ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final regulations (TD 9475) that were published in the **Federal Register** on Friday, December 18, 2009 (74 FR 67053) providing guidance regarding the qualification of certain transactions as reorganizations described in section 368(a)(1)(D) where no stock and/or securities of the acquiring corporation is issued and distributed in the transaction.

DATES: This correction is effective on January 20, 2010, and is applicable on December 18, 2009.

FOR FURTHER INFORMATION CONTACT: Bruce A. Decker, (202) 622–7790 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9475) that are the subject of this document are under sections 358, 368 and 1502 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9475) contain an error that 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 * * *

■ **Par. 2.** Section 1.368–2 is amended by revising paragraph (l)(2)(iv) to read as follows:.

§ 1.368–2 Definition of terms.

* * * * *

(l) * * *

(2) * * *

(iv) *Exception.* Paragraph (l)(2) of this section does not apply to a transaction otherwise described in § 1.358–6(b)(2).

* * * * *

Guy R. Traynor,

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

[FR Doc. 2010–866 Filed 1–19–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9475]

RIN 1545–BF83

Corporate Reorganizations; Distributions Under Sections 368(a)(1)(D) and 354(b)(1)(B); Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (TD 9475) that were published in the **Federal Register** on Friday, December 18, 2009 (74 FR 67053) providing guidance regarding the qualification of certain transactions as reorganizations described in section 368(a)(1)(D) where no stock and/or securities of the acquiring corporation is issued and distributed in the transaction.

DATES: This correction is effective on January 20, 2010, and is applicable on December 18, 2009.

FOR FURTHER INFORMATION CONTACT: Bruce A. Decker, (202) 622–7790 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9475) that are the subject of this document are under sections 358, 368 and 1502 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9475) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 9475), which were the subject of FR Doc. E9–30170, is corrected as follows:

1. On page 67054, column 1, in the preamble, under the paragraph heading "Background", line 12 from the bottom of the column, the language "transaction if the same persons or" is removed and replaced with the language "transaction if the same person or" in its place.

2. On page 67055, column 2, in the preamble, under the paragraph heading "Issuance of Nominal Share", line 9 from the bottom of the third paragraph of the column, the language "the rule that if the same persons or" is removed and replaced with the language "the rule that if the same person or" in its place.

Guy R. Traynor,

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

[FR Doc. 2010–869 Filed 1–19–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 555

[Docket No. ATF 15F; AG Order No. 3133–2010]

RIN 1140–AA30

Commerce in Explosives—Storage of Shock Tube With Detonators (2005R–3P)

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending the regulations of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) by allowing shock tube to be stored with detonators because these materials when stored together do not pose a mass detonation hazard. Shock tube is a small diameter plastic laminate tube coated with a very thin layer of explosive material. When initiated, it transmits a low energy wave from one point to another. The outer surface of the tube remains intact during and after functioning.

DATES: This rule is effective March 22, 2010.

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Avenue, NE., Washington, DC 20226; telephone: (202) 648–7094.

SUPPLEMENTARY INFORMATION:

I. Background

ATF is responsible for implementing Title XI, Regulation of Explosives (18 United States Code (U.S.C.) chapter 40), of the Organized Crime Control Act of 1970. One of the stated purposes of the Act is to reduce the hazards to persons and property arising from misuse and unsafe or insecure storage of explosive materials. Under section 847 of title 18, U.S.C., the Attorney General "may prescribe such rules and regulations as

he deems reasonably necessary to carry out the provisions of this chapter." Regulations that implement the provisions of chapter 40 are contained in title 27, Code of Federal Regulations (CFR), part 555 ("Commerce in Explosives").

II. Notice of Proposed Rulemaking

On January 29, 2003, ATF published in the **Federal Register** a notice of proposed rulemaking (NPRM) soliciting comments from the public and industry on a number of proposals to amend the regulations in part 555 (Notice No. 968, 68 FR 4406).[1] ATF issued the NPRM, in part, pursuant to the Regulatory Flexibility Act (RFA), which requires an agency to review, within ten years of publication, rules for which an agency prepared a final regulatory flexibility analysis addressing the impact of the rule on small businesses or other small entities. Notice No. 968 proposed amendments to the regulations that were initiated by ATF and amendments proposed by members of the explosives industry. In particular, ATF proposed to amend the regulations regarding the storage of shock tube. In general, § 555.213(b) provides that detonators are not to be stored in the same magazine with other explosive materials. However, in a type 4 magazine, detonators that will not mass detonate may be stored with electric squibs, safety fuse, igniters, and igniter cord. ATF proposed to amend § 555.213(b) to allow shock tube to be stored in a type 4 storage magazine with detonators that will not mass detonate because these materials when stored together do not pose a mass detonation hazard.

The comment period for Notice No. 968, initially scheduled to close on April 29, 2003, was extended until July 7, 2003, pursuant to ATF Notice No. 2 (68 FR 37109, June 23, 2003). ATF received approximately 1,640 comments in response to Notice No. 968. This final rule addresses only one of the subjects included in Notice No. 968, the proposal regarding the storage of shock tube. The remaining proposals made in Notice No. 968 may be addressed separately.

III. Analysis of Comments and Decision

Sixty-one (61) comments addressed ATF's proposal to allow shock tube to be stored in a type 4 storage magazine with detonators that will not mass detonate. One commenter objected to all the proposed amendments in Notice No. 968 and expressed specific concerns with respect to certain proposals. However, the commenter did not specifically address ATF's proposal relating to the storage of shock tube.

Fifty-six (56) commenters offered general support for ATF's proposal, while four commenters expressed specific support for the proposed amendment.

As stated in its comment, the Institute of Makers of Explosives (IME) represents United States manufacturers of explosives, as well as other companies that distribute explosives or provide related services. According to IME, over 2.5 million metric tons of explosives are used annually in the United States, of which IME member companies produce over 95 percent, which have an estimated value in excess of $1 billion annually. IME supported the proposed amendment, stating that it has made several requests to allow shock tube to be stored with detonators, and highlighting the fact that shock tube manufactured with a detonator attached is currently permitted to be stored with detonators.

The Colorado Division of Oil and Public Safety, which is the State of Colorado's regulatory enforcement authority for the manufacturing, sale, transportation, storage, and use of commercial explosives in non-mining related operations, supported the proposed amendment and stated it was "long overdue."

The Alliance of Special Effects & Pyrotechnic Operators, Inc., an organization of special effects professionals who work in motion pictures, television, and on stage, also expressed support for the proposed amendment, characterizing it as "reasonable in view of the nature of shock tubing."

A federally licensed explosives dealer specifically supported the proposed amendment and asserted that it does not pose a safety risk.

Accordingly, this final rule adopts without change the proposed amendment with respect to shock tube.

How This Document Complies With the Federal Administrative Requirements for Rulemaking

A. Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review section 1(b). The Department of Justice has determined that this rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and accordingly this rule has not been reviewed by the Office of Management and Budget. This rule will not have an annual effect on the economy of $100 million, nor will it adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health, public safety, or State, local, or tribal governments or communities. Accordingly, this rule is not an "economically significant" rulemaking as defined by Executive Order 12866.

Further, the Department has assessed both the costs and benefits of this rule as required by Executive Order 12866, section 1(b)(6), and has made a reasoned determination that there will be no financial costs incurred by explosives industry members associated with this final rule. Comments received in response to the notice of proposed rulemaking did not indicate any concern regarding the financial impact of the implementation of this aspect of the proposed rule. The Department believes any financial impact will benefit the explosives industry by reducing the number of explosives magazines used exclusively to store shock tube. The final rule will provide explosives industry members with the option to consolidate detonators and shock tube into fewer explosive storage magazines, therefore alleviating the additional cost of maintaining separate magazines for each explosive product. ATF estimates the average cost for a new type 4 magazine (4 feet x 4 feet x 4 feet) at $3,000. Not only will the final rule reduce the overall cost incurred by industry members because of the requirement to maintain fewer magazines, but explosives industry members will increase savings by decreasing the number of employee-hours spent maintaining magazines that are used solely for the storage of shock tube.

According to the most recent information from the U.S. Bureau of Labor Statistics, explosives workers, ordnance handling experts, and blasters make an average hourly wage of $20.68. ATF estimates that an average of ½ hour per week is spent maintaining each separate magazine. Magazine maintenance includes but is not limited to security, housekeeping, and repairs. ATF estimates that explosives industry members eliminating one magazine will incur an annual yearly savings of approximately $500.

