

which incorporates the principles of section 1001, gain or loss on the disposition of an asset is taken into account net of the taxpayer's basis, or investment, in the assets. In contrast, under section 382(h)(6), an item of income is generally a gross amount that is not netted and therefore not necessarily matched with the item of deduction incurred to earn the item of income.

Therefore, the IRS and Treasury Department request comments on the proposed regulations about identifying cases where taking into account items of income and deduction separately may cause the 338 approach to not properly identify whether or not an item of income or deduction is treated as RBIG or RBIL, and how the 338 approach might be adapted so that in such cases it properly identifies whether or not an item of income or deduction is treated as RBIG or RBIL.

### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12666. Therefore, a regulatory assessment is not required. These temporary regulations address situations in which taxpayers inappropriately attempt to treat deferred prepaid income as net unrealized built-in gain for purposes of increasing the amount of post-ownership change income that may be offset by pre-ownership change losses. For this reason, it has been determined pursuant to 5 U.S.C. 553(b)(B) that prior notice and public procedure are impracticable and contrary to the public interest. For the same reason, it has been determined pursuant to 5 U.S.C. 553(d)(3) that good cause exists to make these temporary regulations effective upon the date of publication. For 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 the proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these temporary regulations will be 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 Sean McKeever, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

### Availability of IRS Documents

IRS revenue rulings, procedures, and notices cited in this preamble are made available by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

### PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

**Authority:** 26 U.S.C. 7805. \* \* \*  
Section 1.382-7T also issued under 26 U.S.C. 382(m).\* \* \*

■ **Par. 2.** Section 1.382-7T is added to read as follows:

#### § 1.382-7T Built-in gains and losses (temporary).

(a) *Treatment of prepaid income.* For purposes of section 382(h), prepaid income is not recognized built-in gain. The term *prepaid income* means any amount received prior to the change date that is attributable to performance occurring on or after the change date. Examples to which this paragraph (a) will apply include, but are not limited to, income received prior to the change date that is deferred under section 455, § 1.451-5, or Rev. Proc. 2004-34 (2004-1 CB 991) (or any successor revenue procedure) (see § 601.601(d)(2) of this chapter).

(b) *Effective/applicability date.* (1) This section applies to loss corporations that have undergone an ownership change on or after June 14, 2007.

(2) The applicability of this section expires on or before June 14, 2010.

**Kevin M. Brown,**

*Deputy Commissioner for Services and Enforcement.*

**Eric Solomon,**

*Assistant Secretary of the Treasury.*

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**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Parts 1, 301, and 602

[TD 9329]

RIN 1545-BF26

### Guidance Necessary To Facilitate Business Electronic Filing and Burden Reduction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations that affect taxpayers filing Federal income tax returns. They simplify, clarify, or eliminate reporting burdens and also eliminate regulatory impediments to the electronic filing of certain statements that taxpayers are required to include on or with their Federal income tax returns. This document also makes conforming changes to certain current regulations.

**DATES:** *Effective Date:* These regulations are effective on June 14, 2007.

*Applicability Date:* For dates of applicability, see §§ 1.302-2(d), 1.302-4(h), 1.331-1(f), 1.332-6(e), 1.338-10(c), 1.351-3(f), 1.355-5(e), 1.368-3(e), 1.381(b)-1(e), 1.382-8(j)(4), 1.382-11(b), 1.1081-11(f), 1.1221-2(j), 1.1502-13(m), 1.1502-31(j), 1.1502-32(j), 1.1502-33(k), 1.1502-95(g), 1.1563-3(e) and 1.6012-2(k).

**FOR FURTHER INFORMATION CONTACT:** For all sections except § 1.6012-2, Grid Glycer, (202) 622-7930; for § 1.6012-2, William T. Sullivan (202) 622-7052 (not toll-free numbers).

### SUPPLEMENTARY INFORMATION:

#### Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545-2019.

The collection of information in these final regulations is in §§ 1.302-2, 1.302-4, 1.331-1, 1.332-6, 1.338-10, 1.351-3, 1.355-5, 1.368-3, 1.381(b)-1, 1.382-8, 1.382-11, 1.1081-11, 1.1221-2, 1.1502-13, 1.1502-31, 1.1502-32, 1.1502-33, 1.1502-95, 1.1563-3 and 1.6012-2. This information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of the fair market value of any property (including stock) received and the basis of any property

(including stock) surrendered in the transaction described in such section.

