

**Internal Revenue Service, Treasury**

**§ 1.1502-1**

Revenue Code of 1939 and the regulations applicable thereto apply with respect to transfers occurring prior to January 1, 1955.

[T.D. 6500, 25 FR 12083, Nov. 26, 1960]

**Consolidated Returns**

**RETURNS AND PAYMENT OF TAX**

**CONSOLIDATED RETURN REGULATIONS**

**§ 1.1502-0 Effective dates.**

(a) The regulations under section 1502 are applicable to taxable years beginning after December 31, 1965, except as otherwise provided therein.

(b) The provisions of §§ 1.1502-0A through 1.1502-3A, 1.1502-10A through 1.1502-19A, and 1.1502-30A through 1.1502-51A (as contained in the 26 CFR part 1 edition revised April 1, 1996) are applicable to taxable years beginning before January 1, 1966.

[T.D. 8677, 61 FR 33325, June 27, 1996]

**§ 1.1502-1 Definitions.**

(a) *Group*. The term *group* means an affiliated group of corporations as defined in section 1504. See § 1.1502-75(d) as to when a group remains in existence. Except as the context otherwise requires, references to a group are references to a consolidated group (as defined in paragraph (h) of this section).

(b) *Member*. The term *member* means a corporation (including the common parent) that is included in the group, or as the context may require, a corporation that is included in a subgroup.

(c) *Subsidiary*. The term *subsidiary* means a corporation other than the common parent which is a member of such group.

(d) *Consolidated return year*. The term *consolidated return year* means a taxable year for which a consolidated return is filed or required to be filed by such group.

(e) *Separate return year*. The term *separate return year* means a taxable year of a corporation for which it files a separate return or for which it joins in the filing of a consolidated return by another group.

(f) *Separate return limitation year*—(1) *In general*. Except as provided in paragraphs (f)(2) and (3) of this section, the

term *separate return limitation year* (or *SRLY*) means any separate return year of a member or of a predecessor of a member.

(2) *Exceptions*. The term *separate return limitation year* (or *SRLY*) does not include:

(i) A separate return year of the corporation which is the common parent for the consolidated return year to which the tax attribute is to be carried (except as provided in § 1.1502-75(d)(2)(ii) and subparagraph (3) of this paragraph).

(ii) A separate return year of any corporation which was a member of the group for each day of such year, or

(iii) A separate return year of a predecessor of any member if such predecessor was a member of the group for each day of such year,

Provided that an election under section 1562(a) (relating to the privilege to elect multiple surtax exemptions) was never effective (or is no longer effective as a result of a termination of such election) for such year. An election under section 1562(a) which is effective for a taxable year beginning in 1963 and ending in 1964 shall be disregarded.

(3) *Reverse acquisitions*. In the event of an acquisition to which § 1.1502-75(d)(3) applies, all taxable years of the first corporation and of each of its subsidiaries ending on or before the date of the acquisition shall be treated as separate return limitation years, and the separate return years (if any) of the second corporation and each of its subsidiaries shall not be treated as separate return limitation years (unless they were so treated immediately before the acquisition). For example, if corporation P merges into corporation T, and the persons who were stockholders of P immediately before the merger, as a result of owning the stock of P, own more than 50 percent of the fair market value of the outstanding stock of T, then a loss incurred before the merger by T (even though it is the common parent), or by a subsidiary of T, is treated as having been incurred in a separate return limitation year. Conversely, a loss incurred before the merger by P, or by a subsidiary of P in a separate return year during all of which such subsidiary was a member of

the group of which P was the common parent and for which section 1562 was not effective, is treated as having been incurred in a year which is not a separate return limitation year.

(4) *Predecessor and successors.* The term *predecessor* means a transferor or distributor of assets to a member (the successor) in a transaction—

- (i) To which section 381(a) applies; or
- (ii) That occurs on or after January 1, 1997, in which the successor's basis for the assets is determined, directly or indirectly, in whole or in part, by reference to the basis of the assets of the transferor or distributor, but in the case of a transaction that occurs before June 25, 1999, only if the amount by which basis differs from value, in the aggregate, is material. For a transaction that occurs before June 25, 1999, only one member may be considered a predecessor to or a successor of one other member.

(g) *Consolidated return change of ownership—(1) In general.* A consolidated return change of ownership occurs during any taxable year (referred to in this subparagraph as the “year of change”) of the corporation which is the common parent for the taxable year to which the tax attribute is to be carried, if, at the end of the year of change:

(i) Any one or more of the persons described in section 382(a)(2) own a percentage of the fair market value of the outstanding stock of such corporation which is more than 50 percentage points greater than such person or persons owned at:

(a) The beginning of such taxable year, or

(b) The beginning of the preceding taxable year, and

(ii) The increase in percentage points at the end of such year is attributable to:

(a) A purchase (within the meaning of section 382(a)(4)) by such person or persons of such stock, the stock of another corporation owning stock in such corporation, or an interest in a partnership or trust owning stock in such corporation, or

(b) A decrease in the amount of such stock outstanding or the amount of stock outstanding of another corporation owning stock in such corporation,

except a decrease resulting from a redemption to pay death taxes to which section 303 applies.

For purposes of subdivision (i) (a) and (b) of this subparagraph, the beginning of the taxable years specified therein shall be the beginning of such taxable years or October 1, 1965, whichever occurs later.

(2) *Operating rules.* For purposes of this paragraph:

(i) The term *stock* means all shares except nonvoting stock which is limited and preferred as to dividends, and

(ii) Section 318 (relating to constructive ownership of stock) shall apply in determining the ownership of stock, except that section 318(a) (2)(C) and (3)(C) shall be applied without regard to the 50-percent limitation contained therein.

(3) *Old members.* The term *old members* of a group means:

(i) Those corporations which were members of such group immediately preceding the first day of the taxable year in which the consolidated return change of ownership occurs, or

(ii) If the group was not in existence prior to the taxable year in which the consolidated return change of ownership occurs, the corporation which is the common parent for the taxable year to which the tax attribute is to be carried.

(4) *Reverse acquisitions.* If there has been a consolidated return change of ownership of a corporation under subparagraph (1) of this paragraph and the stock or assets of such corporation are subsequently acquired by another corporation in an acquisition to which § 1.1502-75(d)(3) applies so that the group of which the former corporation is the common parent is treated as continuing in existence, then the “old members”, as defined in subparagraph (3) of this paragraph, of such group immediately before the acquisition shall continue to be treated as “old members” immediately after the acquisition. For example, assume that corporations P and S comprise group PS, and PS undergoes a consolidated return change of ownership. Subsequently, the stock of P, the common parent, is acquired by corporation T, the common parent of group TU, in an acquisition to which section

368(a)(1)(B) and § 1.1502-75(d)(3) apply. The PS group is treated as continuing in existence with T as the common parent. P and S continue to be treated as old members, as defined in subparagraph (3) of this paragraph.

(h) *Consolidated group.* The term “consolidated group” means a group filing (or required to file) consolidated returns for the tax year.

(i) [Reserved]

(j) *Affiliated.* Corporations are affiliated if they are members of a group with each other.

[T.D. 6894, 31 FR 11794, Sept. 8, 1966, as amended by T.D. 7246, 38 FR 758, Jan. 4, 1973; T.D. 8294, 55 FR 9434, Mar. 14, 1990; T.D. 8319, 55 FR 49038, Nov. 26, 1990; T.D. 8560, 59 FR 41675, Aug. 15, 1994; T.D. 8677, 61 FR 33325, June 27, 1996; T.D. 8823, 64 FR 36101, July 2, 1999]

#### CONSOLIDATED TAX LIABILITY

##### § 1.1502-2 Computation of tax liability.

The tax liability of a group for a consolidated return year shall be determined by adding together:

(a) The tax imposed by section 11 on the consolidated taxable income for such year (see § 1.1502-11 for the computation of consolidated taxable income);

(b) The tax imposed by section 541 on the consolidated undistributed personal holding company income;

(c) If paragraph (b) of this section does not apply, the aggregate of the taxes imposed by section 541 on the separate undistributed personal holding company income of the members which are personal holding companies;

(d) If paragraph (b) of this section does not apply, the tax imposed by section 531 on the consolidated accumulated taxable income (see § 1.1502-43);

(e) The tax imposed by section 594(a) in lieu of the taxes imposed by section 11 or 1201 on the taxable income of a life insurance department of the common parent of a group which is a mutual savings bank;

(f) The tax imposed by section 802(a) on consolidated life insurance company taxable income;

(g) The tax imposed by section 831(a) on the consolidated insurance company taxable income of the members which are subject to such tax;

(h) The tax imposed by section 1201, instead of the taxes computed under paragraphs (a) and (g) of this section, computed by reference to the net capital gain of the group (see § 1.1502-22) (or, for consolidated return years to which § 1.1502-22 does not apply, computed by reference to the excess of the consolidated net long-term capital gain over the consolidated net short-term capital loss (see § 1.1502-41A for the determination of the consolidated net long-term capital gain and the consolidated net short-term capital loss));

(i) [Reserved]

(j) The tax imposed by section 1333 on war loss recoveries; and

by allowing as a credit against such taxes the investment credit under section 38 (see § 1.1502-3), and the foreign tax credit under section 33 (see § 1.1502-4). For purposes of this section, the surtax exemption of the group for a consolidated return year is \$25,000, or if a lesser amount is allowed under section 1561, such lesser amount. See § 1.1561-2(a)(2). For increase in tax due to the application of section 47, see § 1.1502-3(f). For amount of tax surcharge, see section 51 and § 1.1502-7.

[T.D. 6894, 31 FR 11794, Sept. 8, 1966, as amended by T.D. 7093, 36 FR 4871, Mar. 13, 1971; T.D. 7937, 49 FR 3462, Jan. 27, 1984; T.D. 8677, 61 FR 33326, June 27, 1996; T.D. 8823, 64 FR 36099, July 2, 1999]

##### § 1.1502-3 Consolidated tax credits.

(a) *Determination of amount of consolidated credit—(1) In general.* The credit allowed by section 38 for a consolidated return year of a group shall be equal to the consolidated credit earned. The consolidated credit earned is equal to the aggregate of the credit earned (as determined under subparagraph (2) of this paragraph) by all members of the group for the consolidated return year.

(2) *Determination of credit earned.* The credit earned of a member is an amount equal to 7 percent of such member's qualified investment (determined under section 46(c)). For purposes of computing a member's qualified investment, the basis of property shall not include any gain or loss realized with respect to such property by another member in an intercompany transaction (as defined in § 1.1502-13(b)),