

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Rul. 2010-19, page 174.

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for August 2010.

T.D. 9490, page 176.

REG-151605-09, page 184.

Final, temporary, and proposed regulations under section 1502 of the Code contain rules regarding the implementation of section 172(b)(1)(H) within a consolidated group. The regulations also permit certain acquiring consolidated groups to elect to waive all or a portion of the pre-acquisition portion of the extended carryback period pursuant to section 172(b)(1)(H) for specific losses attributable to certain acquired members.

Rev. Proc. 2010-27, page 183.

This procedure informs the trustee (or debtor in possession) representing the bankruptcy estate of the debtor of the procedure to be followed to properly request a tax refund from the Service. Rev. Proc. 81-18 obsolete.

EMPLOYMENT TAX

Rev. Proc. 2010-27, page 183.

This procedure informs the trustee (or debtor in possession) representing the bankruptcy estate of the debtor of the procedure to be followed to properly request a tax refund from the Service. Rev. Proc. 81-18 obsolete.

EXCISE TAX

Rev. Proc. 2010-27, page 183.

This procedure informs the trustee (or debtor in possession) representing the bankruptcy estate of the debtor of the procedure to be followed to properly request a tax refund from the Service. Rev. Proc. 81-18 obsolete.

ADMINISTRATIVE

Notice 2010-53, page 182.

This notice contains updated addresses for certain elections, statements, returns and other documents. Notice 2003-19 revoked.

Rev. Proc. 2010-27, page 183.

This procedure informs the trustee (or debtor in possession) representing the bankruptcy estate of the debtor of the procedure to be followed to properly request a tax refund from the Service. Rev. Proc. 81-18 obsolete.

Finding Lists begin on page ii.



The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and en-

force the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents are compiled semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations,

court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 42.—Low-Income Housing Credit

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 280G.—Golden Parachute Payments

Federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 382.—Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change

The adjusted applicable federal long-term rate is set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 412.—Minimum Funding Standards

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 467.—Certain Payments for the Use of Property or Services

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 468.—Special Rules for Mining and Solid Waste Reclamation and Closing Costs

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 482.—Allocation of Income and Deductions Among Taxpayers

Federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 483.—Interest on Certain Deferred Payments

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 642.—Special Rules for Credits and Deductions

Federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 807.—Rules for Certain Reserves

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 846.—Discounted Unpaid Losses Defined

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 1274.—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property

(Also Sections 42, 280G, 382, 412, 467, 468, 482, 483, 642, 807, 846, 1288, 7520, 7872.)

Federal rates; adjusted federal rates; adjusted federal long-term rate and the long-term exempt rate. For purposes of

sections 382, 642, 1274, 1288, and other sections of the Code, tables set forth the rates for August 2010.

Rev. Rul. 2010-19

This revenue ruling provides various prescribed rates for federal income tax purposes for August 2010 (the current month). Table 1 contains the short-term, mid-term, and long-term applicable federal rates (AFR) for the current month for purposes of section 1274(d) of the Internal Revenue Code. Table 2 contains the short-term, mid-term, and long-term adjusted applicable federal rates (adjusted AFR) for the current month for purposes of section 1288(b). Table 3 sets forth the adjusted federal long-term rate and the long-term tax-exempt rate described in section 382(f). Table 4 contains the appropriate percentages for determining the low-income housing credit described in section 42(b)(1) for buildings placed in service during the current month. However, under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before December 31, 2013, shall not be less than 9%. Finally, Table 5 contains the federal rate for determining the present value of an annuity, an interest for life or for a term of years, or a remainder or a reversionary interest for purposes of section 7520.

REV. RUL. 2010-19 TABLE 1
Applicable Federal Rates (AFR) for August 2010

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
<i>Short-term</i>				
AFR	.53%	.53%	.53%	.53%
110% AFR	.58%	.58%	.58%	.58%
120% AFR	.64%	.64%	.64%	.64%
130% AFR	.69%	.69%	.69%	.69%
<i>Mid-term</i>				
AFR	2.18%	2.17%	2.16%	2.16%
110% AFR	2.40%	2.39%	2.38%	2.38%
120% AFR	2.62%	2.60%	2.59%	2.59%
130% AFR	2.84%	2.82%	2.81%	2.80%
150% AFR	3.29%	3.26%	3.25%	3.24%
175% AFR	3.84%	3.80%	3.78%	3.77%
<i>Long-term</i>				
AFR	3.79%	3.75%	3.73%	3.72%
110% AFR	4.17%	4.13%	4.11%	4.09%
120% AFR	4.55%	4.50%	4.47%	4.46%
130% AFR	4.94%	4.88%	4.85%	4.83%

REV. RUL. 2010-19 TABLE 2
Adjusted AFR for August 2010

	<i>Period for Compounding</i>			
	<i>Annual</i>	<i>Semiannual</i>	<i>Quarterly</i>	<i>Monthly</i>
Short-term adjusted AFR	.58%	.58%	.58%	.58%
Mid-term adjusted AFR	1.93%	1.92%	1.92%	1.91%
Long-term adjusted AFR	3.98%	3.94%	3.92%	3.91%

REV. RUL. 2010-19 TABLE 3
Rates Under Section 382 for August 2010

Adjusted federal long-term rate for the current month	3.98%
Long-term tax-exempt rate for ownership changes during the current month (the highest of the adjusted federal long-term rates for the current month and the prior two months.)	4.01%

REV. RUL. 2010-19 TABLE 4

Appropriate Percentages Under Section 42(b)(1) for August 2010

Note: Under Section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, and before December 31, 2013, shall not be less than 9%.

