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DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 10

[TD 9165]

RIN 1545-BA70

Regulations Governing Practice Before the Internal Revenue Service; Correction

AGENCY: Office of the Secretary, Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to (TD 9165), which were published in the **Federal Register** on Monday, December 20, 2004 (69 FR 75839) revising the regulations governing practice before the Internal Revenue Service (Circular 230).

DATES: This correction is effective December 20, 2004.

FOR FURTHER INFORMATION CONTACT: Heather L. Dostaler at (202) 622-4940 or Brinton T. Warren at (202) 622-7800 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9165) that are the subject of these corrections are under 31 CFR sections 10.33, 10.35, 10.36, 10.37, 10.38, 10.52 and 10.93.

Need for Correction

As published, TD 9165 contains errors that may prove to be misleading and are in need of clarification.

List of Subjects in 31 CFR Part 10

Practice before the Internal Revenue Service.

Correction of Publication

■ Accordingly, 31 CFR Part 10 is corrected by making the following correcting amendments:

PART 10—PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

■ **Paragraph 1.** The authority citation for 31 CFR, part 10 continues to read in part as follows:

Authority: Sec.3, 23 Stat. 258, secs. 2-12, 60 Stat. 237 *et seq.*; 5 U.S.C. 301, 500, 551-559; 31 U.S.C. 330; Reorg. Plan No. 26 of 1950, 15 FR 4935, 64 Stat. 1280, 3 CFR, 1949-1953 Comp., p. 1017.

§ 10.35 [Corrected]

■ **Par. 2.** Section 10.35 is amended by revising paragraphs (b)(2)(ii)(B) introductory text and (b)(4)(i) to read as follows:

10.35 Requirements for covered opinions.

* * * * *

(b) * * *

(2) * * * (ii) * * *

(A) * * *

(B) Written advice, other than advice described in paragraph (b)(2)(i)(A) of this section (concerning listed transactions) or paragraph (b)(2)(i)(B) of this section (concerning the principal purpose of avoidance or evasion) that—

* * * * *

(4) *Reliance opinion*—(i) Written advice is a *reliance opinion* if the advice concludes at a confidence level of at least more likely than not (a greater than 50 percent likelihood) that one or more significant Federal tax issues would be resolved in the taxpayer's favor.

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Dated: April 11, 2005.

Richard S. Carro,
Senior Advisor to the General Counsel (Regulatory Affairs).

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