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

Books or records relating to a collection of information must be retained as long as their contents might 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

On May 30, 2006, the IRS and Treasury Department published temporary regulations (TD 9264) under 26 CFR part 1 and 26 CFR part 602. See 71 FR 30591, 2006–26 IRB 1150. The IRS and Treasury Department issued a notice of proposed rulemaking (REG–134317–05) cross-referencing those temporary regulations on the same day. See 71 FR 30640, 2006–26 IRB 1184.

In general, the regulations simplify, clarify, or eliminate reporting burdens for corporations and shareholders for certain transactions, including distributions, exchanges and reorganizations. They also eliminate impediments to the electronic filing of statements that taxpayers, primarily large corporations that are members of consolidated or controlled groups, are required to include on their Federal income tax returns.

These regulations were part of a series of regulations published by the IRS and Treasury Department that are designed to eliminate impediments to the electronic filing of forms and statements that taxpayers are required to include on their Federal income tax returns. See, for example, TD 9300, 71 FR 71040, 2007–2 IRB 246, and TD 9243, 71 FR 4276, 2006–8 IRB 475.

### Explanation of Provisions

Except as provided in the following paragraph, this Treasury decision adopts the proposed regulations with no substantive changes. In addition, this Treasury decision removes the corresponding temporary regulations.

This Treasury decision does not adopt the following proposed regulations: § 1.1502–35(c)(4)(i), § 1.1502–76(b)(2)(ii)(D) and § 1.1563–1(c)(2)(i) through (iii). These proposed regulations will be addressed as part of other guidance projects.

The IRS and Treasury Department received no written or electronic comments from the public in response to the notice of proposed rulemaking

and no public hearing was requested or held. However, three questions were raised informally and are addressed in this preamble.

#### Section 1.302–2

The first question involves a reporting requirement under § 1.302–2 (redemptions not taxable as dividends). Specifically, the question involved proposed § 1.302–2(b)(2), which requires all “significant holders” receiving property from a corporation in exchange for the corporation’s stock (“redemption exchanges”) to include a brief information statement on their return. The statement sets forth certain information necessary to determine the proper treatment of the redemption exchange. Under proposed § 1.302–2(b)(3)(i), a significant holder is any stockholder owning 5 percent or more of the stock of a publicly traded company and any stockholder owning 1 percent or more of the stock of a company that is not publicly traded.

The specific question raised was whether the statement is necessary in all redemption exchanges, whether the exchange is treated as a distribution that is essentially equivalent to a dividend or not. Under the proposed regulations, all redemption exchanges are subject to this reporting requirement. The IRS and Treasury Department determined that the simplified information to be provided in the statement is necessary for the identification and evaluation of redemptions that are essentially equivalent to dividends. Furthermore, the required information is information that taxpayers should already have or be prepared to produce. Finally, as noted in this preamble, the regulations limit any remaining burden by imposing the reporting requirement only on significant holders. For all these reasons, the IRS and Treasury Department have concluded that the requirement does not impose an unnecessary or inappropriate burden on taxpayers. Accordingly, the final regulations adopt the rule proposed in § 1.302–2(b)(2) and do not limit the application of the reporting requirement.

#### Section 1.302–4

The second question involves a reporting requirement under § 1.302–4 (termination of shareholder’s interest). Specifically, the question involved the statement in proposed § 1.302–4(a) regarding the waiver of family attribution. Under this section and section 302(c)(2), a redeeming shareholder can avoid being treated as receiving a dividend equivalent distribution by waiving the application

of the family attribution rules of section 318(a)(1). Prior to the promulgation of § 1.302–4T(a), § 1.302–4(a)(1) provided that taxpayers were required to file family attribution waiver agreements and § 1.302–4(a)(2) prescribed conditions under which a taxpayer that had failed to timely file the agreement could obtain an extension of time to file from the appropriate district director. Section 1.302–4T(a) removed the requirement that an agreement be filed as well as the instructions regarding late filing. Instead, that regulation provided that a statement must be filed and set forth the information that must be included. Section 1.302–4T(a) did not include instructions for late filers.

The specific question raised was whether the change affected taxpayers’ ability to remedy late filing. The IRS and Treasury Department did not intend any change to taxpayers’ ability to remedy late filing. However, the final regulations do not incorporate instructions for late filing because the statement required is a regulatory election and the late filing of all regulatory elections is addressed by § 301.9100–1. Accordingly, such instructions are not necessary and could inadvertently imply that the general rules would not otherwise apply.

