



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

SMALL BUSINESS / SELF-EMPLOYED DIVISION

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MEMORANDUM FOR DIRECTORS OF EXAMINATION EMPLOYEES WHO WORK  
STATUTE EXTENSION CASES IN SB/SE, LB&I, APPEALS, TEGE AND W&I

Maha H. Williams

Digitally signed by Maha H.  
Williams

FROM:

Maha Williams

Date: 2019.08.07 15:20:31 -04'00'

Director, Examination – Field and Campus Policy

SUBJECT:

Policy Updates on Statute Extensions for Corporations  
and Consolidated Groups

The purpose of this memorandum is to provide additional guidance to better explain who can bind Corporations and Consolidated Groups in the statute extension process and examples of how to enter the information on the statute extension forms.

This guidance is effective immediately and will be incorporated into the applicable IRM sections within two years of enactment. The changes to the IRM are shown in Attachment 1. This is the authoritative policy regarding these changes on assessment statute extension consent documents and supersedes any existing policies to the contrary.

If you have any questions, you may contact me, or a member of your staff may contact Christopher T. Vickers, Acting Program Manager, Examination Field and Campus Policy, Field Exam Special Processes, at 813-302-5539.

Attachment 1 - IRM 25.6.22.6.2, Corporations

Distribution:

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### **25.6.22.6.2 (MM-DD-YYYY) Corporations**

(1) Generally, the name of the taxpayer shown on the return can be used on the consent, unless it is known that the name is not correct. Consents executed on behalf of corporations must be prepared in the correct name as disclosed by the corporate charter. If there is doubt as to the proper name of the corporation, Area Counsel should be consulted.

(2) When a corporation changes its name only, continuing to operate under the old charter, the consent should be prepared in both names and the signature should reflect both names.

**Example:** “Black Company, formerly Tan Company”  
Documentary evidence of the legal name change should be attached to the original consent. A copy of the relevant corporate minutes will suffice.

(3) If the word “The” is part of the legal name of the corporation, it must be entered on the consent. The words such as “Co.,” “Company,” “Inc.,” and “Incorporated” must be shown as used in the legal name of the corporation. All punctuation must be properly reflected.

(4) The consent should be signed with the corporate name, followed by the signature and title of such current officers of the corporation, who are empowered under the laws of the state in which the corporation is located, to sign for the corporation. Therefore, you must look to state law to determine who is empowered to sign. Generally, the president and the secretary of the corporation are empowered to sign the consent. Assistant officers and controllers are not empowered to sign consents unless they are authorized by the corporation's Board of Directors. Contact Area Counsel if there is any question as to the proper person to sign the consent.

a) Rev. Rul. 83-41, 1983-1 C.B. 349, states that a consent may be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer, or any other officer duly authorized to act in this capacity, whether or not they signed the return.

- b) It is important that the title of the signing officer be shown in the consent.
  - c) Rev. Rul. 84-165, 1984-2 C.B. 305, clarifies and amplifies Rev. Rul. 83-41, 1983-1 C.B. 349, among others, in this respect: In states where directors are authorized to act for a dissolved corporation, any one of the directors may sign the consent for the corporation. The previous sentence does not apply with regard to consolidated return years beginning on or after April 1, 2015, years governed by Treas. Reg. § 1.1502-77, which prohibits an entity from serving as the agent for a consolidated group if the entity terminated and is “winding up” its affairs under State law. See Treas. Reg. § 1.1502-77(b)(2) and (g) Example 10. While a consent signed by any one director is valid for federal tax purposes, more than one director may sign the consent.
- (5) It is not necessary that the corporate seal be affixed to the consent.

## 25.6.22.6.2.1 (MM-DD-YYY)

### Consolidated Returns

- (1) The applicable agent of the consolidated group regulation depends on the consolidated return year being extended:
  - a. Consolidated return years beginning before June 28, 2002: Treas. Reg. § 1.1502-77A applies.
  - b. Consolidated return years beginning on or after June 28, 2002 and before April 1, 2015: § 1.1502-77B applies.
  - c. Consolidated return years beginning on or after April 1, 2015: § 1.1502-77 applies.
  
- (2) For consolidated income tax returns, one consent will suffice to cover all companies included in the consolidated income tax return.
  
