of the stock of T. A owns the remaining 70 percent of the stock of T. X buys A's T stock for cash in a transaction which is not a qualified stock purchase within the meaning of section 338. T then merges into P. In the merger, X exchanges all of its T stock for additional stock of P. As a result of the issuance of the additional stock to X in the merger, X's ownership interest in P increases from 60 to 80 percent of the stock of P. X is not a person related to P under paragraph (e)(3)(i)(B) of this section, because a purchase of stock of P by X would not be treated as a distribution in redemption of the stock of P under section 304(a)(2). However, X is a person related to P under paragraphs (e)(3)(i)(A) and (ii)(B) of this section, because X becomes affiliated with P in the merger. The continuity of interest requirement is not satisfied, because X acquired a proprietary interest in T for consideration other than P stock, and a substantial part of the value of

the proprietary interest in T is not preserved.
See paragraph (e)(2) of this section.

* * * * *

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Approved: September 14, 1998.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 98-25444 Filed 9-22-98; 8:45 am]

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DEPARTMENT OF JUSTICE

Bureau of Justice Assistance

28 CFR Part 33

[OJP(BJA)-1192]

RIN 1121-AA48

Bulletproof Vest Partnership Grant Act of 1998

AGENCY: Office of Justice Programs, Bureau of Justice Assistance (BJA), DOJ.

ACTION: Interim final rule.

SUMMARY: This part delineates the process by which the Bureau of Justice Assistance (BJA), Director, authorized by the Bulletproof Vest Partnership Grant Act of 1998 (Act), will provide armor vests to eligible States, units of local government, and Indian tribes for use by law enforcement officers. BJA will provide eligible applicants that participate in the program assistance in selecting and purchasing body armor vests. Specifically, BJA will provide information regarding the range of vests that have been tested by the National Institute of Justice (NIJ) and are found to meet or exceed the NIJ Standard 0101.03. Eligible applicants can then select vests from the list of NIJ-tested models found to meet or exceed the NIJ Standard 0101.03. BJA will pay up to 50% of the cost, either directly or indirectly through a third party, of the vests selected by eligible applicants. Eligible applicants will pay the remainder of the total cost. Total cost will include the cost of the armor vests, taxes, shipping, and handling. The manufacturer will send the vests directly to the eligible applicants that ordered them.

Information regarding all other application requirements of the program will be available in BJA's Bulletproof Vest Partnership Guidelines that will be completed when Congress has appropriated funds for this assistance program. Once compiled, the Guidelines will be available through the BJA Home Page at www.ojp.usdoj.gov/BJA and through the Department of Justice

Response Center at 1-800-421-6770. Until the Guidelines are available, interested parties are asked to check the above sources for updates on the status of this program.

DATES: This interim final rule is effective on September 23, 1998; comments on this rule must be received on or before November 23, 1998.

ADDRESSES: Comments should be sent to: Bulletproof Vest Partnership Program, Bureau of Justice Assistance, 810 Seventh Street NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: See the BJA Home Page at www.ojp.usdoj.gov/BJA or call the Department of Justice Response Center at 1-800-421-6770.

SUPPLEMENTARY INFORMATION:

Introduction

This interim final rule establishes the program by which BJA will implement The Bulletproof Vest Partnership Grant Act of 1998 (Act), 42 U.S.C. 3796ll; Pub. L. 105-181, June 16, 1998.

The Bulletproof Vest Partnership Grant Act of 1998

The purpose of this Act is to save lives and prevent injury of law enforcement officers by helping State, local, and tribal law enforcement agencies provide officers with armor vests. The Act is based on Congress' observations that the number of law enforcement officers who are killed in the line of duty would significantly decrease if every law enforcement officer in the United States had the protection of an armor vest.

Law enforcement officers consist of officers, agents, or employees of State, units of local government, or Indian tribes, authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders. BJA considers law enforcement officers to include those officers, agents, or employees of State, units of local government, or Indian tribes, authorized by law or by a government agency to supervise pre-sentenced and non-sentenced detainees.

The Justice Department estimates approximately 150,000 law enforcement officers in the United States, or nearly 25 percent, are not issued body armor. Studies conducted between 1985 and 1994 point out that over 700 officers in the United States were feloniously killed in the line of duty while bullet-resistant materials helped save the lives of more than 2,000 officers. The Federal

Bureau of Investigation (FBI) has estimated that the risk of fatality to officers not wearing armor vests is 14 times higher than for officers wearing them.

The Executive Committee for Indian Country Law Enforcement Improvements reports that violent crime in Indian country has risen sharply, despite a decrease in the national crime rate, constituting a public safety crisis in Indian country. Moreover, during 1995, there were approximately 13,000 assaults on state correctional officers, and about 1,100 assaults on Federal correctional officers, nationwide. Of those assaults, 14 resulted in fatalities. *See Census of State and Federal Correctional Facilities, 1995*, Stephan, James J., U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, August 1997, NCJ-164266.

This Act provides grants of armor vests to States, units of local government, and Indian tribes as a preventive measure to better ensure their safety as these officers implement violent crime prevention initiatives across the United States.

Armor Vests

Armor vests have been defined as body armor that meets or exceeds the requirements of National Institute of Justice (NIJ) Standard 0101.03: Ballistic Resistance of Police Body Armor. Law enforcement fatality statistics compiled by the FBI annually suggest that a large percentage of officer fatalities may have been prevented if the officers had been wearing body armor. Based on this observation, this Act reinforces the message to law enforcement administrators that they should make every effort to encourage their officers to wear appropriate body armor throughout each duty shift. Although designed primarily to protect against handgun assault, soft body armor has prevented serious and potentially fatal injuries from traffic accidents (both automobile and motorcycle), from physical assault with improvised clubs, and, to some extent, from knives. To facilitate the acquisition of appropriate body armor, the National Law Enforcement and Corrections Technology Center (Center) of the National Institute of Justice (NIJ) has identified models of body armor that have been tested and found to meet the NIJ Standard.

The NIJ Standard

The Standard classifies body armor into six different threat levels which, in order from lowest to highest level of protection, are Type I, Type II-A, Type