#### Section 1.6012–2

Finally, a question was also raised concerning the reporting requirements applicable to foreign insurance corporations electing under section 953(d) to be treated as domestic insurance corporations. Specifically, the question raised was whether such corporations have a reporting requirement.

Section 1.6012–2(c)(1)(i) requires that a domestic life insurance company file with its return a copy of its annual statement which shows the reserves used by the company in computing the taxable income reported on its return, and a copy of Schedule A (real estate) and of Schedule D (bonds and stocks), or any successor thereto, of such annual statement. Section 1.6012–2(c)(2) similarly requires that a domestic nonlife insurance company file with its return a copy of its annual statement, including the underwriting and investment exhibit (or any successor thereto), for the year covered by such return. Section 953(d) provides that a foreign insurance company that satisfies the requirements of section 953(d), including the making of an election under section 953(d)(1)(D), shall be treated as a domestic corporation for purposes of the Internal Revenue Code. Thus, a foreign insurance company that elects under section 953(d) to be treated

as a domestic corporation generally is required under § 1.6012-2(c)(1) or (2), as appropriate, to file with its return a copy of its annual statement. Under § 1.6012-2(c)(5), the term “annual statement” includes a pro forma annual statement if the insurance company is not required to file the NAIC annual statement.

Because the reporting requirements of electing corporations are addressed in the current regulations, the IRS and Treasury Department are not modifying the regulations to address this point further.

### Special Analysis

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 §§ 1.302-2, 1.302-4, 1.331-1, 1.332-6, 1.351-3, 1.355-5, 1.368-3, 1.381(b)-1, 1.1081-11, 1.1563-3, and 1.6012-2. With respect to the collections of information in such sections, and with respect to §§ 1.338-10, 1.382-8, 1.382-11, 1.1221-2, 1.1502-13, 1.1502-31, 1.1502-32, 1.1502-33 and 1.1502-95, it is hereby certified that these regulations 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 (which are members of either controlled or consolidated groups) and in the case of all corporations will substantially reduce or eliminate the existing reporting burden. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations were 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 Treasury Department participated in their development.

### List of Subjects

#### 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Income taxes.

#### 26 CFR Part 602

Reporting and recordkeeping requirements.

### Adoption of 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 is amended by removing the entries for §§ 1.302-2T, 1.302-4T, 1.331-1T, 1.332-6T, 1.338-10T, 1.351-3T, 1.355-5T, 1.368-3T, 1.381(b)-1T, 1.382-8T, 1.382-11T, 1.1081-11T, 1.1221-2T, 1.1502-13T, 1.1502-31T, 1.1502-33T, 1.1502-95T, 1.1563-3T and 1.6012-2T to read, in part, as follows:

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

■ **Par. 2.** Section 1.302-2 is amended by:

- 1. Adding headings to paragraphs (a), (b), (b)(1) and (c).
- 2. Revising paragraphs (b)(2) and (d).
- 3. Adding paragraphs (b)(3) and (b)(4).

The additions and revisions read as follows:

#### § 1.302-2 Redemptions not taxable as dividends.

(a) *In general.* \* \* \*

(b) *Redemption not essentially equivalent to a dividend—(1) In general.* \* \* \*

(2) *Statement.* Unless § 1.331-1(d) applies, every significant holder that transfers stock to the issuing corporation in exchange for property from such corporation must include on or with such holder's return for the taxable year of such exchange a statement entitled, “STATEMENT PURSUANT TO § 1.302-2(b)(2) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SIGNIFICANT HOLDER OF THE STOCK OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF ISSUING CORPORATION].” If a significant holder is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(i) The fair market value and basis of the stock transferred by the significant holder to the issuing corporation; and

(ii) A description of the property received by the significant holder from the issuing corporation.

(3) *Definitions.* For purposes of this section:

(i) *Significant holder* means any person that, immediately before the exchange—

(A) Owned at least five percent (by vote or value) of the total outstanding stock of the issuing corporation if the stock owned by such person is publicly traded; or

(B) Owned at least one percent (by vote or value) of the total outstanding stock of the issuing corporation if the stock owned by such person is not publicly traded.

(ii) *Publicly traded stock* means stock that is listed on—

(A) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(B) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3).

(iii) *Issuing corporation* means the corporation that issued the shares of stock, some or all of which were transferred by a significant holder to such corporation in the exchange described in paragraph (b)(2) of this section.

(4) *Cross reference.* See section 6043 of the Internal Revenue Code for requirements relating to a return by a liquidating corporation.