- (3) A single consent for more than one year may be obtained even though the composition of the group may have changed considerably during the period covered by the consent. This is so even if the parent of the group has changed; however, the years included on a single consent must be years during which the group is considered to have remained in existence. A single consent should not be used for both separate and consolidated return years.
  
- (4) Generally, the consent should be prepared in the name of the parent corporation as shown on the consolidated return. In all cases, the name in the caption of the consent should reference both the common parent corporation and the affiliated companies. For example, where the common parent of the group is ABC Corporation, a proper caption would read: ABC Corporation and Subsidiaries.
  
- (5) The consent must be signed in the name of the common parent corporation. The name of the common parent should be typed on the "Corporate Name" line, followed by the signature and title of an officer who is empowered under state laws to sign for the common parent corporation.

#### **(6) Years governed by Treas. Reg. § 1.1502-77A, Examples**

The examples immediately below and at IRM

25.6.22.6.2.1(6), Consolidated Returns refer to Form 872 but any suitable consent form can be used as well, such as Form 872–A, Special Consent to Extend the Time to Assess Tax.

**Example: Agent of the Group**

The agent of the consolidated group will execute the consent. In most cases, the agent of the group will be the common parent for the year to be extended. The consent caption should read: “Corporation P (EIN XX-XXXXXXX) and Subsidiaries consolidated group.”

In the signature block, the name of the corporation that is the agent should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which the agent is located to sign for that agent.

**Example: Alternative Agent**

In certain cases, an alternative agent (as described in Treas. Reg. § 1.1502-77A(e)(4)) for the year to be extended will execute the consent. Example - Corporation A is an alternative agent for the Corporation P and Subsidiaries consolidated group for the taxable year being extended.

The consent caption should read:

“Corporation A (EIN: XX-XXXXXXX), as alternative agent for the members of the Corporation P and Subsidiaries consolidated group. \*”

Place an asterisk after “group.” At the bottom of the Form 872, indicate: “\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group.”

In the signature block, Corporation A, the name of the corporation that is the agent, should be typed on the “Corporate Name”

line, followed by the signature and title of a current officer who is empowered under the laws of the state in which the Corporation A is located to sign for Corporation A.

**Example: Successor Corporation that is also an Alternative Agent**

Corporation A, a successor corporation to Corporation P (the common parent of the consolidated group for the years to be extended), that also qualifies as an alternative agent under 26 CFR § 1.1502-77A(e)(4)(ii) and will execute the consent.

The consent caption should read:

“Corporation A (EIN: XX- XXXXXXXX), as successor to Corporation P (EIN: XX- XXXXXXXX), and as agent for the members of the Corporation P and Subsidiaries consolidated group. \*”

Place an asterisk after “group.” At the bottom of the Form 872, indicate: “\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group.”

In the signature block, Corporation A, the name of the corporation that is the agent, should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation A is located to sign for Corporation A.

**Note:** Corporation A is liable as a successor of Corporation P, the common parent of the consolidated group under audit. Corporation P, if it were still in existence, would be severally liable for the consolidated return tax. Corporation A as successor (as described in Reg. § 1.1502-77A(e)(4)(ii)) succeeds to Corporation P’s several liability.

**Note:** Corporation A is liable as a successor only of Corporation P. Thus, it is incorrect to state,

“Corporation A, as successor to Corporation P and Subsidiaries.” However, it is correct to state, “Corporation A, as successor to Corporation P.” Note also that generally, where Corporation A is a successor under state law, it may also be an alternative agent under 26 CFR 1.1502-77A(e)(4)(ii) for the former members of the Corporation P consolidated group with respect to the group's pre-merger years.

***Example:* Service Deals with Subsidiary Member Separately**

The Service is authorized to deal with a subsidiary member separately under Treas. Reg. § 1.1502-77A(a). The Service determines it is administratively easier to deal solely with Subsidiary S, a subsidiary member of the group. The Service first must send the common parent a “breaking agency” letter, and then deal separately with Subsidiary S in order to obtain an executed consent.

The Service must send the common parent a “breaking agency” letter if it intends to deal separately with one or more subsidiary members of the group.