Appropriate percentage for the 70% present value low-income housing credit	7.69%
Appropriate percentage for the 30% present value low-income housing credit	3.30%

REV. RUL. 2010-19 TABLE 5
Rate Under Section 7520 for August 2010

Applicable federal rate for determining the present value of an annuity, an interest for life or a term of years,
or a remainder or reversionary interest

2.6%

Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 1502.—Regulations

26 CFR 1.1502-21: Net operating losses.

T.D. 9490

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 1 and 602

Extended Carryback of Losses to or from a Consolidated Group

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations under section 1502 that affect corporations filing consolidated returns. These regulations contain rules regarding the implementation of section 172(b)(1)(H) within a consolidated group. These regulations also permit certain acquiring consolidated groups to elect to waive all or a portion of the pre-acquisition carryback period pursuant to section 172(b)(1)(H) for specific losses attributable to certain acquired members. The text of these temporary regulations also serves as the text of the proposed regulations (REG-151605-09) set forth in the notice of proposed rulemaking on this subject in this issue of the Bulletin.

DATES: *Effective Date:* These regulations are effective on June 23, 2010.

Applicability Date: For date of applicability, see §1.1502-21T(h)(9)(i). The applicability of these regulations will expire on June 21, 2013.

FOR FURTHER INFORMATION CONTACT: Grid Glycer, (202) 622-7930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545-2171. Responses to this collection of information are required to obtain a benefit.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in this issue of the Bulletin.

Books or records relating to the collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Section 172(b)(1) provides, in part, that a net operating loss for any taxable year must generally be carried back to each of

the two taxable years preceding the taxable year of the loss. Section 172(b)(3) provides that any taxpayer entitled to a carryback period pursuant to section 172(b)(1) may elect to relinquish the carryback period with respect to a loss for any taxable year. An election to relinquish the carryback period pursuant to section 172(b)(3) must be made by the due date (including extensions) of the taxpayer's return for the taxable year of the loss and in the manner prescribed by the Secretary. Normally, this election is irrevocable. A consolidated group is permitted to make this election for its entire consolidated net operating loss (CNOL) pursuant to the procedures provided in §1.1502-21(b)(3)(i). In addition, §1.1502-21(b)(3)(ii)(B) permits an acquiring consolidated group to make a separate election to waive, for all taxable years of the acquiring group, and solely with respect to all consolidated net operating losses attributable to certain acquired members, the portion of the carryback period for which the acquired corporations were members of another group. This election is irrevocable and must be made by the due date (including extensions) of the acquiring group for the taxable year of the acquisition.

Section 172(b)(1)(H) was amended by the Worker, Homeownership, and Business Assistance Act of 2009, which was signed by the President on November 6, 2009 (Public Law 111-92, 123 Stat. 2984) (the Act). As amended, section 172(b)(1)(H) allows taxpayers to elect to extend the standard two-year carryback period for an additional period of up to three years (Extended Carryback Period) for a net operating loss arising in a single taxable year ending after December 31, 2007, and beginning before January 1, 2010 (Applicable NOL). However, section 172(b)(1)(H) does not apply to any taxpayer if that taxpayer, or any member of the taxpayer's affiliated group (within the meaning of the Act), is described in section 13(f) of the Act.

As described in Revenue Procedure 2009-52, 2009-49 I.R.B. 744, section

13(e)(4) of the Act permits any taxpayer that previously elected pursuant to section 172(b)(3) to forgo the carryback period for a loss arising in a taxable year ending before the date of enactment of the Act (November 6, 2009) to revoke such election in order to take advantage of the Extended Carryback Period, provided that the taxpayer revokes the election before the due date (including extensions) for filing the return for the taxpayer's last taxable year beginning in 2009. Revenue Procedure 2009-52 also permits a taxpayer that filed an application for a tentative carryback adjustment or an amended return using the two-year carryback period for an Applicable NOL to file certain forms to claim the Extended Carryback Period provided pursuant to section 172(b)(1)(H). Revenue Procedure 2009-52 further clarifies that a taxpayer includes an affiliated group filing a consolidated return, an Applicable NOL includes a CNOL, and the section 172(b)(1)(H) election is made by the common parent of the group.

Explanation of Provisions

1. *Extended Carryback Period election and computation of limitation for fifth preceding consolidated return year*

a. *Extended Carryback Period election and revocation of prior elections*

These temporary regulations provide that a consolidated group may elect to carry back a consolidated net operating loss arising in a consolidated return year ending after December 31, 2007, or beginning before January 1, 2010 (Applicable CNOL) to the Extended Carryback Period. In addition, these regulations provide that a group may revoke a prior election pursuant to §1.1502-21(b)(3)(i) in order to make an election pursuant to section 172(b)(1)(H). See section 4.01(3) and (4) of Rev. Proc. 2009-52 for the manner in which a group makes the election pursuant to section 172(b)(1)(H) and revokes a prior election pursuant to §1.1502-21(b)(3)(i).

If a member (Electing Member) of a consolidated group elects an Extended Carryback Period pursuant to section 172(b)(1)(H) with regard to an Applicable NOL arising in a separate return year ending before the Electing Member's acquisition by a consolidated group, the election will not disqualify the acquiring

group from making an otherwise available election pursuant to section 172(b)(1)(H) with regard to an Applicable CNOL for a consolidated return year.

b. *Implementation of the Extended Carryback Period with respect to a consolidated return year*

As contemplated by section 172(b)(1)(H), the designated taxable year within the Extended Carryback Period may be the fifth taxable year preceding the year of the loss (Five-Year Carryback). A taxpayer may also choose the third or fourth preceding taxable year for the Extended Carryback Period. However, section 172(b)(1)(H)(iv) provides that the amount of an Applicable NOL that may be the subject of a Five-Year Carryback shall not exceed 50 percent of *taxpayer's taxable income* (computed without regard to the NOL deduction attributable to the loss year or any taxable year thereafter) for such fifth preceding taxable year.

These temporary regulations provide that, if a group elects pursuant to section 172(b)(1)(H) to make a Five-Year Carryback into a consolidated return year of the same group, for purposes of computing the group's 50 percent limitation, *taxpayer's taxable income* means the consolidated taxable income (CTI) (computed without regard to any CNOL deduction attributable to the loss year or any equivalent taxable year as defined in §1.1502-21(b)(2)(iii), or any taxable year thereafter) of the group in its fifth consolidated return year preceding the year of the loss for which the group has elected the Five-Year Carryback.

