

Dated: May 2, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 03-11650 Filed 5-8-03; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9048]

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

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

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains a correction to Treasury Decision 9048, which was published in the **Federal Register** on Friday, March 14, 2003 (68 FR 12287) that redetermines the basis of stock of a subsidiary member or a consolidated group immediately prior to certain transfers of such stock and certain deconsolidations of a subsidiary member.

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

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

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations that are the subject of this correction are under section 1502 of the Internal Revenue Code.

##### Need for Correction

As published, TD 9048 contains an error which may prove to be misleading and is in need of clarification.

##### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

##### Correction of Publication

■ Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendment:

#### 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 \* \* \*

#### § 1.1502-35T [Corrected]

■ **PAR. 2.** Section 1.1502-35T(b)(2)(ii)(B) is amended by removing the word “or” at the end of the paragraph.

**LaNita Van Dyke,**

*Acting Chief, Regulations Unit, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 03-11591 Filed 5-8-03; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 311

[Administrative Instruction 81]

#### Privacy Act; Implementation

**AGENCY:** Office of the Secretary of Defense, DoD.

**ACTION:** Final rule.

**SUMMARY:** The Office of the Secretary of Defense is exempting a system of records in its inventory of systems of records pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**EFFECTIVE DATE:** January 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dan Cragg at (703) 601-4722.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published on November 29, 2002, at 67 FR 71119-71120. One comment was received which has prompted a change in the final rule. The rule, as changed, is being adopted as final.

One public comment was received where the commenter expressed concern that the wording of the proposed rule appears to impute criminality to those individuals receiving background checks and appears to suspend the rights of those individuals interacting with the DoD. We disagree. As provided by law, the rule provides a basis for the Department to exempt specified records from certain provisions of the Privacy Act. It does not serve as a basis for making judgments regarding individuals on whom the Department conducts background checks. Neither does it act to suspend any rights the individual may be entitled to under DoD administered programs. The commenter observes that the rule is unnecessary and redundant. We disagree. The purpose of the rule is to preserve and protect the identity of a source who has been promised confidentiality in return for the information he or she is providing the Department. Because only a specific exemption can be claimed for the

records, the Department must establish the exemption in order to accomplish the desired objective. And finally, the commenter expresses the view that the scope of the rule is overly broad. We agree. The principal purpose of the claimed exemption is to protect the identity of a confidential source. We therefore have revised the rule so that the exemption is only being claimed for those provisions of the Act that are supportive of the overall purpose of the exemption.

#### Executive Order 12866, “Regulatory Planning and Review”

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive order.

#### Public Law 96-354, “Regulatory Flexibility Act” (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

#### Public Law 96-511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

#### Section 202, Public Law 104-4, “Unfunded Mandates Reform Act”

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more

and that such rulemaking will not significantly or uniquely affect small governments.

#### Executive Order 13132, "Federalism"

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

#### List of Subjects in 32 CFR Part 311

Privacy.

■ Accordingly, 32 CFR part 311 is amended to read as follows:

#### PART 311—OSD PRIVACY PROGRAM

■ 1. The authority citation for 32 CFR part 311 continues to read as follows:

**Authority:** Pub.L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

■ 2. Section 311.8, is amended by adding paragraph (c)(14) to read as follows:

#### § 311.8 Procedures for exemptions.

\* \* \* \* \*

(c) Specific exemptions. \* \* \*

(14) System identifier and name: DHRA 02, PERSEREC Research Files.

(i) Exemption: (A) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(B) Therefore, portions of this system may be exempt pursuant to 5 U.S.C. 552a(k)(5) from the following subsections of 5 U.S.C. 552a(c)(3), (d), and (e)(1).

(ii) Authority: 5 U.S.C. 552a(k)(5).

(iii) Reasons: (A) From subsection (c)(3) and (d) when access to accounting disclosures and access to or amendment of records would cause the identity of a confidential source to be revealed. Disclosure of the source's identity not only will result in the Department breaching the promise of confidentiality made to the source but it will impair the Department's future ability to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide

information considered essential to the Department in making the required determinations.

(B) From (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

Dated: April 28, 2003.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 03-11574 Filed 5-8-03; 8:45 am]

BILLING CODE 5001-08-P

#### DEPARTMENT OF DEFENSE

#### Department of the Air Force

#### 32 CFR Part 806b

[Air Force Instruction 37-132]

#### Privacy Act; Implementation

**AGENCY:** Department of the Air Force.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Air Force is adding an exemption rule for the system of records F031 DoD A, entitled "Joint Personnel Adjudication System". The Joint Personnel Adjudication System is used for personnel security management within DoD, and provides a common, comprehensive medium to record and document personnel security actions within the DoD.

**EFFECTIVE DATE:** January 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Anne Rollins at (703) 601-4043 or DSN 329-4043.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published on November 29, 2002, at 67 FR 71120. No comments were received, therefore, the rule, as changed, is being adopted as final.

The principal purpose of the claimed exemption is to protect the identity of a confidential source. Therefore the rule has been changed to eliminate those provisions for which an exemption had been claimed but which now have been determined as not being supportive of the overall purpose of the exemption.

#### Executive Order 12866, "Regulatory Planning and Review"

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

#### Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. Chapter 6)

It has been determined that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

#### Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

It has been determined that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

#### Section 202, Public Law 104-4, "Unfunded Mandates Reform Act"

It has been determined that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

#### Executive Order 13132, "Federalism"

It has been determined that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and