The caption of the consent should include the name of “Corporation S.\*” Place an asterisk after the subsidiary's name in either the caption or signature block. At the bottom of the Form 872, indicate: “\*This is with respect to its several liability for the consolidated tax of the Corporation P and Subsidiaries consolidated group.” The signature block should read: “Corporation S”, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation S is located to sign for Corporation S.

***Example:* Common Parent that Changed Its Name Once**

Corporation P, the common parent of the consolidated group for the years to be extended, has changed its name one time and the Service seeks to have it execute the consent.

The consent caption should read:

“Corporation Q (EIN: XX-XXXXXXX) (formerly Corporation P) and Subsidiaries consolidated group.”

In the signature block, Corporation Q should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation Q is located to sign for Corporation Q.

***Example:* Common Parent that Changed Its Name Twice**

Corporation P, the common parent of the consolidated group for the years to be extended, changed its name twice since the tax years to be extended. (Corporation P changed its name to Corporation Q and then changed its name again to Corporation R.)

The consent caption should read:

“Corporation R (EIN: XX-XXXXXXX) (formerly Corporation Q, formerly Corporation P) and Subsidiaries consolidated group.”

In the signature block, Corporation R should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation R is located to sign for Corporation R.

***Example:* Successor Corporation that Changed Its Name after Merging with the Common Parent**

Corporation A merged with Corporation P, (the common parent of the Corporation P consolidated group), and, Corporation A survived the merger. Afterward, Corporation A

changed its name to Corporation B. Since Corporation A (now B) is the successor of Corporation P, the common parent, it may also be an alternative agent to the members of the Corporation P consolidated group with respect to the group's pre-merger years.

The consent caption should read:

"Corporation B (EIN: XX-XXXXXXX) (formerly Corporation A) as successor to Corporation P (EIN: XX- XXXXXXX), and as agent for the members of the Corporation P and Subsidiaries consolidated group. \*\*"

Place an asterisk after "group" in the caption.

At the bottom of the Form 872, indicate: "\*\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group."

In the signature block, Corporation B, the name of the corporation that is the agent, should be typed on the "Corporate Name" line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation B is located to sign for Corporation B.

***Example:* Successor Corporation that Merged with Common Parent that had Previously Changed Its Name**

Corporation A (the successor corporation) merged into Corporation Q (the common parent of the consolidated group), and Corporation A survived the merger.

Corporation Q had previously been known as Corporation P in the years to be extended.

The consent caption should read:

"Corporation A (EIN: XX- XXXXXXX), as successor to Corporation Q (EIN: XX- XXXXXXX) (formerly Corporation P), and as agent for the members of the Corporation P and Subsidiaries consolidated group\*\*".

Place an asterisk after "group." At the bottom of the Form 872, indicate: "\*\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated

group.”

In the signature block, Corporation A, the name of the corporation that is the agent, should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation A is located to sign for Corporation A.

***Example:* Successor Corporation that Changed Its Name after Merger with Common Parent that had Previously Changed Its Name**

Corporation A merged with Corporation Q (the common parent of the consolidated group under audit), and Corporation A survived the merger. Immediately after the merger, Corporation A changed its name to Corporation B. For the years under audit, Corporation Q had been known as Corporation P.

The consent caption should read:

“Corporation B (EIN: XX-XXXXXXX) (formerly Corporation A) as successor to Corporation Q (EIN: XX-XXXXXXX) (formerly Corporation P), and as agent for the members of the Corporation P and Subsidiaries consolidated group. \*”

Place an asterisk after “group”. At the bottom of the Form 872, indicate: “\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group.”

In the signature block, Corporation B, the name of the corporation that is the agent, should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation B is located to sign for Corporation B.

***Example:* Reverse Acquisition by Merger or Downstream Transfer by Merger**

Corporation A merged with Corporation P, the common parent of the Corporation P and

Subsidiaries consolidated group for the years to be extended, in a reverse acquisition transaction. Corporation A survived the merger. Because the transaction constituted a reverse acquisition under 26 CFR 1.1502-75(d)(3), the Corporation P and Subsidiaries consolidated group continues to exist (and therefore does not file a short year return), but with Corporation A as the new common parent.

