

§1.1502-32(b), the absorption of \$30 of T's loss increases S's excess loss account in T's stock to \$40 and, under §1.1502-19, the excess loss account is taken into account. Moreover, under §1.1502-32(b), P's basis in S's stock is increased immediately before the sale by \$10 (S's \$40 gain under §1.1502-19(b) minus T's \$30 loss absorbed and tiered up under §1.1502-32(b)), from \$500 to \$510. Thus, P takes into account a \$10 gain from the sale of S's stock, and S takes into account a \$40 gain from its excess loss account in T's stock.

Example 2. Brother-sister subsidiaries. (a) P owns all of the stock of S1 and S2, each with a \$50 basis. For Year 1, the group has a \$100 consolidated net operating loss (\$50 of which is attributable to S1, and \$50 to S2) determined without taking gain or loss from the disposition of member stock into account. At the close of Year 1, P sells the stock of S1 and S2 for \$100 each.

(b) Paragraph (b)(4) of this section does not limit the loss of S1 or S2 with respect to the disposition of stock of the other. Consequently, each subsidiary's loss may offset P's gain from the disposition of the stock of the other subsidiary. Because this absorption results in a \$50 reduction in P's basis in the stock of each subsidiary under §1.1502-32(b), P's aggregate gain from the stock dispositions is increased from \$100 to \$200, \$100 of which is offset by the losses of the subsidiaries.

(5) *Effective date.* This paragraph (b) applies to stock dispositions occurring in consolidated return years beginning on or after January 1, 1995. For prior years, see §1.1502-11(b) as contained in the 26 CFR part 1 edition revised as of April 1, 1994.

(c) *Disallowance of loss attributable to pre-1966 distributions.* No loss shall be allowed upon the sale or other disposition of stock, bonds, or other obligations of a member or former member to the extent that such loss is attributable to a distribution made in an affiliated year beginning before January 1, 1966, out of earnings and profits accumulated before the distributing corporation became a member.

[T.D. 7246, 38 FR 759, Jan. 4, 1973, as amended by T.D. 7728, 45 FR 72650, Nov. 3, 1980; T.D. 8560, 59 FR 41675, Aug. 15, 1994; T.D. 8677, 61 FR 33323, 33326, June 27, 1996; T.D. 8560, 62 FR 12097, Mar. 14, 1997; T.D. 8823, 64 FR 36099, July 2, 1999]

COMPUTATION OF SEPARATE TAXABLE INCOME

§ 1.1502-12 Separate taxable income.

The separate taxable income of a member (including a case in which deductions exceed gross income) is computed in accordance with the provisions of the Code covering the determination of taxable income of separate corporations, subject to the following modifications:

(a) Transactions between members and transactions with respect to stock, bonds, or other obligations of members shall be reflected according to the provisions of §1.1502-13;

(b) Any deduction which is disallowed under §§1.1502-15A or 1.1502-15 shall be taken into account as provided in those sections;

(c) The limitation on deductions provided in section 615(c) or section 617(h) shall be taken into account as provided in §1.1502-16;

(d) The method of accounting under which such computation is made and the adjustments to be made because of any change in method of accounting shall be determined under §1.1502-17;

(e) Inventory adjustments shall be made as provided in §1.1502-18;

(f) Any amount included in income under §1.1502-19 shall be taken into account;

(g) In the computation of the deduction under section 167, property shall not lose its character as new property as a result of a transfer from one member to another member during a consolidated return year if:

(1) The transfer occurs on or before January 4, 1973, or

(2) The transfer occurs after January 4, 1973, and the transfer is an intercompany transaction as defined in §1.1502-13 or the basis of the property in the hands of the transferee is determined (in whole or in part) by reference to its basis in the hands of the transferor;

(h) No net operating loss deduction shall be taken into account;

(i) [Reserved]

(j) No capital gains or losses shall be taken into account;

(k) No gains and losses subject to section 1231 shall be taken into account;

