

of interest expense eligible for transition relief.

(iii) *Transferor group.* The following analysis applies in determining transition relief for purposes of apportioning the interest expense of the transferor group for 1987. The XZ group has the transition attributes stated below for 1987. In 1987, the XZ group attained a new lowest month-end debt level that yields an average lowest month-end debt level for 1987 of \$250,000.

	Historic 3rd party debt	Increase
Company X:		
Nov. 16, 1985 .....	\$100,000	.....
May 29, 1985 (5-year) .....	80,000	\$0
Dec. 31, 1983 (4-year) .....	80,000	10,000
Dec. 31, 1982 .....	70,000	.....
Pre-disposition paydown that reduced X's debt .....	0	.....
Company Y (half-year amounts):		
Nov. 16, 1985 .....	100,000	.....
May 29, 1985 (5-year) .....	85,000	60,000
Dec. 31, 1983 (4-year) .....	25,000	5,000
Dec. 31, 1982 .....	20,000	.....
Pre-disposition paydown that reduced Y's debt .....	37,500	.....
Company Z:		
Nov. 16, 1985 .....	300,000	.....
May 29, 1985 (5-year) .....	290,000	40,000
Dec. 31, 1983 (4-year) .....	250,000	100,000
Dec. 31, 1982 .....	150,000	.....
Pre-disposition paydown that reduced Z's debt .....	25,000	.....

Because the revised November 16, 1985 amount of the XZ group is \$500,000 and because the 1987 average of lowest historic month-end debt levels of the XZ group was \$250,000, the XZ group has a paydown in the amount of \$250,000. This paydown offsets the total five and four year debt of the XZ group. Had the 1987 paydown of the XZ group been an amount less than the five-year amount, the paydown would have been prorated based on Y's adjusted 5-year amount of \$22,500 and Z's adjusted 5-year amount of \$15,000.

[T.D. 8257, 54 FR 31820, Aug. 2, 1989]

**§ 1.861-14 Special rules for allocating and apportioning certain expenses (other than interest expense) of an affiliated group of corporations.**

(a) through (c) [Reserved]. For further guidance, see § 1.861-14T(a) through (c).

(d) *Definition of affiliated group*—(1) *General rule.* For purposes of this section, the term *affiliated group* has the same meaning as is given that term by section 1504, except that section 936 corporations (as defined in § 1.861-11(d)(2)(ii)) are also included within the affiliated group to the extent provided in paragraph (d)(2) of this section. Sec-

tion 1504(a) defines an affiliated group as one or more chains of includible corporations connected through 80-percent stock ownership with a common parent corporation which is an includible corporation (as defined in section 1504(b)). In the case of a corporation that either becomes or ceases to be a member of the group during the course of the corporation's taxable year, only the expenses incurred by the group member during the period of membership shall be allocated and apportioned as if all members of the group were a single corporation. In this regard, the apportionment factor chosen shall relate only to the period of membership. For example, if apportionment on the basis of assets is chosen, the average amount of assets (tax book value or fair market value) for the taxable year shall be multiplied by a fraction, the numerator of which is the number of months of the corporation's taxable year during which the corporation was a member of the affiliated group, and the denominator of which is the number of months within the corporation's taxable year. If apportionment on the basis of gross income is chosen, only gross income generated during the period of membership shall be taken into account. If apportionment on the basis of units sold or sales receipts is chosen, only units sold or sales receipts during the period of membership shall be taken into account. Expenses incurred by the group member during its taxable year, but not during the period of membership, shall be allocated and apportioned without regard to other members of the group. This paragraph (d)(1) applies to taxable years beginning after December 31, 1989.

(2) *Inclusion of section 936 corporations*—(i) *General rule.* Except as otherwise provided in paragraph (d)(2)(ii) of this section, the exclusion from the affiliated group of section 936 corporations under section 1504(b)(4) does not apply for purposes of this section. Thus, a section 936 corporation that meets the ownership requirements of section 1504(a) is a member of the affiliated group.

(ii) *Exception for purposes of alternative minimum tax.* The exclusion from the affiliated group of section 936 corporations under section 1504(b)(4) shall

be operative for purposes of the application of this section solely in determining the amount of foreign source alternative minimum taxable income within each separate category and the alternative minimum tax foreign tax credit pursuant to section 59(a). Thus, a section 936 corporation that meets the ownership requirements of section 1504(a) is not a member of the affiliated group for purposes of determining the amount of foreign source alternative minimum taxable income within each separate category and the alternative minimum tax foreign tax credit pursuant to section 59(a).

(iii) *Effective date.* This paragraph (d)(2) applies to taxable years beginning after December 31, 1989.

(d)(3) through (j) [Reserved]. For further guidance, see § 1.861-14T(d)(3) through (j).

[T.D. 8916, 66 FR 274, Jan. 3, 2001]

**§ 1.861-14T Special rules for allocating and apportioning certain expenses (other than interest expense) of an affiliated group of corporations (temporary regulations.)**

(a) *In general.* Section 1.861-11T provides special rules for allocating and apportioning interest expense of an affiliated group of corporations. The rules of this § 1.861-14T also relate to affiliated groups of corporations and implement section 864(e)(6), which requires affiliated group allocation and apportionment of expenses other than interest which are not directly allocable and apportionable to any specific income producing activity or property. In general, the rules of this section apply to taxable years beginning after December 31, 1986. Paragraph (b) of this section describes the scope of the application of the rule for the allocation and apportionment of such expenses of affiliated groups of corporations. Such rule is then set forth in paragraph (c) of this section. Paragraph (d) of this section contains the definition of the term “affiliated group” for purposes of this section. Paragraph (e) of this section describes the expenses subject to allocation and apportionment under the rules of this section. Paragraph (f) of this section provides rules concerning the affiliated group allocation and apportionment of such expenses in

computing the combined taxable income of a FSC or DISC and its related supplier. Paragraph (g) of this section describes the treatment of losses caused by apportionment of such expenses in the case of an affiliated group that does not file a consolidated return. Paragraph (h) of this section provides rules concerning the treatment of the reserve expenses of a life insurance company. Paragraph (j) of this section provides examples illustrating the application of this section.

(b) *Scope—(1) Application of section 864(e)(6).* Section 864(e)(6) and this section apply to the computation of taxable income for purposes of computing separate limitations on the foreign tax credit under section 904. Section 864(e)(6) and this section also apply in connection with section 907 to determine reductions in the amount allowed as a foreign tax credit under section 901. Section 864(e)(6) and this section also apply to the computation of the combined taxable income of the related supplier and a foreign sales corporation (FSC) (under sections 921 through 927) as well as the combined taxable income of the related supplier and a domestic international sales corporation (DISC) (under sections 991 through 997).

(2) *Nonapplication of section 864(e)(6).* Section 864(e)(6) and this section do not apply to the computation of subpart F income of controlled foreign corporations (under sections 951 through 964) or the computation of effectively connected taxable income of foreign corporations.

(3) *Application of section 864(e)(6) to the computation of combined taxable income of a possessions corporation and its affiliates.* [Reserved]

(c) *General rule for affiliated corporations—(1) General rule.* (i) Except as otherwise provided in paragraph (c)(2) of this section, the taxable income of each member of an affiliated group within each statutory grouping shall be determined by allocating and apportioning the expenses described in paragraph (e) of this section of each member according to apportionment fractions which are computed as if all members of such group were a single corporation. For purposes of determining these apportionment fractions,