The consent caption should read:

“Corporation A (EIN: XX-XXXXXXX) as successor to Corporation P (EIN: XX-XXXXXXX), and as agent of the Corporation P and Subsidiaries consolidated group. \*”

Place an asterisk after “group” in the caption.

At the bottom of the Form 872, indicate: “\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group.”

In the signature block, Corporation A, the name of the corporation that is the agent, should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation A is located to sign for Corporation A.

**Note:** This example applies to extending taxable years that occurred prior to the year of the reverse acquisition. In the year of the reverse acquisition, the new common parent Corporation A would file the return in its own name and would therefore be the one that executes the Form 872.

**Example:** If the year to be extended is a year that Corporation A is the common parent, the consent caption should read: “Corporation A (EIN: XX-XXXXXXX) and Subsidiaries consolidated group.” The signature block should read: “Corporation A”, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation A is located to sign for Corporation A.

**Example: Successor of the Successor to the Common Parent**

Corporation A merged with Corporation X that had previously merged with Corporation P (the common parent of the Corporation P and Subsidiaries consolidated group for the years to be extended). The consolidated years under audit are the pre-merger years of the Corporation P and Subsidiaries consolidated group.

The consent caption should read:

“Corporation A (EIN: XX- XXXXXXXX), as successor to Corporation X (EIN XX- XXXXXXXX), successor to Corporation P (EIN: XX-XXXXXXX), and as agent for the members of the Corporation P and Subsidiaries consolidated group. \*\*”

Place an asterisk after “group” in the caption.

At the bottom of the Form 872, indicate: “\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group.”

In the signature block, Corporation A, the name of the corporation that is the agent, should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation A is located to sign for Corporation A.

**Note:** Corporation A is liable as the successor to the successor of Corporation P, the common parent of the consolidated group. As a successor of a successor, Corporation A is severally liable in its own right as a successor to Corporation P and may be an alternative agent under 26 CFR 1.1502-77A(e)(4)(ii) for the former members of the Corporation P consolidated group.

**(7) Years governed by Treas. Reg. § 1.1502-77B, Examples**

The proper method for identifying a consolidated taxpayer in caption of Form 872 (or other suitable consent form) for

consolidated taxable years beginning on or after June 28, 2002 and before April 1, 2015 are as follows:

***Example:* Common Parent of the Group Still in Existence**

The common parent (the agent) for the year to be extended will execute the consent. Corporation P is the common parent of the Corporation P and Subsidiaries consolidated group for the years to be extended. Corporation P is still in existence. P will execute the consent for the members of the group.

The consent caption should read:

“Corporation P (EIN XX-XXXXXX) and Subsidiaries consolidated group.”

The signature block should read: “Corporation P”, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation P is located to sign for Corporation P.

***Example:* Common Parent Designates Its Successor as Substitute Agent**

The successor, as substitute agent for the year to be extended, will execute the consent. Before its existence terminated, Corporation P, the common parent of the Corporation P and Subsidiaries consolidated group, designated Corporation Y, its successor by merger, as substitute agent, and the Service approved this designation. Corporation Y will execute the consent for any and all years Corporation P was common parent.

The consent caption should read:

“Corporation Y (EIN: XX-XXXXXXX), as successor by merger to Corporation P (EIN: XX-XXXXXXX), and as agent for the members of the Corporation P and Subsidiaries consolidated group. \*”

Place an asterisk after “group” in the caption.

At the bottom of the Form 872, indicate: “\*This is with respect to the consolidated tax of the

Corporation P and Subsidiaries consolidated group.”

In the signature block, Corporation Y, the name of the corporation that is the agent, should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation Y is located to sign for Corporation Y.

***Example:* Common Parent Designates a Member of the Group as Substitute Agent**

The member, as substitute agent for the year to be extended will execute the consent.

Common Parent Corporation P designates Corporation S, a member of the Corporation P and Subsidiaries consolidated group for the years to be extended, as Substitute Agent. Corporation S will execute the consent.

The consent caption should read:

“Corporation S (EIN: XX-XXXXXXX), as agent for the members of the Corporation P (EIN: XX-XXXXXXX) and Subsidiaries consolidated group. \*”

Place an asterisk after “group” in the caption.

At the bottom of the Form 872, indicate: “\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group.”