These temporary regulations also provide that a limitation applies to each year of a consolidated group that absorbs a Five-Year Carryback, even if the group itself has not made a section 172(b)(1)(H) election. For example, the annual limitation provided in these temporary regulations may limit the amount of loss absorbed by the group where such loss represents a Five-Year Carryback from separate return years of one or more former members. See also §1.1502-21(c) (SRLY limitation).

2. *Elections to waive the entire carryback period or the Extended Carryback Period for pre-acquisition consolidated return years of acquired members*

Given the enactment of section 172(b)(1)(H), and taxpayers' ability to revoke prior elections pursuant to section 172(b)(3) in order to take advantage of the Extended Carryback Period, the IRS and the Treasury Department believe that it is appropriate to afford consolidated groups an opportunity to waive the entire carryback period or the Extended Carryback Period with regard to the portion of the Applicable CNOL that is allocable to certain acquired members. The carryback period may be waived only to the extent of years preceding the acquisition during which the acquired members were included in another consolidated group. Further, this election is available only to groups that did not make an election described in §1.1502-21(b)(3)(ii)(B) to waive all carrybacks with respect to the acquired members. In this regard, the regulations in this Treasury decision add §1.1502-21T(b)(3)(ii)(C), which sets forth two elections. These temporary regulations accordingly permit a consolidated group to make a carryback waiver that, as to an Applicable CNOL, is similar to the waiver described in §1.1502-21(b)(3)(ii)(B), even though the latter waiver election would otherwise be time-barred.

Each of the two carryback waiver elections added by this temporary regulation applies only if (i) the acquiring consolidated group makes a section 172(b)(1)(H) election; and (ii) a portion of the Applicable CNOL is attributable to a member acquired from another group. Pursuant to the first election, an acquiring group may waive the part of the five-year carryback period during which the member was a member of another group. With regard to the apportioned loss, this election may result in a waiver of the entire five-year carryback period to the taxable years prior to the acquisition. However, the waiver is only available where none of such loss has previously been carried back to a taxable year of a group of which the acquired member was previously a member.

Pursuant to the second election, an acquiring group may waive the part of the Extended Carryback Period during which

the member was a member of another group. Thus, with regard to the apportioned loss, this second election permits a waiver of the third, fourth, and fifth carryback years only, to the extent that such years are prior to the acquisition. Moreover, this election is available even where such loss has been carried back to the first or second carryback years of the acquired member that are pre-acquisition years. However, this second election is available only where none of the loss has been carried back to a taxable year of a group of which the acquired member was previously a member which is prior to the second taxable year preceding the taxable year of the loss. Depending upon the facts of a particular group, it is possible that either of the two carryback waiver elections added by this Treasury decision could produce the same result.

Unlike the election pursuant to §1.1502-21(b)(3)(ii)(B), the elections provided in these regulations apply only to a group's Applicable CNOL with regard to which the taxpayer makes an election pursuant to section 172(b)(1)(H) (that is, a single taxable year). An election that relates to an Applicable CNOL must be made by the due date (including extension of time) for filing the return for the taxpayer's last taxable year beginning in 2009.

If the acquiring consolidated group files a valid election described in §1.1502-21(b)(3)(ii)(B) with respect to the acquisition of a member, no election pursuant to §1.1502-21T(b)(3)(ii)(C) needs to be (nor should be) filed to ensure that an Applicable CNOL is not carried back to the relevant pre-acquisition years of the acquired member.

Special Analyses

These regulations are necessary to provide taxpayers with immediate elective relief pursuant to section 172(b)(1)(H), which was amended as part of the Act. These regulations provide rules necessary to implement section 172(b)(1)(H) within a consolidated group. These regulations further permit certain acquiring consolidated groups to elect to waive the standard carryback period or Extended Carryback Period with respect to certain acquired members. The regulations apply to NOLs arising in taxable years ending after De-

ember 31, 2007, and beginning before January 1, 2010. Based on these considerations, it has been determined that these regulations will provide taxpayers with the necessary guidance and authority to ensure equitable administration of the tax laws. Because of the need for immediate guidance, notice and public procedure are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B) and a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(1) and (3).

Further, it has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in this issue of the Bulletin. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Grid Glycer, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and the Treasury Department participated in their development.

* * * * *

Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.1502-21 is amended by adding paragraphs (b)(3)(v) and (h)(9) to read as follows:

§1.1502-21 Net operating losses.

* * * * *

(b) * * *

(3) * * *

(v) [Reserved]. For further guidance, see §1.1502-21T(b)(3)(v).

* * * * *

(h) * * *

(9) [Reserved]. For further guidance, see §1.1502-21T(h)(9).

Par. 3. Section 1.1502-21T is revised to read as follows:

§1.1502-21T Net operating losses (temporary).

(a) through (b)(3)(ii)(B) [Reserved]. For further guidance, see §1.1502-21(a) through (b)(3)(ii)(B).

(C) *Partial waiver of carryback period for an applicable consolidated net operating loss—(1) Application.* The acquiring group may make an election described in paragraph (b)(3)(ii)(C)(2) or (b)(3)(ii)(C)(3) of this section with respect to an acquired member or members only if it did not file a valid election described in §1.1502-21(b)(3)(ii)(B) with respect to such acquired member or members on or before June 23, 2010.

(2) *Partial waiver of entire pre-acquisition carryback period.* If one or more members of a consolidated group become members of another consolidated group, then, with respect to the consolidated net operating loss arising in a taxable year ending after December 31, 2007, and beginning before January 1, 2010 (Applicable CNOL) for which the group has made an election pursuant to section 172(b)(1)(H), the acquiring group may make an irrevocable election to relinquish, for the part of the Applicable CNOL attributable to such member, the portion of the carryback period during which the corporation was a member of another group. This election could thus operate to relinquish carryback for up to five taxable years, including the Extended Carryback Period (as defined in paragraph (b)(3)(v) of this section). However, any other corporation joining the acquiring group that was affiliated with the member immediately before it joined the acquiring group must also be included in the waiver, and the conditions of this paragraph (b)(3)(ii)(C)(2) must be satisfied. The acquiring group cannot make the election described in this paragraph (b)(3)(ii)(C)(2) with respect to any particular portion of an Applicable CNOL if

any carryback is claimed, as provided in paragraph (b)(3)(ii)(C)(4) of this section, with respect to any such loss on a return or other filing by a group of which the acquired member was previously a member and such claim is filed on or before the date the election described in this paragraph (b)(3)(ii)(C)(2) is filed. The election must be made in a separate statement entitled “THIS IS AN ELECTION PURSUANT TO §1.1502-21T(b)(3)(ii)(C)(2) TO WAIVE THE PRE-[insert the first day of the first taxable year for which the member (or members) was a member of the acquiring group] CARRYBACK PERIOD FOR THE CNOL ATTRIBUTABLE TO THE [insert taxable year of loss] TAXABLE YEAR OF [insert names and employer identification numbers of members].” Such statement must be filed as provided in paragraph (b)(3)(ii)(C)(5) of this section.

(3) *Partial waiver of pre-acquisition Extended Carryback Period.* If one or more members of a consolidated group become members of another consolidated group, then, with respect to the Applicable CNOL for which the acquiring group has made an election pursuant to section 172(b)(1)(H), the acquiring group may make an irrevocable election to relinquish, for the part of the Applicable CNOL attributable to such member, the portion of the Extended Carryback Period (as defined in paragraph (b)(3)(v) of this section) during which the corporation was a member of another group. This election could thus operate to relinquish carryback for up to three taxable years. However, any other corporation joining the acquiring group that was affiliated with the member immediately before it joined the acquiring group must also be included in the waiver, and the conditions of this paragraph (b)(3)(ii)(C)(3) must be satisfied. The acquiring group cannot make the election described in this paragraph (b)(3)(ii)(C)(3) with respect to any particular portion of an Applicable CNOL if a carryback to one or more taxable years that are prior to the taxable year that is two taxable years preceding the taxable year of the Applicable CNOL is claimed, as provided in paragraph (b)(3)(ii)(C)(4) of this section, with respect to any such loss on a return or other filing by a group of which the acquired member was previously a member, and such claim is filed on or before the

date the election described in this paragraph (b)(3)(ii)(C)(3) is filed. The election must be made in a separate statement entitled “THIS IS AN ELECTION PURSUANT TO §1.1502-21T(b)(3)(ii)(C)(3) TO WAIVE THE PRE-[insert the first day of the first taxable year for which the member (or members) was a member of the acquiring group] EXTENDED CARRYBACK PERIOD FOR THE CNOL ATTRIBUTABLE TO THE [insert taxable year of losses] TAXABLE YEAR OF [insert names and employer identification numbers of members].” Such statement must be filed as provided in paragraph (b)(3)(ii)(C)(5) of this section.

(4) *Claim for a carryback.* For purposes of paragraphs (b)(3)(ii)(C)(2) and (b)(3)(ii)(C)(3) of this section, a carryback is claimed with respect to a net operating loss if there is a claim for refund, an amended return, an application for a tentative carryback adjustment, or any other filing that claims the benefit of the NOL or CNOL in a taxable year prior to the taxable year of the loss, whether or not subsequently revoked in favor of a claim based on an Extended Carryback Period provided under section 172(b)(1)(H).

(5) *Time and manner for filing statement.* A statement described in paragraph (b)(3)(ii)(C)(2) or (b)(3)(ii)(C)(3) of this section that relates to an Applicable CNOL shall be made by the due date (including extension of time) for filing the return for the taxpayer’s last taxable year beginning in 2009.

(6) *Example.* (i) *Waiver in case of pre-consolidation separate return years.* T was a separate corporation that was not part of a consolidated group, until December 31, 2004, when it was acquired by the X Group. On December 31, 2007, the X Group sold all of the stock of T to the P Group. P did not make the election described in §1.1502-21(b)(3)(ii)(B) to relinquish, with respect to all CNOLs attributable to T, the portion of the carryback period for which T was a member of the X Group. In 2008, the P Group sustained a \$1,000 CNOL, \$600 of which was attributable to T under §1.1502-21(b)(2)(iv)(A). P elected a Five-Year Carryback (as defined in paragraph (b)(3)(v) of this section) pursuant to section 172(b)(1)(H) with regard to the P Group’s 2008 CNOL, and the P Group elected, pursuant to paragraph (b)(3)(ii)(C)(2) of this section, to waive the portion of the carryback period during which T was included in any other consolidated group. T’s fifth and fourth taxable years preceding the year of the loss were its 2003 and 2004 separate return years. Due to the P Group’s election pursuant to paragraph (b)(3)(ii)(C)(2) of this section, T’s allocable portion of the P Group’s 2008 CNOL will not be carried back to the years for which it was a member of

the X Group. However, T’s allocable portion of the P Group’s 2008 CNOL will be carried back to T’s non-consolidated taxable years (2003 and 2004), subject to the limitation provided in section 172(b)(1)(H)(iv).

(ii) *Split-waiver election made.* The facts are the same as in paragraph (i) except that the group made the election described in §1.1502-21(b)(3)(ii)(B) with regard to its acquisition of T in 2007. Due to the P Group’s election pursuant to §1.1502-21(b)(3)(ii)(B), T’s allocable portion of the P Group’s 2008 CNOL will not be carried back to the years for which T was a member of the X Group. However, T’s allocable portion of the P Group’s 2008 CNOL will be carried back to T’s non-consolidated taxable years (2003 and 2004), subject to the limitation provided in section 172(b)(1)(H)(iv).

(b)(3)(iii) and (b)(3)(iv) [Reserved]. For further guidance, see §1.1502-21(b)(3)(iii) and (b)(3)(iv).

(v) *Extended Carryback Period under section 172(b)(1)(H).* Section 172(b)(1)(H) allows a taxpayer to elect to carry back a single net operating loss arising in a taxable year ending after December 31, 2007, and beginning before January 1, 2010 (Applicable NOL) to its third, fourth, or fifth taxable year preceding the taxable year of the loss (Extended Carryback Period). As contemplated by section 172(b)(1)(H), the designated taxable year within the Extended Carryback Period may be the fifth taxable year preceding the year of the loss (Five-Year Carryback), and section 172(b)(1)(H)(iv) limits the amount of the Applicable NOL that may be carried back to 50 percent of the taxpayer’s taxable income (computed without regard to any NOL deduction attributable to the loss year or any taxable year thereafter) for such fifth preceding taxable year. This paragraph (b)(3)(v) provides rules for computing the 50 percent limitation under section 172(b)(1)(H)(iv) where a Five-Year Carryback is made to a consolidated return year from any consolidated return year or separate return year.

(A) *Election—(1) In general.* Except as otherwise provided in this section, a consolidated group may elect an Extended Carryback Period pursuant to section 172(b)(1)(H) with regard to a consolidated net operating loss arising in a taxable year ending after December 31, 2007 and beginning before January 1, 2010 (Applicable CNOL). However, no election may be made under this paragraph for a taxpayer described in section 13(f) of the Worker, Homeownership, and Business Assistance Act of 2009, Public Law 111-92, 123

Stat. 2984 (November 6, 2009). The election pursuant to section 172(b)(1)(H) applies to the entire Applicable CNOL, except as otherwise provided in paragraph (b)(3)(ii)(C) of this section or in this paragraph (b)(3)(v). See also paragraph (c) of this section (SRLY limitation).

(2) *Revoking a previous carryback waiver.* A consolidated group may revoke a prior election pursuant to §1.1502-21(b)(3)(i) to relinquish the entire carryback period with respect to an Applicable CNOL, but only if the group makes the election pursuant to section 172(b)(1)(H) with regard to such Applicable CNOL.

(3) *Pre-acquisition electing member.* If a member (Electing Member) of a consolidated group makes an Extended Carryback Period election pursuant to section 172(b)(1)(H) with regard to a loss from a separate return year ending before the Electing Member's inclusion in a consolidated group, the election will not disqualify the acquiring group from making an otherwise available election pursuant to section 172(b)(1)(H) with regard to an Applicable CNOL incurred in a consolidated return year that includes the Electing Member.

(B) *Taxpayer's taxable income.* For purposes of computing the limitation under section 172(b)(1)(H)(iv) on a Five-Year Carryback to any consolidated return year from any consolidated return year or separate return year, *taxpayer's taxable income* as used in section 172(b)(1)(H)(iv)(I) means consolidated taxable income (CTI) in the consolidated return year that is the fifth taxable year preceding the year of the loss. For purposes of the preceding sentence, CTI is computed without regard to any CNOL deduction attributable to the particular Five-Year Carryback or any NOL from any member's taxable year ending on the same date as the taxable year in which the Five-Year Carryback arises, or any taxable year thereafter.

(C) *Limitation on Five-Year Carrybacks to a consolidated group.—(1) Annual Limitation.* The aggregate amount of Five-Year Carrybacks from years ending on the same date (Testing Date) to any consolidated return year may not exceed the excess of 50 percent of the CTI for that year over the total of Five-Year Carrybacks to that consolidated return year

from years ending before the Testing Date (Annual Limitation). For purposes of the preceding sentence, CTI is computed without regard to—

(i) Any CNOL deduction attributable to Five-Year Carrybacks to such year; or

(ii) Any NOL from any member's taxable year ending on the Testing Date or any taxable year thereafter.

(2) *Pro rata absorption of limited and non-limited losses.* Any Five-Year Carryback, and other net operating losses, from years ending on the same date that are available to offset CTI in the same year are absorbed on a *pro rata* basis. See §1.1502-21(b)(1).

(D) *Election by small business.* This paragraph (b)(3)(v) does not apply to any loss of an eligible small business as defined in section 172(b)(1)(H)(v)(II) with respect to any election made pursuant to section 172(b)(1)(H) as in effect on the day before the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009.

(E) *Examples.* The rules of this paragraph (b)(3)(v) are illustrated by the following examples. For purposes of the examples, all affiliated groups file consolidated returns, all corporations are includible corporations that have calendar taxable years, the facts set forth the only relevant corporate activity, and all transactions are with unrelated parties.

Example 1. Computation and Absorption of Five-Year Carrybacks. (i) *Facts.* P is the common parent of the P Group. On June 30, 2006, P acquired all of the stock of T from X, the common parent of the X Group. The X Group has been in existence since 1996. P did not make the election described in §1.1502-21(b)(3)(ii)(B) to relinquish, with respect to all CNOLs attributable to T, the portion of the carryback period for which T was a member of the X Group. In 2008, the P Group sustained a \$1,000 CNOL, \$600 of which was attributable to T under §1.1502-21(b)(2)(iv)(A). P elected a Five-Year Carryback pursuant to section 172(b)(1)(H) with regard to the P Group's 2008 CNOL. P did not make an election pursuant to paragraph (b)(3)(ii)(C) of this section to waive any portion of the period during which T was included in the X Group. T's fifth taxable year preceding the year of the loss was the X Group's 2004 consolidated return year. For 2004, T's separate return limitation year (SRLY) limitation for losses carried into the X Group was \$400. The X Group's CTI for 2004 is \$200. The X Group did not make a Five-Year Carryback election for a CNOL from its 2008 or 2009 taxable year. There are no other NOL carrybacks into the X Group's 2004 consolidated taxable year.

(ii) *Five-Year Carryback from separate return year.* Pursuant to paragraph (b)(3)(v)(C)(1) of this

section, the amount of T's apportioned loss that is eligible for Five-Year Carryback is limited to 50 percent of the X Group's CTI for 2004, or \$100 (\$200 x 50 percent). Therefore, \$100 of T's apportioned loss will be carried into the X Group's 2004 consolidated return year. In addition, T's 2008 loss is subject to the SRLY limitation of \$400 with respect to the X Group. Thus, the amount of T's portion of the P Group's 2008 CNOL that may offset the X Group's 2004 CTI is \$100 (the lesser of \$400 (T's SRLY limitation) or \$100 (the amount of T's Five-Year Carryback)).

(iii) *Pro rata absorption of limited and non-limited losses within a single consolidated return year.* The facts are the same as in paragraph (i), except that the X Group sustained a \$750 CNOL in 2008, which X elected to carry back four years to its 2004 consolidated return year (no Five-Year Carryback). Further, the X Group had CTI of \$500 in 2004. Therefore, the X Group and the P Group both carry back CNOLs from years ending December 31, 2008, although only the P Group's CNOL (including the portion allocable to T) constitutes a Five-Year Carryback. The Annual Limitation on Five-Year Carrybacks will be \$250 (\$500 x 50 percent), with CTI determined without taking into account the portion of P's 2008 CNOL carried back to the X Group's 2004 consolidated return year or the X Group's 2008 CNOL, which arises from a taxable year ending on the same date as the Five-Year Carryback. The \$750 CNOL carryback within the X Group is subject to no limitation. Under §1.1502-21(b)(1), because the 2008 CNOL of the X Group and the 2008 SRLY loss of T are losses from years ending on the same date and are available to offset CTI in the same year, the two losses offset the X Group's \$500 CTI on a *pro rata* basis. Accordingly, \$375 of the X's Group's 2008 CNOL [\$500 x \$750/(\$750 + \$250)] and \$125 of T's portion of the P Group's 2008 CNOL [\$500 x \$250/(\$750 + \$250)] offset the X Group's 2004 CTI.

Example 2. Multiple carryback years. (i) *Facts.* On January 1, 2004, Individual A formed X, which formed corporations S and T, and X elected to file a consolidated Federal income tax return. For its 2004 consolidated taxable year, the X Group's CTI was \$1,100. For its 2005 consolidated taxable year, the X Group's CTI was \$1,000. On June 30, 2007, the X Group sold all of the S stock to the Y Group and sold all of the T stock to the Z Group. The X Group terminated in 2007. Neither Y nor Z made the election described in §1.1502-21(b)(3)(ii)(B) to relinquish, with respect to all CNOLs attributable to S and T, respectively, the portion of the carryback period for which S and T were members of the X Group. In 2008, the Y Group sustained an \$800 CNOL, \$400 of which was attributable to S under §1.1502-21(b)(2)(iv)(A). Y elected a Five-Year Carryback with regard to the Y Group's 2008 CNOL pursuant to section 172(b)(1)(H). Y did not make an election pursuant to paragraph (b)(3)(ii)(C) of this section to waive any portion of the period during which S was included in the X Group. In 2009, the Z Group sustained a \$1,000 CNOL, \$600 of which was attributable to T under §1.1502-21(b)(2)(iv)(A). Z elected a Five-Year Carryback with regard to the Z Group's 2009 CNOL pursuant to section 172(b)(1)(H). Z did not make an election pursuant to paragraph (b)(3)(ii)(C) of this section to waive any

portion of the Extended Carryback Period during which T was included in the X Group.

(ii) *Analysis.* The \$400 of Y Group's 2008 CNOL that is apportioned to S is carried back as a separate return year Five-Year Carryback to the X Group's 2004 consolidated return year. The \$600 of Z Group's 2009 CNOL that is apportioned to T is also a separate return year Five-Year Carryback to the X Group's 2005 consolidated return year. The Annual Limitation on Five-Year Carryback to the X Group's 2004 consolidated return year computed under paragraph (b)(3)(v)(C)(I) of this section equals \$550 (\$1,100 of CTI x 50 percent). Because S is making the sole Five-Year Carryback to the X Group's 2004 consolidated return year, S will make a Five-Year Carryback of the full \$400. Similarly, the Annual Limitation for Five-Year Carryback to the X Group's 2005 consolidated return year computed under paragraph (b)(3)(v)(C)(I) of this section equals \$500 (\$1,000 of CTI x 50 percent). Because T is making the sole Five-Year Carryback to the X Group's 2005 consolidated return year, T will make a Five-Year Carryback of the full \$500. The SRLY limitations for S and T, respectively, may limit the absorption of the Five-Year Carrybacks within the X Group.

Example 3. Pre-acquisition election by T. P is the common parent of the P Group. On December 31, 2008, P acquired all of the stock of T from X, the common parent of the X Group. T had been a member of the X Group since 1999. P did not make the

election described in §1.1502-21(b)(3)(ii)(B) to relinquish, with respect to all CNOLs attributable to T, the portion of the carryback period for which T was a member of the X Group. Pursuant to section 172(b)(1)(H), the X Group elected to make a Five-Year Carryback of its 2008 CNOL back to 2003. A portion of this CNOL is attributable to T pursuant to §1.1502-21(b)(2)(iv)(A). In 2009, the P Group incurred a CNOL of \$1,000, \$600 of which is attributable to T pursuant to §1.1502-21(b)(2)(iv)(A). Pursuant to section 172(b)(1)(H), the P Group elected a Five-Year Carryback with regard to its 2009 CNOL. P did not make the election pursuant to paragraph (b)(3)(ii)(C) of this section to waive any portion of the period during which T was included in the X Group. The Five-Year Carryback election by the X Group with respect to its 2008 CNOL (which includes the portion of the CNOL attributable to T) does not disqualify the P Group from electing a Five-Year Carryback with regard to its 2009 CNOL. Therefore, the P Group may carry back its CNOL, including the portion attributable to T, in accordance with §1.1502-21 and the rules of this section.

