

instrument panel within the pilot's clear view: "AEROBATIC FLIGHT PROHIBITED."

(2) Before the next aerobatic flight after the effective date of this AD, do a canopy jettison test following Grob Aircraft AG Service Bulletin No. MSB1078-164, dated July 21, 2009.

(3) If the canopy jettison fails the test required in paragraph (f)(2) of this AD, before further aerobatic flight:

(i) Contact Grob Aircraft AG, Customer Service, 86874 Tussenhausen-Mattsies, Germany, telephone: + 49 (0) 8268-998-105; fax: + 49 (0) 8268-998-200; email: [productsupport@grob-aircraft.com](mailto:productsupport@grob-aircraft.com), for an FAA-approved repair scheme and incorporate the repair scheme; or

(ii) Replace the canopy handle following Grob Aircraft AG Service Bulletin No. MSB1078-164, dated July 21, 2009.

(4) Within 7 days after doing the canopy jettison test required in paragraph (f)(2) of this AD or within 7 days after the effective date of this AD, whichever occurs later, submit a report of the test results using Appendix 1 of Grob Aircraft AG Service Bulletin No. MSB1078-164, dated July 21, 2009, to Grob Aircraft AG at the address specified in paragraph (f)(3)(i) of this AD.

(5) After the corrective actions specified in paragraphs (f)(3)(i) or (f)(3)(ii) are done or if the canopy jettison passed the test required in paragraph (f)(2) of this AD, before further flight, remove the placard that was installed in accordance with paragraph (f)(1) of this AD.

#### FAA AD Differences

**Note:** This AD differs from the MCAI and/or service information as follows: The MCAI does not have a placard requirement. To eliminate any confusion and to ensure pilot awareness of the unsafe condition, we added a temporary placard requirement to this AD.

#### Other FAA AD Provisions

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, 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: Greg Davison, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4130; fax: (816) 329-4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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 (44 U.S.C. 3501 *et seq.*), the Office of

Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

#### Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2009-0279, dated December 23, 2009; and Grob Aircraft AG Service Bulletin No. MSB1078-164, dated July 21, 2009, for related information.

Issued in Kansas City, Missouri, on May 27, 2010.

**Steven W. Thompson,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-106750-10]

RIN 1545-BJ30

#### Modifications of Debt Instruments

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

**ACTION:** Notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains proposed regulations relating to the modification of debt instruments. The regulations clarify the extent to which the deterioration in the financial condition of the issuer is taken into account to determine whether a modified debt instrument will be recharacterized as an instrument or property right that is not debt. The regulations provide needed guidance to issuers and holders of debt instruments. This document also provides notice of a public hearing on these proposed regulations.

**DATES:** Written or electronic comments must be received by August 3, 2010. Outlines of topics to be discussed at the public hearing scheduled for Wednesday, September 8, 2010, at 10 a.m. must be received by Wednesday, August 11, 2010.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG-106750-10), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-106750-10), 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 and REG-106750-10).

#### FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations, Diana Imholtz, at (202) 622-3930; concerning submission of comments, the hearing, and/or to be placed on the building access list to attend the hearing, *Richard.A.Hurst@irscounsel.treas.gov*, at (202) 622-7180 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 1.1001-3 provides rules for determining when a modification of a debt instrument results in an exchange for purposes of § 1.1001-1(a). In general, § 1.1001-3 defines a modification and provides that a modification that is significant results in a deemed exchange of the original debt instrument for a modified debt instrument. Section 1.1001-3 also addresses alterations to the terms of a debt instrument that result in a modified instrument that is not debt. Section 1.1001-3(c)(2)(ii) generally provides that a modification to a debt instrument occurs if an alteration changes the instrument to an instrument or property right that is not debt for Federal income tax purposes, even if the alteration occurs by operation of the original terms of the debt instrument. Section 1.1001-3(e)(5)(i) generally provides that a modification of a debt instrument that results in an instrument or property right that is not debt for Federal income tax purposes is a significant modification. For purposes of making the determination prescribed by § 1.1001-3(e)(5)(i), the regulations state that any deterioration in the financial condition of the issuer between the issue date of the unmodified debt instrument and the date of modification (as it relates to the issuer's obligation to repay the debt instrument) is not taken into account, unless there is a substitution of a new obligor or the addition or deletion of a co-obligor.