In the signature block, Corporation S, the name of the corporation that is the agent, should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation S is located to sign for Corporation S.

***Example:* Default Substitute Agent**

The successor to the common parent, as default substitute agent for the years to be extended, will execute the consent.

Common Parent Corporation P fails to designate a substitute agent before it goes out of existence. By default, Corporation Y, the

successor by merger to Corporation P, is the default substitute agent. Corporation Y will execute the consent.

The consent caption should read:

“Corporation Y (EIN: XX-XXXXXXX) as successor to Corporation P (EIN: XX-XXXXXXX) and as agent for the members of the Corporation P and Subsidiaries consolidated group. \*”

Place an asterisk after “group” in the caption.

At the bottom of the Form 872, indicate: “\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group.”

In the signature block, Corporation Y, the name of the corporation that is the agent, should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation Y is located to sign for Corporation Y.

***Example:* Common Parent Changed Its Name, Merged out of Existence and Failed to Designate a Substitute Agent**

The common parent’s successor, as default substitute agent for the year to be extended, will execute the consent.

Common Parent Corporation P changed its name to Corporation Q and failed to designate a Substitute Agent prior to merging out of existence; by default, Corporation Y, the successor to Corporation Q (formerly Corporation P), is the default substitute agent. Corporation Y will execute the consent.

The consent caption should read:

“Corporation Y (EIN: XX-XXXXXXX), as successor to Corporation Q (EIN: XX-XXXXXXX) (formerly Corporation P), and as agent for members of Corporation P (EIN: XX-XXXXXXX) and Subsidiaries consolidated group. \*”

Place an asterisk after “group” in the caption.

At the bottom of the Form 872, indicate: “\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group.”

In the signature block, Corporation Y, the name of the corporation that is the agent, should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation Y is located to sign for Corporation Y.

***Example:* Common Parent Merged out of Existence, Failed to Designate a Substitute Agent, Common Parent’s Successor, the Default Substitute Agent, Changed its Name Once**

The common parent’s successor, as default substitute agent for the year to be extended, will execute the consent.

Common Parent Corporation P failed to designate a substitute agent before it went out of existence. By default, Corporation Y, the successor by merger to Corporation P, is the default substitute agent. Corporation Y changed its name to Corporation X.

Corporation X will execute the consent.

The consent caption should read:

“Corporation X (EIN: XX-XXXXXXX) (formerly Corporation Y) as successor to Corporation P (EIN: XX-XXXXXXX), and as agent for the members of the Corporation P and Subsidiaries consolidated group. \*”

Place an asterisk after “group” in the caption.

At the bottom of the Form 872, indicate: “\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group.”

In the signature block, Corporation X, the name of the corporation that is the agent, should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation X is

located to sign for Corporation X.

**Example: Common Parent Changed Its Name, Merged Out of Existence and Failed to Designate a Substitute Agent; Default Substitute Agent Changed Its Name**

The common parent's successor, as default substitute agent for the year to be extended, will execute the consent.

Common Parent Corporation P changed its name to Corporation Q, merged out of existence but failed to designate a substitute agent; Corporation Y, the successor to Corporation Q (formerly named Corporation P) as well as the default substitute agent, changed its name to Corporation X.

Corporation X will execute the consent.

The consent caption should read:

"Corporation X (EIN: XX-XXXXXX) (formerly Corporation Y) as successor to Corporation Q (EIN: XX-XXXXXX) (formerly Corporation P), and as agent for members of the Corporation P (EIN: XX-XXXXXX) and Subsidiaries consolidated group. \*"

Place an asterisk after "group" in the caption.

At the bottom of the Form 872, indicate: "\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group."

In the signature block, Corporation X, the name of the corporation that is the agent, should be typed on the "Corporate Name" line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation X is located to sign for Corporation X.

**Example: Successor to Parent Merges into Another Corporation (the Successor's Successor)**

The successor to the successor (the successor by merger to common parent) for the year to be extended will execute the consent.

Corporation Y, the successor by merger to the Common Parent Corporation P, merged into Corporation Z. Corporation Y's existence terminated. Corporation Z will execute the consents.