Many non-electric detonators are currently manufactured with shock tube attached as an integral part of the initiation system. ATF has determined that non-mass detonating detonators that are affixed with shock tube as an integral part of the initiation system can be stored in a type 4 magazine, as long

[1] The regulations previously codified in 27 CFR part 55 were designated as part 555 in 2003 in connection with the transfer of ATF to the Department of Justice.

as the explosives remain in a non-mass detonating packaged configuration. This final rule will provide consistency to the enforcement of federal law by allowing individuals or companies to store shock tube with non-mass detonating detonators regardless of whether they were integrated during the manufacturing process. Additionally, ATF has consistently approved variance requests from explosives industry members for the storage of shock tube with non-mass detonating detonators in a type 4 magazine because it does not pose a mass detonation hazard.

Until ATF implements this final rule relating to shock tube, explosives industry members will continue to incur unnecessary costs by not being able to utilize all available storage space in each explosives storage magazine and having to maintain additional magazines. Further, this final rule will alleviate these unnecessary burdens on individuals or businesses wishing to establish new explosives companies. ATF believes this final rule will provide current and future explosives industry members with greater flexibility in their explosives storage operations without mandating costly changes in their current or proposed operating procedures.

B. Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Attorney General has determined that this regulation does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

C. Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 605(b)) requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. The Attorney General has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Individuals or companies storing shock tube will not be affected adversely by this final rule because it allows these entities to voluntarily make modifications to their current explosive operations. There will be no mandated changes as a result of this final rule. Therefore, any costs associated with the implementation of the final rule will be incurred at the discretion of each individual explosives industry member.

Since 2004, there have been 24 instances in which explosives industry members were storing shock tube in the same magazine with detonators, which is currently a violation of the federal explosives regulations. Those 24 instances involved a total of approximately 470,650 feet of shock tube. Twenty of the 24 instances involved companies that ATF would classify as small- or medium-sized businesses. In each instance, the explosives industry member was required to utilize employee-hours to move the shock tube into another magazine. Of these 20 small- or medium-sized companies, 4 were required to attend a warning conference with ATF officials and 6 received an ATF recall inspection, in part because of the violation received for the improper storage of shock tube with detonators. Each industry member was required to dedicate company resources, including employee work hours, to attend the required meetings or be present during another ATF inspection.

As mentioned earlier in the preamble, the most recent information from the U.S. Bureau of Labor Statistics, explosives workers, ordnance handling experts, and blasters make an average hourly wage of $20.68. The final rule will eliminate the need for small- or medium-sized entities to utilize employee hours during warning conferences and recall inspections that are initiated as a result of these industry members storing shock tube and detonators in the same magazine.

Until ATF implements this final rule with respect to shock tube, explosives industry members, including small-sized explosives companies, will continue to incur costs associated with the unnecessary movement and separate storage requirements of shock tube due to current explosive regulations. Further, implementation of this final rule will alleviate these unnecessary burdens on individuals or businesses wishing to establish new explosives companies, some of which will be small entities. ATF believes this final rule will provide current and future explosives industry members with greater flexibility in their explosives storage operations without mandating costly changes in their current or proposed operating procedures.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

F. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

G. Paperwork Reduction Act

This final rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

Disclosure

Copies of the notice of proposed rulemaking, all comments received in response to the NPRM, and this final rule will be available for public inspection by appointment during normal business hours at: ATF Reading Room, Room 1E–063, 99 New York Avenue, NE., Washington, DC 20226; telephone: (202) 648–7080.

Drafting Information

The author of this document is James P. Ficaretta; Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives.

List of Subjects in 27 CFR Part 555

Administrative practice and procedure, Authority delegations, Customs duties and inspection, Explosives, Hazardous materials, Imports, Penalties, Reporting and recordkeeping requirements, Safety, Security measures, Seizures and

forfeitures, Transportation, and Warehouses.

Authority and Issuance

■ Accordingly, for the reasons discussed in the preamble, 27 CFR Part 555 is amended as follows:

PART 555—COMMERCE IN EXPLOSIVES

■ 1. The authority citation for 27 CFR Part 555 continues to read as follows:

Authority: 18 U.S.C. 847.

§ 555.213 [Amended]

■ 2. Section 555.213 is amended by adding "shock tube," after "safety fuse," in paragraph (b)(1).

Dated: January 13, 2010.

Eric H. Holder, Jr.,

Attorney General.

[FR Doc. 2010–891 Filed 1–19–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AN13

Vocational Rehabilitation and Employment Program—Basic Entitlement; Effective Date of Induction Into a Rehabilitation Program; Cooperation in Initial Evaluation

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Vocational Rehabilitation and Employment Program regulations of the Department of Veterans Affairs (VA). Specifically, it amends provisions concerning: Individuals' basic entitlement to vocational rehabilitation benefits and services; effective dates of induction into a rehabilitation program, including retroactive induction; and individuals' cooperation and lack of cooperation in the initial evaluation process. The amendments are intended to update pertinent regulations to reflect changes in law, to provide VA's interpretation of applicable law, and to improve clarity.

DATES: *Effective Date:* This final rule is effective February 19, 2010.

Applicability Dates: Except as noted in the Supplementary Information section, the provisions of this final rule apply to claims pending on February 19, 2010.

FOR FURTHER INFORMATION CONTACT: Alvin Bauman, Senior Policy Analyst, Vocational Rehabilitation and Employment Service (28), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 461–9613.

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on May 8, 2009 (74 FR 21565), we proposed to amend VA's vocational rehabilitation and employment regulations. We provided a 60-day comment period for the proposed rule that ended on July 7, 2009. We received no comments.

In 38 CFR part 21, Subpart A—Vocational Rehabilitation Under 38 U.S.C. Chapter 31, we are revising § 21.40 concerning basic entitlement to vocational rehabilitation benefits and services; § 21.282 concerning effective dates of induction into a rehabilitation program; and § 21.50(d) concerning cooperation and lack of cooperation in the initial evaluation process. VA previously addressed and implemented changes to services provided under 38 U.S.C. chapter 31, which resulted from a court decision and the enactment of Public Law 104–275, the Veterans Benefits Improvement Act of 1996. This included VA's issuance of Circular 28–97–1 in 1997 (last revised in October 2004) to provide guidance regarding the implementation of these changes. This final rule will update 38 CFR part 21 consistent with current practice. In addition, the final rule will make other non-substantive changes.

Basic Entitlement to Vocational Rehabilitation Benefits and Services

We are revising § 21.40 to include criteria, effective October 1, 1993, for vocational rehabilitation basic entitlement determinations resulting from the Veterans' Benefits Act of 1992 (Pub. L. 102–568), enacted October 29, 1992. Public Law 102–568 amended 38 U.S.C. 3102(2) to entitle veterans to vocational rehabilitation if they have a 10 percent service-connected disability and are determined by the Secretary of Veterans Affairs to be in need of rehabilitation due to a serious employment handicap. Further, the changes to § 21.40 are intended to reflect the provisions of section 602(c) of the Veterans Benefits Improvement Act of 1994 (Pub. L. 103–446), which amended section 404(b) of Public Law 102–568 with a technical correction, effective October 29, 1992. This rule prescribes basic entitlement to vocational rehabilitation if they have a 10 percent service-connected disability, they originally applied for assistance under 38 U.S.C. chapter 31 before November 1, 1990, and VA determines they need rehabilitation because of an employment handicap.

Effective Dates of Induction Into a Rehabilitation Program, Including Retroactive Induction

In § 21.282, we address the decision of the United States Court of Appeals for Veterans Claims (then the United States Court of Veterans Appeals) in *Bernier* v. *Brown,* 7 Vet. App. 434 (1995), concerning effective dates for retroactive induction into a program of rehabilitation benefits and services. The *Bernier* decision set aside two provisions of current § 21.282 that limited retroactive induction into programs of rehabilitation benefits and services under 38 U.S.C. chapter 31. Under revised § 21.282, VA will be able to retroactively approve a period of training that occurred within an individual's period of eligibility under 38 CFR 21.41 through 21.46, beginning on the effective date of entitlement to disability compensation, provided that the individual met the criteria for entitlement to chapter 31 benefits and services for that period. VA must determine that the training and other rehabilitative services that the individual received during the period of retroactive induction were reasonably needed to achieve the planned goals and objectives identified for that individual. If the individual received other VA-administered education benefits during any portion of that period, VA must offset the previous education benefits received against the payment of chapter 31 vocational rehabilitation benefits for the same period.

We are revising § 21.282(b) and (c) to clarify when an individual on active duty can qualify for retroactive induction and when the conditions for retroactive induction may apply to both veterans and servicemembers. For servicemembers, the period of retroactive induction must be within a period under § 21.40(c) during which a servicemember was awaiting discharge for disability. In § 21.282(b), we are clarifying that if an individual is retroactively inducted into a rehabilitation program, VA may authorize payment of tuition, fees, and other verifiable expenses that an individual paid or incurred consistent with the approved rehabilitation program. Section 21.282(b) will also authorize VA payment of subsistence allowance for the period of retroactive induction, except for any period during which the individual was on active duty. We are amending § 21.282(c) to comply with pertinent statutory authorities by stating the conditions that must be met before an individual may