taxable year beginning on or after December 22, 2006. However, taxpayers may apply paragraph (c) of this section to any Federal income tax return filed on or after December 22, 2006, provided that all of the component members of a controlled group of corporations apply such paragraph (c).

(iii) *Paragraph (e) of this section.* Paragraph (e) of this section applies to any taxable year beginning on or after *December 26, 2007.* However, taxpayers may apply paragraph (e) of this section to any Federal income tax return filed on or after December 26, 2007.

(2) *Expiration dates.* The applicability of paragraph (c) of this section will expire on December 21, 2009. The applicability of paragraphs (a), (b) and (e) of this section will expire on *December 21, 2010.*

[T.D. 9304, 71 FR 76908, Dec. 22, 2006, as amended by T.D. 9369, 72 FR 72932, Dec. 26, 2007; 73 FR 4695, Jan. 28, 2008]

§ 1.1561–3T Allocation of the section 1561(a) tax items (temporary).

(a) *Filing of form*—(1) *In general.* For each taxable year that a corporation is a component member of the same controlled group of corporations on a December 31, for its taxable year that includes such December 31, such corporation and all other component members of such group must each file the required form (*i.e.*, Schedule O or any successor to that form) with each Federal income tax return. Each such corporation must file that form with its return whether or not—

(i) An apportionment plan is in effect; or

(ii) Any change is made in the group's apportionment of its section 1561(a) tax benefit items from the previous year.

(2) *Exception for component members that are members of a consolidated group.* If one or more of the component members of a controlled group of corporations are also members of a consolidated group, the parent of such consolidated group shall file only one form on behalf of all of such members. Such form shall contain the information required for each such member.

(b) *No apportionment plan in effect.* If the component members of a controlled group of corporations do not have an apportionment plan in effect, the amounts of the section 1561(a) items must be divided equally among all such members. For purposes of the preceding sentence, if any component members of a controlled group of corporations are also members of a consolidated group, such members will each be treated as a separate component member of the controlled group.

(c) *Apportionment plan in effect*—(1) *Adoption of plan.* The component members of a controlled group of corporations consent to the adoption (or amendment) of an apportionment plan by checking the box to that effect on such form. For purposes of this paragraph (c)—

(i) An apportionment plan that is adopted (including a plan that has been amended) continues in effect until it is terminated;

(ii) A consolidated group is treated as one component member of such group; and

(iii) The members must allocate the amounts of the section 1561(a) items between or among themselves as described in the plan.

(2) *Limitation on adopting a plan*—(i) *Sufficient statute of limitations period.* The members may only adopt or amend such a plan if there is at least one year remaining in the statutory period (including any extensions thereof) for the assessment of a deficiency against every member the tax liability of which would be increased by the adoption of such a plan.

(ii) *Insufficient statute of limitations period.* If any member cannot satisfy the requirement of paragraph (c)(2)(i) of this section, the members may not adopt or amend such a plan unless the member not satisfying such requirement has entered into an agreement with the Internal Revenue Service to extend the statute of limitations for the limited purpose of assessing any deficiency against such member attributable to the adoption of such a plan.

(3) *Termination of plan.* An apportionment plan that is in effect for the component members of a controlled group with respect to a particular December 31 is terminated with respect to a succeeding December 31 if—

(i) Each member of such group consents to the termination of such a plan

for such succeeding December 31 by checking the box to that effect on its form;

(ii) The controlled group ceases to remain in existence (within the meaning of section 1563(a)) during the calendar year ending on such succeeding December 31;

(iii) Any corporation which was a component member of such group on the particular December 31 is not a component member of such group on such succeeding December 31; or

(iv) Any corporation which was not a component member of such group on the particular December 31 is a component member of such group on such succeeding December 31.

(d) *Effective date*—(1) *Applicability date.* This section applies to any taxable year beginning on or after December 22, 2006. However, taxpayers may apply this section to any Federal income tax return filed on or after December 22, 2006.

(2) *Expiration date.* The applicability of this section will expire on December 21, 2009.

[T.D. 9304, 71 FR 76908, Dec. 22, 2006]

§ 1.1563–1T Definition of controlled group of corporations and component members and related concepts (temporary).

(a) *Controlled group of corporations*—(1) *In general.* For purposes of sections 1561 through 1563, the term *controlled group of corporations* means any group of corporations which is either a *parent-subsidiary controlled group* (as defined in paragraph (a)(2) of this section), a *brother-sister controlled group* (as defined in paragraph (a)(3)(i) of this section), a *combined group* (as defined in paragraph (a)(4) of this section), or a *life insurance controlled group* (as defined in paragraph (a)(5) of this section). For the exclusion of certain stock for purposes of applying the definitions contained in this paragraph, see section 1563(c) and § 1.1563–2.

(2) *Parent-subsidiary controlled group.* (i) The term *parent-subsidiary controlled group* means one or more chains of corporations connected through stock ownership with a common parent corporation if—

(A) Stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned (directly and with the application of § 1.1563–3(b)(1), relating to options) by one or more of the other corporations; and

(B) The common parent corporation owns (directly and with the application of § 1.1563–3(b)(1), relating to options) stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of stock of at least one of the other corporations, excluding, in computing such voting power or value, stock owned directly by such other corporations.

(ii) The definition of a parent-subsidiary controlled group of corporations may be illustrated by the following examples:

Example 1. P Corporation owns stock possessing 80 percent of the total combined voting power of all classes of stock entitled to vote of S Corporation. P is the common parent of a parent-subsidiary controlled group consisting of member corporations P and S.

Example 2. Assume the same facts as in *Example 1.* Assume further that S owns stock possessing 80 percent of the total value of shares of all classes of stock of T Corporation. P is the common parent of a parent-subsidiary controlled group consisting of member corporations P, S, and T. The result would be the same if P, rather than S, owned the T stock.

Example 3. L Corporation owns 80 percent of the only class of stock of M Corporation and M, in turn, owns 40 percent of the only class of stock of O Corporation. L also owns 80 percent of the only class of stock of N Corporation and N, in turn, owns 40 percent of the only class of stock of O. L is the common parent of a parent-subsidiary controlled group consisting of member corporations L, M, N, and O.

Example 4. X Corporation owns 75 percent of the only class of stock of Y and Z Corporations; Y owns all the remaining stock of Z; and Z owns all the remaining stock of Y. Since intercompany stockholdings are excluded (that is, are not treated as outstanding) for purposes of determining whether X owns stock possessing at least 80 percent of the voting power or value of at least one of the other corporations, X is treated as the owner of stock possessing 100 percent of the voting power and value of Y and of Z for