The consent caption should read:

"Corporation Z (EIN: XX-XXXXXX), successor to Corporation Y (EIN: XX-XXXXXX), successor to Corporation P (EIN: XX-XXXXXX), and as agent for members of Corporation P (EIN: XX-XXXXXX) and Subsidiaries consolidated group. \*"

Place an asterisk after "group" in the caption.

At the bottom of the Form 872, indicate: "\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group."

In the signature block, Corporation Z, the name of the corporation that is the agent, should be typed on the "Corporate Name" line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation Z is located to sign for Corporation Z.

***Example:* IRS Designates a Member of The Group as Substitute Agent**

The member, as Designated Substitute Agent for the year to be extended, will execute the consent.

Before it terminates, Common Parent Corporation P fails to designate an agent. Commissioner designates Corporation S, a member of the group for the year to be extended, to act as substitute agent.

Corporation S will execute the consent.

The consent caption should read:

"Corporation S (EIN: XX-XXXXXX), as agent for the members of the Corporation P (EIN: XX-XXXXXX) and Subsidiaries consolidated group. \*"

Place an asterisk after "group" in the caption.

At the bottom of the Form 872, indicate: "\*This is with respect to the consolidated tax of the

Corporation P and Subsidiaries consolidated group.”

In the signature block, Corporation S, the name of the corporation that is the substitute agent, should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation S is located to sign for Corporation S.

***Example:* IRS Designates Successor of Member to Act as Substitute Agent**

The Service may designate a successor of a member as the Substitute Agent; if so, the successor will execute the consent.

Before it terminates, Common Parent Corporation P fails to designate a Substitute Agent before merging out of existence.

Corporation S, a member of the group, merges into Corporation T, an unrelated corporation. Commissioner designates Corporation T to act as Substitute Agent. Corporation T will execute the consent.

The consent caption should read:

“Corporation T (EIN: XX-XXXXXX), as successor by merger to Corporation S (EIN: XX-XXXXXX) (member of the Corporation P and Subsidiaries consolidated group), and as agent for the members of the Corporation P (EIN: XX-XXXXXX) and Subsidiaries Consolidated group. \*”

Place an asterisk after “group” in the caption.

At the bottom of the Form 872, indicate: “\*This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group.”

In the signature block, Corporation T, the name of the corporation that is the substitute agent, should be typed on the “Corporate Name” line, followed by the signature and title of a current officer who is empowered under the laws of the state in which Corporation T is located to sign for Corporation T.

*Example:*

**Common Parent Converts to an LLC disregarded from its owner for federal tax purposes and No Member Remains to Act as Substitute Agent**

Although deemed to have terminated, where no member remains to act as substitute agent, the common parent for the year to be extended, although disregarded as an entity for federal income tax purposes, nonetheless will execute the consent.

Common Parent Corporation P has two subsidiaries, Corporation S and Corporation S-1. Corporation P is acquired by Corporation Z and the Corporation P consolidated group terminates. Upon being acquired, P, S and S-1 convert under state law into limited liability companies (LLCs) that are disregarded from their owner for federal income tax purposes. At that point, all of the former members of the Corporation P consolidated group become disregarded for federal income tax purposes, and P, LLC continues to be the agent because no eligible entity exists that can act as agent for the former members of the Corporation P and Subsidiaries consolidated group. P, LLC will execute the consent. The consent caption should read: "P, LLC (formerly Corporation P) (EIN: XX-XXXXXXX) for itself, and as agent for the members of the Corporation P and Subsidiaries consolidated group. \*"

Place an asterisk after "group" in the caption. At the bottom of the Form 872, indicate: "\*" This is with respect to the consolidated tax of the Corporation P and Subsidiaries consolidated group."

The signature block should read: "P, LLC", the name of the entity that is the agent. This is followed by the signature and title of the signing member (if member-managed) or signing manager (if manager-managed) who is empowered under the laws of the state in which P, LLC is located and in accordance with the LLCs operating agreement, to sign for P, LLC.

**(8) Years governed by Treas. Reg. § 1.1502-77, Examples**

The proper method for identifying a consolidated taxpayer in the caption

of Form 872 (or other suitable consent form) for consolidated taxable years beginning on or after April 1, 2015 in Treas. Reg. § 1.1502-77 is similar to the identification method employed by Treas. Reg. § 1.1502-77B. However, because there are significant differences as to which type of entity can be an agent, a careful reading of the regulations is necessary to determine that the correct agent is identified.