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(l) No deduction under section 170 with respect to charitable contributions shall be taken into account;

(m) No deduction under section 922 (relating to the deduction for Western Hemisphere trade corporations) shall be taken into account;

(n) No deductions under section 243(a)(1), 244(a), 245, or 247 (relating to deductions with respect to dividends received and dividends paid) shall be taken into account;

(o) Basis shall be determined under §§ 1.1502-31 and 1.1502-32, and earnings and profits shall be determined under § 1.1502-33; and

(p) The limitation on deductions provided in section 613A shall be taken into account for each member's oil and gas properties as provided in § 1.1502-44.

(q) A thrift institution's deduction under section 593(b)(2) (relating to the addition to the reserve for bad debts of a thrift institution under the percentage of taxable income method) shall be determined under § 1.1502-42.

(r) For rules relating to loss disallowance or basis reduction on the disposition or deconsolidation of stock of a subsidiary, see §§ 1.337(d)-1, 1.337(d)-2 and § 1.1502-20.

(Secs. 1502 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 637; 917; 26 U.S.C. 1502, 7805))

[T.D. 6894, 31 FR 11794, Sept. 8, 1966, as amended by T.D. 7191, 37 FR 12949, June 30, 1972; T.D. 7246, 38 FR 760, Jan. 4, 1973; T.D. 7725, 45 FR 65561, Oct. 3, 1980; T.D. 7876, 48 FR 11258, Mar. 17, 1983; T.D. 8294, 55 FR 9434, Mar. 14, 1990; T.D. 8319, 55 FR 49038, Nov. 26, 1990; T.D. 8364, 56 FR 47401, Sept. 19, 1991; T.D. 8597, 60 FR 36679, July 18, 1995; T.D. 8677, 61 FR 33323, June 27, 1996; T.D. 8823, 64 FR 36099, July 2, 1999]

§ 1.1502-13 Intercompany transactions.

(a) *In general*—(1) *Purpose*. This section provides rules for taking into account items of income, gain, deduction, and loss of members from intercompany transactions. The purpose of this section is to provide rules to clearly reflect the taxable income (and tax liability) of the group as a whole by preventing intercompany transactions from creating, accelerating, avoiding, or deferring consolidated taxable income (or consolidated tax liability).

(2) *Separate entity and single entity treatment*. Under this section, the selling member (S) and the buying member (B) are treated as separate entities for some purposes but as divisions of a single corporation for other purposes. The *amount* and *location* of S's intercompany items and B's corresponding items are determined on a separate entity basis (separate entity treatment). For example, S determines its gain or loss from a sale of property to B on a separate entity basis, and B has a cost basis in the property. The *timing*, and the *character*, *source*, and other *attributes* of the intercompany items and corresponding items, although initially determined on a separate entity basis, are redetermined under this section to produce the effect of transactions between divisions of a single corporation (single entity treatment). For example, if S sells land to B at a gain and B sells the land to a nonmember, S does not take its gain into account until B's sale to the nonmember.

(3) *Timing rules as a method of accounting*—(i) *In general*. The timing rules of this section are a method of accounting for intercompany transactions, to be applied by each member in addition to the member's other methods of accounting. See § 1.1502-17. To the extent the timing rules of this section are inconsistent with a member's otherwise applicable methods of accounting, the timing rules of this section control. For example, if S sells property to B in exchange for B's note, the timing rules of this section apply instead of the installment sale rules of section 453. S's or B's application of the timing rules of this section to an intercompany transaction clearly reflects income only if the effect of that transaction as a whole (including, for example, related costs and expenses) on consolidated taxable income is clearly reflected.

(ii) *Automatic consent for joining and departing members*—(A) *Consent granted*. Section 446(e) consent is granted under this section to the extent a change in method of accounting is necessary solely by reason of the timing rules of this section—

(1) For each member, with respect to its intercompany transactions, in the first consolidated return year which