In response to the proposed regulations published on December 2, 1992 (57 FR 57034), taxpayers were concerned that taking into account the creditworthiness of a financially troubled issuer when a debt instrument is modified would impose a significant barrier to restructuring distressed debt instruments. The rule in § 1.1001-3(e)(5)(i) to disregard the financial condition of the issuer was intended to address this concern. The preamble to the existing regulations published on

September 24, 1996 (TD 8675; 61 FR 32926) explains that “for purposes of this regulation, unless there is a substitution of a new obligor, any deterioration in the financial condition of the issuer is not considered in determining whether the modified instrument is properly characterized as debt.”

The language in the preamble to the existing regulations suggests that for all purposes of § 1.1001–3 the financial deterioration of the issuer is generally not taken into account. Issuers and holders, however, are concerned that, as the existing regulations are currently drafted, a decline in the creditworthiness of the issuer, under certain circumstances, may be taken into account under § 1.1001–3. The uncertainty about the proper interpretation of the existing regulations has led taxpayers to request clarification on the circumstances in which the credit quality of the issuer should be considered in determining the nature of the instrument resulting from an alteration or modification of a debt instrument. Accordingly, the IRS and the Treasury Department believe it is appropriate to propose amendments to § 1.1001–3 to clarify this issue.

#### Explanation of Provisions

In general, the proposed regulations require an analysis of all of the factors relevant to a debt determination of the modified instrument at the time of an alteration or modification. However, in making this determination for purposes of the regulation, any deterioration in the financial condition of the issuer between the issue date of the debt instrument and the date of the alteration or modification (as it relates to the issuer's ability to repay the debt instrument) is not taken into account, unless there is a substitution of a new obligor or the addition or deletion of a co-obligor.

As noted in this preamble, the proposed regulations clarify that any deterioration in the financial condition of the issuer is generally not taken into account to determine if the modified instrument is debt. For example, under the proposed regulations, any decrease in the fair market value of a debt instrument (whether or not publicly traded) between the issue date of the debt instrument and the date of the alteration or modification is not taken into account to the extent that the decrease in fair market value is attributable to the deterioration in the financial condition of the issuer and not to a modification of the terms of the instrument. Consistent with this rule in the proposed regulations, if a debt

instrument is significantly modified and the issue price of the modified debt instrument is determined under § 1.1273–2(b) or (c) (relating to a fair market value issue price for publicly traded debt), then any increased yield on the modified debt instrument attributable to this issue price generally is not taken into account to determine whether the modified debt instrument is debt or some other property right for Federal income tax purposes. However, any portion of the increased yield that is not attributable to a deterioration in the financial condition of the issuer, such as a change in market interest rates, is taken into account.

#### Proposed Effective Date

The regulations, as proposed, apply to alterations of the terms of a debt instrument on or after the date of publication of the Treasury decision adopting these rules as final regulation in the **Federal Register**. A taxpayer, however, may rely on these amendments for alterations of the terms of a debt instrument occurring before that date.

#### 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. 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 the regulation does 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, 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 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. The IRS and the 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 has been scheduled for Wednesday, September 8, 2010, beginning at 10 a.m. in Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington,

DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by Wednesday, August 11, 2010. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

#### Drafting Information

The principal author of these regulations is Diana Imholtz, Office of Associate Chief Counsel (Financial Institutions & Products). 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.

#### 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 \* \* \*

**Par. 2.** Section 1.1001–3 is amended by revising paragraphs (c)(2)(ii), (e)(5)(i) and (h) and adding paragraph (f)(7) to read as follows:

#### § 1.1001–3 Modifications of debt instruments.

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(ii) *Property that is not debt.* An alteration that results in an instrument or property right that is not debt for Federal income tax purposes is a

modification unless the alteration occurs pursuant to a holder's option under the terms of the instrument to convert the instrument into equity of the issuer (notwithstanding paragraph (c)(2)(iii) of this section). The rules of paragraph (f)(7) of this section apply to determine whether an alteration or modification results in an instrument or property right that is not debt.

\* \* \* \* \*

(e) \* \* \*

(5) *Changes in the nature of a debt instrument*—(i) *Property that is not debt.* A modification of a debt instrument that results in an instrument or property right that is not debt for Federal income tax purposes is a significant modification. The rules of paragraph (f)(7) of this section apply to determine whether a modification results in an instrument or property right that is not debt.

\* \* \* \* \*

(f) \* \* \*

(7) *Rules for determining whether an alteration or modification results in an instrument or property right that is not debt*—(i) *In general.* Except as provided in paragraph (f)(7)(ii) of this section, the determination of whether an instrument resulting from an alteration or modification of a debt instrument will be recharacterized as an instrument or property right that is not debt for Federal income tax purposes shall take into account all of the factors relevant to such a determination.

(ii) *Financial condition of the obligor*—(A) *Deterioration in financial condition of the obligor generally disregarded.* Except as provided in paragraph (f)(7)(ii)(B) of this section, in making a determination as to whether an instrument resulting from an alteration or modification of a debt instrument will be recharacterized as an instrument or property right that is not debt under this section, any deterioration in the financial condition of the obligor between the issue date of the debt instrument and the date of the alteration or modification (as it relates to the obligor's ability to repay the debt instrument) is not taken into account. For example, any decrease in the fair market value of a debt instrument (whether or not the debt instrument is publicly traded) between the issue date of the debt instrument and the date of the alteration or modification is not taken into account to the extent that the decrease in fair market value is attributable to the deterioration in the financial condition of the obligor and not to a modification of the terms of the instrument.

(B) *Substitution of a new obligor; addition or deletion of co-obligor.* If there is a substitution of a new obligor or the addition or deletion of a co-obligor, the rules in paragraph (f)(7)(ii)(A) of this section do not apply.

\* \* \* \* \*

(h) *Effective/applicability date*—(1) *In general.* Except as otherwise provided in paragraph (h)(2) of this section, this section applies to alterations of the terms of a debt instrument on or after September 24, 1996. Taxpayers, however, may rely on this section for alterations of the terms of a debt instrument after December 2, 1992, and before September 24, 1996.

(2) *Exception.* Paragraph (f)(7) of this section applies to an alteration of the terms of a debt instrument on or after the date of publication of the Treasury decision adopting these rules as final regulation in the **Federal Register**. A taxpayer, however, may rely on paragraph (f)(7) of this section for alterations of the terms of a debt instrument occurring before that date.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 7

[EPA-HQ-OA-2004-0002; FRL-9159-1]

RIN 2090-AA37

### Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Assistance From the Environmental Protection Agency

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to take action on Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency. This document sets out EPA rules for implementing the Age Discrimination Act of 1975, as amended. The Act prohibits discrimination on the basis of age in programs or activities receiving Federal assistance.

**DATES:** Comments must be received on or before August 3, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OA-2004-0002, by mail to OEI Docket, U.S. EPA, Mail Code: 28221T, 1200

Pennsylvania Ave., NW, Washington, DC 20460. Comments can also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the "Rules and Regulations" section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Tom Walker, U.S. Environmental Protection Agency, Office of Civil Rights, (Mail Code 1201A), 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone (202) 343-9894.

### SUPPLEMENTARY INFORMATION:

#### Why is EPA Issuing This Proposed Rule?

This document proposes to take action on Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency. We have published a direct final rule approving regulations for implementing the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age in programs or activities receiving Federal assistance in the "Rules and Regulations" section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

### I. General Information

These regulations implement provisions of the Age Discrimination Act of 1975, as amended. The Age Discrimination Act of 1975, 42 U.S.C. 6101 *et seq.*, (The Act) prohibits discrimination on the basis of age in programs or activities receiving Federal assistance. The Act applies to persons of all ages. The Act also contains specific exceptions that permit the use of certain age distinctions and factors other than age that meet the Act's requirements. The Act however, does not cover employment discrimination on the basis of age. The Age Discrimination in