

**Comments Due Date**

(a) We must receive comments by October 5, 2009.

**Affected ADs**

(b) The proposed AD supersedes AD 2009-12-13, Amendment 39-15936.

**Applicability**

(c) This AD applies to Bombardier Model DHC-8-400, DHC-8-401, and DHC-8-402 airplanes, certificated in any category, serial numbers 4135 through 4149 inclusive.

**Subject**

(d) Air Transport Association (ATA) of America Code 27: Flight Controls.

**Reason**

(e) The mandatory continuing airworthiness information (MCAI) states: There has been one case reported of failure of a shaft (tailstock) on an elevator Power Control Unit (PCU), Part Number (P/N) 390600-1007. Continued actuation of the affected PCU caused damage to the surrounding structure. Subsequent investigation determined that the failure was the result of a material defect and that the shafts installed on a total of 88 suspect PCUs \* \* \* may contain a similar defect.

Each elevator surface has three PCUs, powered by separate independent hydraulic systems, and a single elevator PCU shaft failure may remain dormant. Such a dormant loss of redundancy, coupled with the potential for a failed shaft to produce collateral damage, including damage to hydraulic lines, could possibly affect the controllability of the aircraft.

This directive mandates an identification check for elevator PCU serial numbers, a daily check for correct operation of all suspect PCUs and, finally, replacement of all suspect PCUs.

**Restatement of Requirements of AD 2009-12-13, Without Optional Terminating Action**

(f) Unless already done, do the following actions.

(1) Within 30 days after June 26, 2009 (the effective date of AD 2009-12-13), inspect the serial number of each of the six installed elevator PCUs having P/N 390600-1007. If one or more of the six installed elevator PCUs, P/N 390600-1007, have any of the PCU serial numbers 238, 698, 783 through 788 inclusive, 790, 793, 795, 802, 806, 807, 810, 820 through 823 inclusive, 826 through 828 inclusive, 831, 835, 838, 840, 886 through 889 inclusive, or 898 through 955 inclusive; without a suffix "A" after the serial number: Within 30 days after June 26, 2009, perform a check for the correct operation of all installed elevator PCUs in accordance with the procedures detailed in Appendix A, B, or C of Bombardier Q400 All Operator Message 217B, dated April 26, 2007. Repeat the check thereafter before the first flight of each day until the replacement specified in paragraph (g) of this AD is done. The checks in Appendix A and B of Bombardier Q400 All Operator Message 217B, dated April 26, 2007, must be performed by the flight crew, while the check specified in Appendix C of the all operator

message must be performed by certificated maintenance personnel.

**Note 1:** Suffix "A" after the serial number indicates that the PCU has already passed a magnetic particle inspection and is cleared for continued use.

(2) If incorrect operation of any elevator PCU is found during any check required by paragraph (f)(1) of this AD, before further flight, replace the elevator PCU with a PCU, P/N 390600-1007, having a serial number not specified in paragraph (f)(1) of this AD; or with a PCU, P/N 390600-1007, having the suffix "A" after the serial number; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84-27-32, Revision A, dated January 18, 2008.

(3) Actions accomplished before June 26, 2009, according to Bombardier Service Bulletin 84-27-32, dated May 1, 2007, are considered acceptable for compliance with the corresponding action specified in this AD.

**New Requirements of This AD: Actions and Compliance**

(g) Unless already done, within 2,000 flight hours or 12 months after the effective date of this AD, whichever occurs later, replace all PCUs, P/N 390600-1007, having a serial number specified in paragraph (f)(1) of this AD, and not having suffix "A" after the serial number, with PCUs, P/N 390600-1007, having a serial number not specified in paragraph (f)(1) of this AD; or with PCUs, P/N 390600-1007, having the suffix "A" after the serial number; in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84-27-32, Revision A, dated January 18, 2008. This action terminates the requirements of paragraph (f)(1) of this AD.

**FAA AD Differences**

**Note 2:** This AD differs from the MCAI and/or service information as follows: No differences.

**Other FAA AD Provisions**

(h) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE-171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228-7318; fax (516) 794-5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they

are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

**Related Information**

(i) Refer to MCAI Canadian Airworthiness Directive CF-2009-16, dated April 20, 2009; Bombardier Service Bulletin 84-27-32, Revision A, dated January 18, 2008; and Bombardier Q400 All Operator Message 217B, dated April 26, 2007; for related information.

Issued in Renton, Washington, on August 26, 2009.

**Ali Bahrami,**

*Manager, Transport 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-139068-08]

RIN 1545-BI31

**Modification to Consolidated Return Regulation Permitting an Election To Treat a Liquidation of a Target, Followed by a Recontribution to a New Target, as a Cross-Chain Reorganization**

**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 IRS is issuing temporary regulations under section 1502 of the Internal Revenue Code (Code). The temporary regulations modify the election under which a consolidated group can avoid immediately taking into account an intercompany item after the liquidation of a target corporation. This modification was made necessary in light of the regulations under section 368 that were issued in October 2007 addressing transfers of assets or stock following a reorganization. The temporary regulations apply to corporations filing consolidated returns. The text of those temporary regulations also serves as the text of these proposed regulations.

**DATES:** Written comments and requests for a public hearing must be received by December 4, 2009.

**ADDRESSES:** Send submissions to CC:PA:LPD:PR (REG-139068-08), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG-139068-08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-139068-08).

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Mary W. Lyons, (202) 622-7930; concerning submission of comments and the hearing, Oluwafunmilayo (Funmi) Taylor, (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Paperwork Reduction Act**

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by December 4, 2009. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs of operation, maintenance, and

purchase of service to provide information.

The collection of information in this proposed regulation is in § 1.1502-13(f)(5)(ii)(E) as contained in 26 CFR part 1, revised April 1, 2009, and proposed § 1.1502-13(f)(5)(ii)(B)(2). This information is required by the IRS to allow certain parties to make an election to apply § 1.1502-13(f)(5)(ii)(B). The likely recordkeepers are corporations filing consolidated income tax returns. No additional burden is anticipated with respect to these proposed regulations over that already required in the regulations currently in effect (CO-11-91 Final and CO-24-95 Final).

*Estimated total annual reporting burden:* 100 hours.

*Estimated average annual burden hours per respondent:* 2 hours.

*Estimated number of respondents:* 50.

*Estimated annual frequency of responses:* Once.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Background**

The temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) under section 1502. The temporary regulations provide that if the election to apply § 1.1502-13(f)(5)(ii)(B) is made for a transaction in which old T liquidates into B on or after the effective date of the regulations under § 1.368-2(k), issued in October 2007, followed by B's transfer of substantially all of old T's assets to new T, then, for all Federal income tax purposes, old T's liquidation into B and B's transfer of substantially all of old T's assets to new T will be disregarded and, instead, the transaction will be treated as if old T transferred substantially all of its assets to new T in exchange for new T stock in a reorganization described in section 368(a). This election is available only if a direct transfer of the old T assets to new T would qualify as a reorganization. Thus, S's gain from the sale of the T stock to B is not taken into account upon the liquidation of T but

instead is taken into account with respect to the new T stock, the successor asset to the old T stock.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the reasons for the modifications to the final regulations contained in the temporary regulations.

**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 proposed 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 do not have a substantial economic impact because they merely provide for an election in the context of a taxpayer that has triggered deferred gain on subsidiary stock upon the liquidation of the subsidiary. Moreover, the regulations apply only to transactions involving consolidated groups which tend to be larger businesses. 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 Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. In addition to the specific requests for comments made elsewhere in this preamble or the preamble to the temporary regulations, 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 any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time and place of the hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these proposed regulations is Mary W. Lyons of the 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 \* \* \*  
Section 1.1502–13 also issued under 26 U.S.C. 1502 \* \* \*

**Par. 2.** Section 1.1502–13 is amended by revising paragraphs (f)(5)(ii)(B) and adding paragraph (f)(5)(ii)(F) to read as follows:

**§ 1.1502–13 Intercompany transactions.**

\* \* \* \* \*

(f) \* \* \*

(5) \* \* \*

(ii) \* \* \*

(B)(1) [The text of the proposed amendments to § 1.1502–13(B)(1) is the same as the text of § 1.1502–13T(B)(1) published elsewhere in this issue of the **Federal Register**.

(2) [The text of the proposed amendments to § 1.1502–13(B)(2) is the same as the text of § 1.1502–13T(B)(2) published elsewhere in this issue of the **Federal Register**.

\* \* \* \* \*

(F) [The text of the proposed amendments to § 1.1502–13(F) is the same as the text of § 1.1502–13T(F) published elsewhere in this issue of the **Federal Register**.

\* \* \* \* \*

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. E9–21323 Filed 9–3–09; 8:45 am]

**BILLING CODE 4830–01–P**

**DEPARTMENT OF LABOR****Employee Benefits Security Administration****29 CFR Part 2560**

**RIN 1210–AB31**

**Civil Penalties Under ERISA Section 502(c)(8)**

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Proposed regulation.

**SUMMARY:** This document contains a proposed regulation that, upon adoption, would establish procedures relating to the assessment of civil penalties by the Department of Labor under section 502(c)(8) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act). Under section 502(c)(8) of ERISA, which was added by the Pension Protection Act of 2006, the Secretary of Labor is granted authority to assess civil penalties not to exceed \$1,100 per day against any plan sponsor of a multiemployer plan for certain violations of section 305 of ERISA. The regulation would affect multiemployer plans that are in either endangered or critical status.

**DATES:** Written comments on the proposed regulation should be received by the Department of Labor no later than November 3, 2009.

**ADDRESSES:** You may submit comments, identified by RIN 1210–AB31, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:* [e-ORI@dol.gov](mailto:e-ORI@dol.gov). Include RIN 1210–AB31 in the subject line of the message.

- *Mail:* Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Civil Penalties Under 502(c)(8).

**Instructions:** All submissions received must include the agency name and Regulatory Information Number (RIN) for this rulemaking. Comments received will be posted without change to <http://www.regulations.gov> and <http://www.dol.gov/ebsa>, and made available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Washington, DC 20210, including any personal information provided. Persons submitting comments electronically are encouraged not to submit paper copies.

**FOR FURTHER INFORMATION CONTACT:** Michael Del Conte, Office of Regulations and Interpretations, Employee Benefits Security Administration, (202) 693–8500. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:****A. Background**

Section 202 and section 212 of the Pension Protection Act of 2006 (PPA), Public Law 109–280, respectively, amended ERISA by adding section 305 and amended the Internal Revenue Code (Code) by adding section 432, to provide additional rules for multiemployer defined benefit pension plans in endangered status or critical status. All references in this document to section 305 of ERISA should be read to include section 432 of the Code.<sup>1</sup>

In general, section 305(b)(3)(A) of ERISA provides that not later than the 90th day of each plan year, the actuary of a multiemployer defined benefit pension plan shall certify to the Secretary of the Treasury and to the plan sponsor—(i) Whether or not the plan is in endangered status for such plan year and whether or not the plan is or will be in critical status for such plan year, and (ii) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan.

Section 305(b)(3)(D)(i) of ERISA provides that, in any case in which it is certified under section 305(b)(3)(A) that a multiemployer plan is or will be in endangered or critical status for a plan year, the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the endangered or critical status to participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, and the Secretary of Labor.<sup>2</sup>

Section 305(c)(1)(A) and section 305(e)(1)(A) provide that in the first year that a plan is certified to be in endangered or critical status, the plan sponsor generally has a 240-day period

<sup>1</sup> Pursuant to Reorganization Plan No. 4 of 1978, 43 FR 47713 (Oct. 17, 1978), the Department of the Treasury has interpretive authority over the minimum funding rules of Title I of ERISA, including section 305 of ERISA.

<sup>2</sup> Pursuant to section 305(b)(3)(D)(iii) of ERISA, the Department of Labor issued proposed 29 CFR 2540.305–1, which includes a model notice for plans in critical status. *See* 73 FR 15688 (Mar. 25, 2008). However, section 102(b)(1)(C) of the Worker, Retiree, and Employer Recovery Act of 2008, Public Law 110–458, signed into law on December 23, 2008, transferred the Secretary of Labor's obligation to prescribe a model notice to the Secretary of the Treasury, in consultation with the Secretary of Labor.