(c) through (h)(8) [Reserved]. For further guidance, see §1.1502-21(c) through (h)(8).

(9) *Section 172(b)(1)(H)—(i) Applicability date.* This section applies to any consolidated Federal income tax return due

(without extensions) after June 23, 2010, if such return was not filed on or before such date. However, a consolidated group may apply this section to any consolidated Federal income tax return that is not described in the preceding sentence.

(ii) *Expiration date.* The applicability of this section will expire on June 21, 2013.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. In §602.101, paragraph (b) the entry for §1.1502-21T is revised to read as follows:

§602.101 OMB Control Numbers.

* * * * *
(b) * * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.1502-21T	1545-2171
* * * * *	

Steven T. Miller,
Deputy Commissioner for Services and Enforcement.

Approved June 16, 2010.

Michael F. Mundaca,
Assistant Secretary of the Treasury (Tax Policy).

(Filed by the Office of the Federal Register on June 22, 2010, 8:45 a.m., and published in the issue of the Federal Register for June 23, 2010, 75 F.R. 35643)

Section 7520.—Valuation Tables

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Section 7872.—Treatment of Loans With Below-Market Interest Rates

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of August 2010. See Rev. Rul. 2010-19, page 174.

Part III. Administrative, Procedural, and Miscellaneous

Revocation of Notice 2003–19

Notice 2010–53

PURPOSE

This notice revokes Notice 2003–19, 2003–1 C.B. 703.

DISCUSSION

SECTION 1. BACKGROUND

Section 1001(a) of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. No. 105–206, 112 Stat. 686, (“RRA 1998”) required the Commissioner of Internal Revenue to develop and implement a plan to reorganize the Service. As part of this reorganization, the Service replaced the national, regional, and district structure with organizational units that serve particular industries and groups of taxpayers.

At the time the Service was reorganized, existing regulations directed taxpayers to file certain elections, statements, returns, and other documents with various

national, regional, and district offices that the Service abolished during the reorganization. Some of those regulations specified what later became outdated places of filing due to the reorganization (*e.g.*, the Office of District Director), contained outdated filing instructions, or lacked specific filing addresses for documents that, at the time, were required or permitted to be filed. Accordingly, the Service published Notice 2003–19, 2003–1 C.B. 703, Place of Filing Certain Elections, Statements, Returns, and Other Documents, to advise taxpayers of the proper addresses to file these documents with the Service as a result of the reorganization.

SECTION 2. DISCUSSION

Since its publication, many of the locations that Notice 2003–19 lists for taxpayers to file documents have changed and are now inaccurate. Accordingly, Notice 2003–19 is revoked and taxpayers should no longer rely on it to determine where to file the documents listed therein. Instead, the location to file many of the documents listed in Notice 2003–19 can

be found on the IRS website, *irs.gov*, or in current IRS forms, instructions to forms, and publications. For those documents where the location to file is not listed on an existing IRS webpage, or in an IRS form, instruction, or publication, a new IRS webpage will list where to file that particular document. To access this new webpage, type <http://www.irs.gov/> into the address box on your Internet browser. Once the webpage opens, click “Contact IRS” on the toolbar at the top and click “IRS Mailing Addresses (“Where To File”)”. Then click “Where to File Certain Elections, Statements, Returns, and Other Documents”. Or you may type <http://www.irs.gov/file/article/0,,id=224931,00.html> into the address box on your Internet browser. This webpage describes where to file all of the documents listed in Notice 2003–19, except those documents for which addresses already can be found on *irs.gov*, or in current IRS forms, instructions to forms, or publications. If additional assistance is needed taxpayers may contact an IRS representative at the appropriate telephone numbers listed below.

Type of Taxpayer	Phone number to call for assistance in determining where to file document
Individuals	1–800–829–1040 Monday-Friday: 7:00 AM-10:00 PM your local time (Alaska and Hawaii follow Pacific time)
Businesses	1–800–829–4933 Monday-Friday: 7:00 AM-10:00 PM your local time (Alaska and Hawaii follow Pacific time)
Exempt Organizations, Retirement Plan Administrators, and Government Entities	1–877–829–5500 Monday-Friday: 7:00 AM-5:30 PM Central Time
For people with hearing impairments	1–800–829–4059 (TDD) Monday-Friday: 7:00 AM-10:00 PM your local time (Alaska and Hawaii follow Pacific time)

In addition, taxpayers required to file elections, statements, returns, and other documents may obtain assistance at one of the IRS Taxpayer Assistance Centers. Information regarding the location of the nearest office can be found at <http://www.irs.gov/localcontacts/index.html>.

SECTION 3. EFFECTIVE DATE

The notice is effective for elections, statements, returns, and other documents filed on or after August 2, 2010.

EFFECT ON OTHER DOCUMENTS

Notice 2003–19, 2003–1 C.B. 703, Place of Filing Certain Elections, State-

ments, Returns, and Other Documents, is revoked.

DRAFTING INFORMATION

The principal author of this notice is Melissa Segal of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding

this notice, contact Melissa Segal at (202) 622-7950 (not a toll-free call).

26 CFR § 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.
(Also: 26 C.F.R. § 301.6402-2: Claims for credit or refund.)

Rev. Proc. 2010-27

SECTION 1. PURPOSE

This revenue procedure informs the trustee (or debtor in possession) representing the bankruptcy estate of the debtor of the procedure to be followed to properly request a tax refund from the Service. This revenue procedure does not apply to the filing by the trustee of an application for a tentative carryback or refund adjustment under section 6411 of the Internal Revenue Code.

SECTION 2. BACKGROUND

During the administration of a bankruptcy case, the bankruptcy estate may have a right to a tax refund. Under section 505(a)(2)(B) of Title 11 of the United States Code (Bankruptcy Code) the bankruptcy court may not determine any right of the bankruptcy estate to a tax refund before the earlier of

(1) 120 days after the trustee properly requests such refund from the governmental unit from which such refund is claimed; or

(2) a determination by such governmental unit of such request.

