

**§ 1.1202-2 Qualified small business stock; effect of redemptions.**

(a) *Redemptions from taxpayer or related person*—(1) *In general.* Stock acquired by a taxpayer is not qualified small business stock if, in one or more purchases during the 4-year period beginning on the date 2 years before the issuance of the stock, the issuing corporation purchases (directly or indirectly) more than a de minimis amount of its stock from the taxpayer or from a person related (within the meaning of section 267(b) or 707(b)) to the taxpayer.

(2) *De minimis amount.* For purposes of this paragraph (a), stock exceeds a de minimis amount only if the aggregate amount paid for the stock exceeds \$10,000 and more than 2 percent of the stock held by the taxpayer and related persons is acquired. The following rules apply for purposes of determining whether the 2-percent limit is exceeded. The percentage of stock acquired in any single purchase is determined by dividing the stock's value (as of the time of purchase) by the value (as of the time of purchase) of all stock held (directly or indirectly) by the taxpayer and related persons immediately before the purchase. The percentage of stock acquired in multiple purchases is the sum of the percentages determined for each separate purchase.

(b) *Significant redemptions*—(1) *In general.* Stock is not qualified small business stock if, in one or more purchases during the 2-year period beginning on the date 1 year before the issuance of the stock, the issuing corporation purchases more than a de minimis amount of its stock and the purchased stock has an aggregate value (as of the time of the respective purchases) exceeding 5 percent of the aggregate value of all of the issuing corporation's stock as of the beginning of such 2-year period.

(2) *De minimis amount.* For purposes of this paragraph (b), stock exceeds a de minimis amount only if the aggregate amount paid for the stock exceeds \$10,000 and more than 2 percent of all outstanding stock is purchased. The following rules apply for purposes of determining whether the 2-percent limit is exceeded. The percentage of the stock acquired in any single purchase is determined by dividing the stock's value (as of the time of purchase) by the value (as of the time of purchase) of all stock outstanding immediately before the purchase. The percentage of stock acquired in multiple purchases is the sum of the percentages determined for each separate purchase.

(c) *Transfers by shareholders in connection with the performance of*

*services not treated as purchases.* A transfer of stock by a shareholder to an employee or independent contractor (or to a beneficiary of an employee or independent contractor) is not treated as a purchase of the stock by the issuing corporation for purposes of this section even if the stock is treated as having first been transferred to the corporation under § 1.83-6(d)(1) (relating to transfers by shareholders to employees or independent contractors).

(d) *Exceptions for termination of services, death, or disability or mental incompetency.* A stock purchase is disregarded for purposes of this section if—

(1) *Termination of services*—(i) *Employees and directors.* The stock was acquired by the seller in connection with the performance of services as an employee or director and the stock is purchased from the seller incident to the seller's retirement or other bona fide termination of such services;

(ii) *Independent contractors.* [Reserved];

(2) *Death.* The stock is purchased from the deceased shareholder's estate, beneficiary, heir, surviving joint tenant, or from a surviving spouse or a trust established by a decedent, the stock is purchased within 3 years and 9 months from the date of death, and the stock (or an option to acquire the stock) was acquired by the seller before or on account of the death of the decedent; or

(3) *Disability or mental incompetency.* The stock is purchased incident to the disability or mental incompetency of the selling shareholder.

(e) *Effective date.* This section applies to stock issued after the date these regulations are published as final regulations in the Federal Register. This section also applies to stock issued on or before the date these regulations are published as final regulations in the Federal Register, but only with respect to the effect of purchases by the issuing corporation that occur after that date.

Margaret Milner Richardson,  
*Commissioner of Internal Revenue.*  
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**26 CFR Parts 1, 31, 35a, 301, 502, 503, 509, 513, 514, 516, 517, 520, and 521**

[IL-62-90; IL-32-93; IL-52-86; IL-52-94]

RIN 1545-AO27; 1545-AR90; 1545-AL99; 1545-AT00

**General Revision of Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons and Related Collection, Refunds, and Credits; Revision of Information Reporting and Backup Withholding Regulations; and Removal of Regulations Under Part 35a and of Certain Regulations Under Income Tax Treaties; Correction**

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

**ACTION:** Correction to notice of public hearing on proposed rulemaking.

**SUMMARY:** This document contains corrections to the notice of a public hearing (IL-52-86) which was published in the Federal Register on Wednesday, May 8, 1996 (61 FR 20767), regarding proposed regulations relating, in part, to information reporting and backup withholding.

**FOR FURTHER INFORMATION CONTACT:** Philip Garlett, (202) 622-3880 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The notice of public hearing that is subject to these corrections will be held on Wednesday, July 24, 1996, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Wednesday, July 3, 1996.

**Need for Correction**

As published, the notice of public hearing (IL-52-86) contains errors which may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication of the notice of hearing (IL-52-86), which was the subject of FR Doc. 96-11409, is corrected as follows:

1. On page 20767, column 1, in the heading, the language "26 CFR Parts 1, 32 and 35a" is corrected to read "26 CFR Parts 1, 31, 35a, 301, 502, 503, 509, 513, 514, 516, 517, 520, and 521".

2. On page 20767, column 1, in the heading, the language "[IL-52-86]" is corrected to read "[IL-62-90; IL-32-93; IL-52-86; IL-52-94]".

3. On page 20767, column 1, in the heading, the language "RIN 1545-AL99" is corrected to read "RIN 1545-AO27; 1545-AR90; 1545-AL99; 1545-AT00".

4. On page 20767, column 1, in the heading, the language "Income Taxes; Information and Backup Withholding; Hearing" is corrected to read "General Revision of Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons and Related Collection, Refunds, and Credits; Revision of Information Reporting and Backup Withholding Regulations; and Removal of Regulations Under Part 35a and of Certain Regulations Under Income Tax Treaties; Hearing".

5. On page 20767, column 1, in the preamble, the **SUMMARY** is corrected to read as follows:

**SUMMARY:** This document provides notice of a public hearing on proposed regulations relating to the withholding of income tax on certain U.S. source income paid to foreign persons (including the related tax deposit and reporting requirements, and the related collection, refunds, and credits of withheld tax), information reporting and backup withholding, and the removal of certain temporary employment tax regulations and certain regulations under income tax treaties.

6. On page 20767, column 2, in the preamble, the **SUPPLEMENTARY INFORMATION** is corrected to read as follows:

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed amendments to the Income Tax Regulations, Employment Tax Regulations, and Procedure and Administration Regulations under sections 163(f), 165(j), 871(h), 881(c), 1441, 1442, 1461, 1462, 1463, 3401, 3406, 6041, 6041A, 6042, 6045, 6049, 6050N, 6109, 6114, 6402 and 6413. The proposed regulations appeared in the Federal Register on Monday, April 22, 1996 (61 FR 17614).

Cynthia E. Grigsby,

*Chief, Regulations Unit, Assistant Chief Counsel (Corporate).*

[FR Doc. 96-14232 Filed 6-5-96; 8:45 am]

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1915

[Docket No. S-051]

RIN 1218-AB51

#### Safety Standards Fire Protection in Shipyard Employment

**AGENCY:** Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

**ACTION:** Notice of Intent to Form Negotiated Rulemaking Advisory Committee to Develop a Proposal Rule on Fire Protection in Shipyard Employment.

**SUMMARY:** OSHA announces its intent to establish a Fire Protection in Shipyard Employment Negotiated Rulemaking Advisory Committee (the "Committee"), under the Federal Advisory Committee Act (FACA) and the Negotiated Rulemaking Act (NRA), to negotiate issues associated with the development of a Notice of Proposed Rulemaking to regulate fire hazards in shipyard employment. The Committee will include representatives of the parties interested in, or affected by, the outcome of the proposed rule. OSHA also solicits interested parties to submit their nominations for membership or requests for representation, on the Committee.

**DATES:** OSHA must receive written comments and requests for membership or representation by July 8, 1996.

**ADDRESSES:** Written comments should state: OSHA Docket No. S-051 and should be sent, in quadruplicate, to the following address: OSHA Docket Office, Rm N-2625, 200 Constitution Ave. N.W., Washington, D.C. 20210; Telephone (202) 219-7894.

Requests or recommendations for membership or representation on the Committee should be sent to: OSHA, Office of Maritime Standards, Room N-3621, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Phone (202) 219-7234, fax (202) 219-7477.

**FOR FURTHER INFORMATION CONTACT:** Ann Cyr, Acting Director; OSHA, Office of Information and Consumer Affairs, Room N-3647, U.S. Department of Labor; 200 Constitution Avenue, N.W.; Washington, D.C., 20210; Telephone: (202) 219-8151.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Fire protection in shipyard employment has been regulated by

OSHA's general industry standards for fire protection, 29 CFR 1910.155 through 1910.165, Subpart L, and section 5(a)(1), the General Duty Clause of the OSH Act, which requires each employer to,

furnish to each of his employees employment and a place of employment which are free from recognized hazards causing or likely to cause death or serious physical harm.

The general industry standards primarily address landside shipyard operations. The general industry standards in Subpart L address: fire brigades; portable fire extinguishers; standpipe and hose systems; automatic sprinkler systems; fixed extinguishing systems; fire detection systems; and employee alarm systems.

Because no specific standards cover work performed on board vessels and vessel sections, OSHA has used the General Duty Clause of the Act to address fire safety hazards aboard vessels. When the General Duty Clause is used, the Agency must determine how it can be applied. In other words, OSHA must ascertain what the employer must do to protect his or her employees from the hazards of fire and how the Agency can make sure the employer is providing that protection. In these situations, OSHA typically relies upon standards promulgated by other branches of the Federal Government such as the Coast Guard, along with guidelines developed by professional associations such as the National Fire Protection Association, (NFPA), and the Marine Chemists Association, (MCA) that have, in effect, become industry practice, to set forth the hazards and feasible means of abatement. In an enforcement action, the Agency would cite the employer for a violation of section 5(a)(1) of the Act. To prove a violation of section 5(a)(1) OSHA must show, among other things that a serious hazard is recognized by the employer's industry or the employer and that there is a feasible and useful method for abating the hazard. Although OSHA's enforcement under the General Duty Clause has reduced the risk of fire on board vessels, some risk remains.

The Agency believes a standard promulgated under section 6(b) of the Act will more effectively reduce these risks. The OSH Act intends that OSHA issue occupational safety standards to make clear what is necessary to protect employees and to inform employers of their specific obligations. In addition, a standard is more protective of employees than an enforcement program based upon a general provision; consequently, greater reduction of risks are achieved. Third,