

- (6) The country of origin of the merchandise;
- (7) The name and address of the exporter; and
- (8) The name and address of the importer.

(e) *Samples made available to the owner of the mark after seizure.* At any time following a seizure of merchandise bearing a counterfeit mark under this section, CBP may provide a sample and its retail packaging, in its condition as presented for examination, to the owner of the mark for examination, testing, or other use in pursuit of a related private civil remedy for trademark infringement. To obtain a sample under this paragraph, the owner of the mark must furnish CBP a bond in the form and amount specified by the port director, conditioned to hold the United States, its officers and employees, and the importer or owner of the imported article harmless from any loss or damage to the sample resulting from the furnishing of a sample by CBP to the owner of the mark. CBP may demand the return of the sample at any time. The owner of the mark must return the sample to CBP upon demand or at the conclusion of the examination, testing, or other use in pursuit of a related private civil remedy for infringement. In the event that the sample is damaged, destroyed, or lost while in the possession of the owner of the mark, the owner must, in lieu of return of the sample, certify to CBP that: "The sample described as [insert description] and provided pursuant to 19 CFR 133.21(e) was (damaged/destroyed/lost) during examination, testing, or other use."

(f) *Consent of the mark owner; failure to make appropriate disposition.* The owner of the mark, within thirty days from notification of seizure, may provide written consent to the importer allowing the importation of the seized merchandise in its condition as imported or its exportation, entry after obliteration of the mark, or other appropriate disposition. Otherwise, the merchandise will be disposed of in accordance with § 133.52 of this part, subject to the importer's right to petition for relief from forfeiture under the provisions of part 171 of this chapter.

#### § 133.22 [Amended]

- 4. Section 133.22(f), first sentence, is amended by removing the words "within the 30-day period of detention" and adding in their place the words "within the period of detention as provided in § 133.25 of this subpart".

#### § 133.23 [Amended]

- 5. Section 133.23(f), first sentence, is amended by removing the words

"within the 30-day period of detention" and adding in their place the words "within the period of detention as provided in § 133.25 of this subpart".

#### § 133.26 [Amended]

- 6. Section 133.26 is amended by removing from the first sentence the words "subject to the restrictions of § 133.22 or § 133.23 of this subpart" and adding in their place the words "subject to the restrictions of § 133.21, § 133.22 or § 133.23 of this subpart".

### PART 151—EXAMINATION, SAMPLING AND TESTING OF MERCHANDISE

- 7. The general authority citation for part 151 continues to read as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i) and (j), Harmonized Tariff Schedule of the United States (HTSUS), 1624;

\* \* \* \* \*

- 8. Section 151.16(a) is revised to read as follows:

#### § 151.16 Detention of merchandise.

(a) *Exemptions from applicability.* The provisions of this section are not applicable to detentions effected by CBP on behalf of other agencies of the U.S. Government in whom the determination of admissibility is vested and to detentions arising from possibly piratical copies (see part 133, subpart E, of this Chapter), imports of articles bearing counterfeit marks or suspected counterfeit marks, goods bearing marks which are confusingly similar to recorded trademarks, or restricted gray market merchandise (see part 133, subpart C, of this chapter.)

\* \* \* \* \*

**David V. Aguilar,**

*Acting Commissioner, U.S. Customs and Border Protection.*

Approved: April 18, 2012.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*  
[FR Doc. 2012-9762 Filed 4-23-12; 8:45 am]

**BILLING CODE 9111-14-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9585]

RIN 1545-BI41

#### Treatment of Gain Recognized With Respect to Stock in Certain Foreign Corporations Upon Distributions

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

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations relating to the characterization of gain recognized with respect to stock in certain foreign corporations upon distributions. The regulations finalize proposed regulations and remove temporary regulations that characterize gain recognized with respect to stock in foreign corporations upon distributions as a deemed dividend in certain situations. The regulations affect certain persons that recognize gain with respect to stock in connection with the receipt of a distribution of property from a foreign corporation.

**DATES:** *Effective Date:* These regulations are effective on April 24, 2012.

*Applicability Date:* These regulations apply to distributions occurring on or after February 10, 2009.

**FOR FURTHER INFORMATION CONTACT:** Ryan A. Bowen, (202) 622-3860 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 11, 2009, the IRS and the Department of the Treasury (the Treasury Department) published temporary and proposed regulations in the **Federal Register** (REG-147636-08, 74 FR 6824; TD 9444, 2009-1 CB 603) (the temporary or proposed regulations, as applicable, and collectively, the 2009 regulations). The 2009 regulations, in part, provide that for purposes of section 1248(a), gain recognized under section 301(c)(3) in connection with the receipt of a distribution of property from a foreign corporation with respect to its stock shall be treated as gain from the sale or exchange of the stock of such foreign corporation (2009 section 1248 regulations).