Note: Treas. Reg. § 1.1502-77 substitutes the term “Agent” in lieu of the term “Common Parent”, which term is used in Treas. Reg. §§ 1.1502-77A and 1.1502-77B. The common parent, however, in many instances will most likely be identified as the proper agent to bind the members of the consolidated group.

Note: Treas. Reg. § 1.1502-77 includes disregarded entities and partnerships as entities that can be the agent for the group for prior consolidated years. For instance, Treas. Reg. § 1.1502-77(g), Example 7, illustrates a fact scenario in which a partnership is identified as the proper agent for the members of a consolidated group. Below is an example which will help properly identify the agent where a partnership is the agent for the group:

*Example:* **Partnership is Agent for a Consolidated Group**

The partnership will execute the consent. Example – Corporation B, a State M corporation, is the common parent of the B Corporation and Subsidiaries consolidated group that includes corporations S and S-1 for calendar years Year 1 and Year 2. On March 31 of Year 2, Corporation B merges under State M law into P Partnership, a State M partnership. P Partnership is primarily liable under State M law for the liabilities of, including the federal income tax liabilities, Corporation B. As a result of the merger, the Corporation B and Subsidiaries consolidated group terminates as of March 31, Year 2. P Partnership is the default successor to Corporation B under Treas. Reg. § 1.1502-77. Therefore, P partnership is the agent for the Corporation B and Subsidiaries consolidated group for Years 1 and 2.

P Partnership will execute the consent. The consent caption should read: “P Partnership, successor to Corporation B, (EIN: XX-XXXXXXX), and as agent for the members of the Corporation B and Subsidiaries consolidated group. \*” Place an asterisk after “group” in the caption. At the bottom of the Form 872, indicate:

“\*This is with respect to the consolidated tax of the Corporation B and Subsidiaries consolidated group.”  
The signature block should read: “P Partnership” for the name of the entity that is the agent. This is followed by the signature and title of a person who is empowered under the laws of the state in which P Partnership, the agent, is located, to sign for P Partnership.

#### **25.6.22.6.2.2 (MM-DD-YYYY)**

#### **Subsidiary as Partner and as Member of a Consolidated Return**

(1) Execution of Form 872-P for a TEFRA Partnership, Tax Matters Partner is a Subsidiary Member of a Consolidated Group. A subsidiary acting as tax matters partner must sign Form 872-P to bind the partners of the TEFRA partnership. See 26 CFR 1.1502-77B(a)(1) and 26 CFR 1.1502-77B(a)(3)(v). In general, the common parent is the sole agent (agent for the group) that is authorized to act in its own name with respect to all matters relating to the tax liability for that consolidated return year but matters under IRC 6221 through IRC 6234 and the accompanying regulations are reserved exclusively to the entity **subsidiary** acting as tax matterspartner.

(2) Member as Partner in a TEFRA Partnership Other Than One Acting as Tax Matters Partner. The Commissioner generally will deal directly with any member in its capacity as a partner of a partnership that is subject to the TEFRA provisions- (IRC 6221 through IRC 6234 and the accompanying regulations.) The Commissioner will, however, obtain Form 872 or Form 872-A from the common parent. (It is recommended that both the member and the common parent execute the appropriate consent form). If requested to do so, the Commissioner may deal with the common parent as agent for such member on any matter related to the partnership, except to the extent the member acts as tax matters partner of the partnership as indicated above. See Treas. Reg § 1.1502-77(f)(2)(iii) and (g). Examples 14 and 15; § 1.1502-77B(a)(6)(iii).

**Note:** In order to reduce the potential for disputes, obtain consents from the common parent for consolidated taxable years beginning before June 28, 2002, and obtain consents from both the commonparent

and the member for consolidated taxable years beginning on or after that date.

(3) Execution of Form 872-P for a Non-TEFRA Partnership; Subsidiary Member of a Consolidated Group is a Partner in the Partnership. Only the common parent is authorized to sign the consent as the agent that is authorized to act in its own name with respect to all matters relating to the tax liability for that consolidated return year.