SECTION 3. APPLICATION

.01 If a credit or refund of an overpayment of tax was not claimed on a return previously filed by the debtor, the trustee may do so by filing the appropriate amended return or form.

(1) Pursuant to section 301.6402-3(a) of the Regulations on Procedure and Administration and section 601.105(e)(1) of the Statement of Procedural Rules (26 CFR Part 601), in the case of an overpayment of income taxes for a taxable year for which:

(a) a Form 1040 or 1040A has been filed by an individual debtor, a claim for credit or refund shall be made by the trustee on Form 1040X, *Amended U.S. Individual Income Tax Return*;

(b) a Form 1120 has been filed by a corporate debtor, a claim for credit or refund shall be made by the trustee on Form 1120X, *Amended U.S. Corporation Income Tax Return*;

(c) a form other than Form 1040, 1040A, or 1120 has been filed by a debtor (such as Form 1041, *U.S. Fiduciary Income Tax Return*), a claim for credit or refund shall be made by the trustee on the appropriate amended income tax return.

(2) Pursuant to section 301.6402-2(c) and section 601.105(e)(1), in the case of an overpayment of taxes other than income tax for which the debtor has filed a return, a claim for credit or refund shall be made on Form 843, *Claim for Refund and Request for Abatement*. An exact copy of the return (or returns) that is the subject of the claim should also be submitted, together with a statement of the name and location of the office where the return was filed. See section 301.6402-2(e), relating to proof of representative capacity to accompany the claim.

.02 If the debtor has claimed a credit or refund of an overpayment of tax on a properly filed return or form, the trustee may rely on such claim.

.03 With regard to an overpayment of taxes of the bankruptcy estate incurred during the administration of the bankruptcy case, a properly executed tax return shall, at the election of the trustee, constitute a claim for credit or refund of the overpayment.

.04 The forms or returns described in this section must be mailed to Centralized Insolvency Operation, Post Office Box 21126, Philadelphia, PA 19114. The return or form must be marked "Request for Prompt Refund" and be accompanied by a written statement explaining that the request is being submitted pursuant to section 505(a) of the Bankruptcy Code.

.05 The Service will examine the appropriate amended return, Form 843, or original return filed by the trustee on an expedited basis. The Service will complete the examination and notify the trustee of the decision rendered within 120 days from the date of the filing of the claim.

SECTION 4. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 81-18, 1981-1 C.B. 688, is obsolete.

SECTION 5. EFFECTIVE DATE

This revenue procedure applies to all cases commenced under the Bankruptcy Code with the exception of chapter 9 municipal debt adjustment cases and chapter 15 ancillary and cross-border cases.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Teresa Dondlinger Trissell of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this revenue procedure, contact William Beard at (202) 622-3620 (not a toll-free call).

Part IV. Items of General Interest

Notice of Proposed Rulemaking by Cross-Reference to Temporary Regulations

Extended Carryback of Losses to or from a Consolidated Group

REG-151605-09

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In this issue of the Bulletin, the IRS is issuing temporary regulations (T.D. 9490) that provides guidance to consolidated groups that implements the revisions to section 172(b)(1)(H). The text of those regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and a request for a public hearing must be received by September 21, 2010.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-151605-09), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-151605-09), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-151605-09).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Grid Glycer, (202) 622-7930, concerning submissions of comments, Regina Johnson (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d) under control number 1545-2171). Comments on the collection of information should be sent to the **Office of Management and Budget**, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503, with copies to the **Internal Revenue Service**, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, D.C. 20224. Comments on the collection of information should be received by August 23, 2010.

Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the **Internal Revenue Service**, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance and purchase of service to provide information.

The collection of information in these proposed regulations is in §§1.1502-21(b)(3)(ii)(C)(2) and 1.1502-21(b)(3)(ii)(C)(3).

The proposed regulations provide guidance to consolidated groups that implements the revisions to section 172(b)(1)(H).

The collection of information is required in order to obtain a benefit. The likely respondents are corporations that are members of consolidated groups.

Estimated total annual reporting burden: 1,000 hours.

Estimated average annual burden hours per respondent: 0.25 hours.

Estimated number of respondents: 4,000.

Estimated frequency of responses: Once.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background and Explanation of Provisions

Temporary regulations in this issue of the Bulletin amend 26 CFR Part 1 to revise §1.1502-21T. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. With respect to the proposed regulation, §1.1502-21, it is hereby certified that this provision will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations primarily affect large corporations that are members of consolidated groups and will provide a benefit if the election is made. Therefore, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Grid Glycer of the Office of Associate Chief Counsel (Corporate). Other personnel from the Treasury Department and the IRS participated in their development.

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:
Authority: 26 U.S.C. 7805 * * *

Section 1.1502–21 also issued under 26 U.S.C. 1502. * * *

Par. 2. Section 1.1502–21 is revised to read as follows:

§1.1502–21 Net operating losses.

[The text of proposed §1.1502–21 is the same as the text for §1.1502–21T(a) through (h)(9)(i) published elsewhere in this issue of the Bulletin].

Steven T. Miller,
*Deputy Commissioner for
Services and Enforcement.*

(Filed by the Office of the Federal Register on June 22, 2010, 8:45 a.m., and published in the issue of the Federal Register for June 23, 2010, 75 F.R. 35710)

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as “rulings”) that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A

and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the substance

of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.

ER—Employer.
ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel’s Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.

PRS—Partnership.
PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2010–1 through 2010–26 is in Internal Revenue Bulletin 2010–26, dated June 28, 2010.

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¹ A cumulative list of current actions on previously published items in Internal Revenue Bulletins 2010–1 through 2010–26 is in Internal Revenue Bulletin 2010–26, dated June 28, 2010.



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