The 2009 regulations also addressed the application of section 367 to certain related party stock transactions that are recharacterized under section 304. As described in Notice 2012-15 (2012-9 IRB 495 (February 27, 2012)) (see § 601.601(d)(2)(ii)(b) of this chapter), the IRS and the Treasury Department intend to amend the regulations under section 367 to provide that the section 351 exchange that is deemed to occur in a section 304 transaction is subject to section 367(a) and (b), as applicable. Accordingly, this Treasury decision does not finalize the portions of the 2009 regulations that address the interaction of sections 304 and 367. Those portions of the 2009 regulations will be withdrawn in separate published guidance (REG-104400-12).

No public hearing on the 2009 section 1248 regulations was requested or held and no written comments were received. This Treasury decision adopts the 2009 section 1248 regulations, with one modification to remove a deadwood provision, as final regulations under section 1248(a). This Treasury decision also removes the temporary regulations under section 1248(a).

### Explanation of Provisions

The final regulations provide that gain recognized under section 301(c)(3) on the receipt of a distribution of property from a foreign corporation with respect to its stock shall be treated for purposes of section 1248(a) as gain from the sale or exchange of the stock of such corporation. For purposes of section 1248(a), a sale or exchange also includes a distribution that gives rise to gain with respect to stock under section 302(a) or 331(a). The final regulations ensure that the earnings and profits of lower-tier foreign subsidiaries described in section 1248(c)(2) are taken into account when gain is recognized with respect to stock of a controlled foreign corporation.

The 2009 section 1248 regulations incorporated a provision from the prior final regulations under section 1248 providing that section 1248(a) applies to gain recognized with respect to stock under section 331(a)(2) by reason of a partial liquidation of a corporation. The final regulations remove the reference to partial liquidations under section 331(a)(2) in order to reflect amendments made in 1982 by the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97–248, 96 Stat. 324 (1982)), which repealed section 331(a)(2) and provided new rules regarding redemptions in partial liquidation under section 302. See section 302(b)(4) and (e).

### 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 also has been determined that 5 U.S.C. 553(b) and (d) do not apply to these regulations. Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. These regulations primarily will affect large domestic corporations. Thus, the number of affected small entities will not be substantial. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the

Small Business Administration for comments on its impact on small business.

### Drafting Information

The principal author of these regulations is Ryan A. Bowen 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 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 as follows:

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

■ **Par. 2.** Section 1.1248–1 is amended by:

- 1. Revising paragraphs (b) and (g)(2).
- 2. Removing paragraph (h).

The revisions read as follows.

#### **§ 1.1248–1 Treatment of gain from certain sales or exchanges of stock in certain foreign corporations.**

\* \* \* \* \*

(b) *Sale or exchange.* For purposes of section 1248(a), the term sale or exchange includes the receipt of a distribution which is treated as in exchange for stock under section 302(a) (relating to distributions in redemption of stock) or section 331(a) (relating to distributions in complete liquidation of a corporation). For purposes of section 1248(a), gain recognized by a shareholder under section 301(c)(3) in connection with a distribution of property by a corporation with respect to its stock shall be treated as gain from the sale or exchange of stock of such corporation.

\* \* \* \* \*

(g) \* \* \*

(2) Paragraph (b) of this section applies to distributions that occur on or after February 10, 2009.

### **§ 1.1248–1T [Removed]**

■ **Par. 3.** Section 1.1248–1T is removed.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

Approved: April 13, 2012.

**Emily S. McMahon,**

*Acting Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2012–9760 Filed 4–23–12; 8:45 am]

**BILLING CODE 4830–01–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 165**

[Docket No. USCG–2011–1159]

**RIN 1625–AA87**

### **Security Zone; Passenger Vessel SAFARI EXPLORER Arrival/Departure, Kaunakakai Harbor, Molokai, HI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary interim rule; reopening of comment period.

**SUMMARY:** The Coast Guard is reopening the comment period for the temporary interim rule that established a temporary security zone for Kaunakakai Harbor, including the entrance channel and offshore area adjacent to the channel's entrance during the arrival and departure of the Passenger Vessel Safari Explorer in Kaunakakai Harbor, Molokai, Hawaii. The effective period for this temporary security zone began on January 19, 2012 and ends on May 15, 2012. The Coast Guard held informal public meetings regarding the interim rule. Following the public meetings, the Coast Guard prepared a written synopsis of the public comments received at the public meetings. This synopsis may be viewed at <http://www.regulations.gov> under docket number USCG–2011–1159. During this additional comment period, the Coast Guard invites comments on how the temporary interim rule can be improved.

**DATES:** The Coast Guard will consider all comments that we receive on or before May 7, 2012.

**ADDRESSES:** You may submit written comments identified by docket number USCG–2011–1159 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground