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date of the income tax return (without extensions) is after June 25, 1999, §1.1502–95(a), (b), (c), and (f) apply to those corporations if the common parent makes the election described in the second sentence of paragraph (c)(1) of §1.1502–95 in the time and manner prescribed in paragraph (f) of §1.1502–95.

(c) *Testing period may include a period beginning before June 25, 1999*—

(1) *In general*. A testing period for purposes of §§1.1502–91 through 1.1502–96 and 1.1502–98 may include a period beginning before June 25, 1999. Thus, for example, in applying §1.1502–92(b)(1)(i)(relating to the determination of an ownership change of a loss group), the determination of the lowest percentage of ownership interest of any 5-percent shareholder of the common parent during a testing period ending on a testing date occurring on or after June 25, 1999 takes into account the period beginning before June 25, 1999, except to the extent that the period is more than 3 years before the testing date or is otherwise before the beginning of the testing period. See §1.1502–92(b)(1).

(2) *Transition rule for net unrealized built-in loss*. A loss group (or loss subgroup) that has a net unrealized built-in loss on a testing date on or after June 25, 1999 may apply §1.1502–91A(g) (and §1.1502–96A(a) as it relates to §1.1502–91A(g)) for the period ending on the day before June 25, 1999 to determine under §1.382–2T(d)(ii)(A) the earliest date that its testing period begins (treating the day before June 25, 1999 as the end of a taxable year.) Thus, for example, if a consolidated group with no net operating losses has a net unrealized built-in loss determined under §1.1502–91(g) on a testing date after June 25, 1999, but, under §1.1502–91A(g), does not have a net unrealized built-in loss for the period ending on the day before June 25, 1999, the group's testing period begins no earlier than June 25, 1999.

[T.D. 8824, 64 FR 36174, July 2, 1999, as amended by T.D. 9424, 73 FR 53986, Sept. 17, 2008]

§1.1502–100 Corporations exempt from tax.

(a) *In general*—(1) *Computation of tax liability*. The tax liability for a consolidated return year of a group of two or more corporations described in section 1504(e) which are exempt from taxation under section 501 (hereinafter referred to in this section as ''exempt group'') shall be determined on a consolidated basis by applying the provisions of subchapter F of chapter 1 of the code in the manner provided in this section. See section 1504(e) for tax-exempt corporations eligible to file a consolidated return.

(2) *Applicability of other consolidated return provisions*. The provisions of §1.1502–1 through §1.1502–80 shall be applicable to an exempt group to the extent they are not inconsistent with the provisions of this section or the provisions of subchapter F of chapter 1 of the Code. For purposes of applying the provisions of §1.1502–1 through §1.1502–80 to an exempt group, the following substitutions shall be made:

(i) The term ''exempt group'' shall be substituted for the term ''group'',

(ii) The terms ''unrelated business taxable income'', ''separate unrelated business taxable income'', and ''consolidated unrelated business taxable income'' shall be substituted for the terms ''taxable income'', ''separate taxable income'', and ''consolidated taxable income'', and

(iii) The term ''consolidated liability for tax determined under §1.1502–2'' (or an equivalent term) shall mean the consolidated liability for tax of an exempt group determined under paragraph (b) of this section.

(b) *Consolidated liability for tax*. The tax liability for a consolidated return year of an exempt group is the tax imposed by section 511(a) or section 1201(a) on the consolidated unrelated business taxable income for the year (determined under paragraph (c) of this section), and by allowing the credits and surtax exemption provided in §1.1502–2.

(c) *Consolidated unrelated business taxable income*. The consolidated unrelated business taxable income for a consolidated return year shall be determined by taking into account:

(1) The separate unrelated business taxable income of each member of the exempt group (determined under paragraph (d) of this section);

(2) Any consolidated net operating loss deduction (determined under

§ 1.1502–21A or 1.1502–21 (as appropriate) subject to the limitations provided in section 512(b)(6);

(3) Any consolidated charitable contribution deduction (determined under § 1.1502–24) subject to the limitations provided in section 512(b)(10); and

(4) Any consolidated net gain or net loss from the disposition of debt-financed property (as defined in section 514(b)) taken into account as provided by section 514(a), or from the cutting of timber to which section 631 applies.

(d) *Separate unrelated business taxable income.* The separate unrelated business taxable income of a member of an exempt group shall be computed in accordance with the provisions of section 512 covering the determination of unrelated business taxable income of separate corporations, except that:

(1) The provisions of paragraphs (a) through (k) and (o) of § 1.1502–12 shall apply; and

(2) No charitable contributions deduction shall be taken into account under section 512(b)(10).

See sections 511(c) and 512(a)(3)(C) for special rules applicable to organizations described in section 501(c)(2).

[T.D. 7595, 44 FR 10382, Feb. 20, 1979, as amended by T.D. 8677, 61 FR 33325, June 27, 1996; T.D. 8823, 64 FR 36101, July 2, 1999]

§ 1.1503–1 Computation and payment of tax.

(a) *General rule.* In any case in which a consolidated return is filed or required to be filed, the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations prescribed under section 1502 promulgated prior to the last date prescribed by law for the filing of such return.

(b) *Limitation.* If the affiliated group includes one or more Western Hemisphere trade corporations (as defined in section 921) or one or more regulated public utilities (as defined in section 1503 (c)), the increase in tax described in section 1503 (a) shall be applied in a manner provided in the regulations under section 1502.

[T.D. 6500, 25 FR 12105, Nov. 26, 1960, as amended by T.D. 7244, 37 FR 28897, Dec. 30, 1972]

§ 1.1503–2 Dual consolidated loss.

(a) *Purpose and scope.* This section provides rules for the application of section 1503(d), concerning the determination and use of dual consolidated losses. Paragraph (b) of this section provides a general rule prohibiting a dual consolidated loss from offsetting the taxable income of a domestic affiliate. Paragraph (c) of this section provides definitions of the terms used in this section. Paragraph (d) of this section provides rules for calculating the amount of a dual consolidated loss and for adjusting the basis of stock of a dual resident corporation. Paragraph (e) of this section contains an anti-avoidance provision. Paragraph (f) of this section applies the rules of paragraph (d) of this section to the computation of foreign tax credit limitations. Paragraph (g) of this section provides certain exceptions to the limitation rule of paragraph (b) of this section. Finally, paragraph (h) of this section provides the effective date of the regulations and a provision for the retroactive application of the regulations to qualifying taxpayers.

(b) *In general*—(1) *Limitation on the use of a dual consolidated loss to offset income of a domestic affiliate.* Except as otherwise provided in this section, a dual consolidated loss of a dual resident corporation cannot offset the taxable income of any domestic affiliate in the taxable year in which the loss is recognized or in any other taxable year, regardless of whether the loss offsets income of another person under the income tax laws of a foreign country and regardless of whether the income that the loss may offset in the foreign country is, has been, or will be subject to tax in the United States. Pursuant to paragraph (c) (1) and (2) of this section, the same limitation shall apply to a dual consolidated loss of a separate unit of a domestic corporation as if the separate unit were a wholly owned subsidiary of such corporation.

(2) *Limitation on the use of a dual consolidated loss to offset income of a successor-in-interest.* A dual consolidated loss of a dual resident corporation also cannot be used to offset the taxable income of another corporation by means of a transaction in which the other corporation succeeds to the tax attributes