(c) *Basis adjustments.* \* \* \*

(d) *Effective/applicability date.*

Paragraphs (b)(2), (b)(3) and (b)(4) of this section apply to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply paragraphs (b)(2), (b)(3) and (b)(4) of this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.302-2 as contained in 26 CFR part 1 in effect on April 1, 2006.

#### § 1.302-2T [Removed]

■ **Par. 3.** Section 1.302-2T is removed.

■ **Par. 4.** Section 1.302-4 is amended by:

- 1. Revising paragraphs (a) and (h).
- 2. Adding headings to paragraphs (b), (c), (d), (e), (f), and (g) introductory text.

The additions and revisions read as follows:

**§ 1.302-4 Termination of shareholder's interest.**

(a) *Statement.* The agreement specified in section 302(c)(2)(A)(iii) shall be in the form of a statement entitled, "STATEMENT PURSUANT TO SECTION 302(c)(2)(A)(iii) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER OR RELATED PERSON, AS THE CASE MAY BE], A DISTRIBUTE (OR RELATED PERSON) OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF DISTRIBUTING CORPORATION]." The distributee must include such statement on or with the distributee's first return for the taxable year in which the distribution described in section 302(b)(3) occurs. If the distributee is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The distributee must represent in the statement—

(1) THE DISTRIBUTE (OR RELATED PERSON) HAS NOT ACQUIRED, OTHER THAN BY BEQUEST OR INHERITANCE, ANY INTEREST IN THE CORPORATION (AS DESCRIBED IN SECTION 302(c)(2)(A)(i)) SINCE THE DISTRIBUTION; and

(2) THE DISTRIBUTE (OR RELATED PERSON) WILL NOTIFY THE INTERNAL REVENUE SERVICE OF ANY ACQUISITION, OTHER THAN BY BEQUEST OR INHERITANCE, OF SUCH AN INTEREST IN THE CORPORATION WITHIN 30 DAYS AFTER THE ACQUISITION, IF THE ACQUISITION OCCURS WITHIN 10 YEARS FROM THE DATE OF THE DISTRIBUTION.

(b) *Substantiation information.* \* \* \*

(c) *Stock of parent, subsidiary or successor corporation redeemed.* \* \* \*

(d) *Redeemed shareholder as creditor.* \* \* \*

(e) *Acquisition of assets pursuant to creditor's rights.* \* \* \*

(f) *Constructive ownership rules applicable.* \* \* \*

(g) *Avoidance of Federal income tax.* \* \* \*

(h) *Effective/applicability date.* Paragraph (a) of this section applies to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply paragraph (a) of this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.302-4 as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.302-4T [Removed]**

■ **Par. 5.** Section 1.302-4T is removed.

■ **Par. 6.** Section 1.331-1 is amended by:

■ 1. Adding headings to paragraphs (a), (b), (c) and (e).

■ 2. Revising paragraphs (d) and (f).

The additions and revisions read as follows:

**§ 1.331-1 Corporate liquidations.**

(a) *In general.* \* \* \*

(b) *Gain or loss.* \* \* \*

(c) *Recharacterization.* \* \* \*

(d) *Reporting requirement—(1) General rule.* Every significant holder that transfers stock to the issuing corporation in exchange for property from such corporation must include on or with such holder's return for the year of such exchange the statement described in paragraph (d)(2) of this section unless—

(i) The property is part of a distribution made pursuant to a corporate resolution reciting that the distribution is made in complete liquidation of the corporation; and

(ii) The issuing corporation is completely liquidated and dissolved within one year after the distribution.

(2) *Statement.* If required by paragraph (d)(1) of this section, a significant holder must include on or with such holder's return a statement entitled, "STATEMENT PURSUANT TO § 1.331-1(d) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SIGNIFICANT HOLDER OF THE STOCK OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF ISSUING CORPORATION]." If a significant holder is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(i) The fair market value and basis of the stock transferred by the significant holder to the issuing corporation; and

(ii) A description of the property received by the significant holder from the issuing corporation.

(3) *Definitions.* For purposes of this section:

(i) *Significant holder* means any person that, immediately before the exchange—

(A) Owned at least five percent (by vote or value) of the total outstanding stock of the issuing corporation if the stock owned by such person is publicly traded; or

(B) Owned at least one percent (by vote or value) of the total outstanding

stock of the issuing corporation if the stock owned by such person is not publicly traded.

(ii) *Publicly traded stock* means stock that is listed on—

(A) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(B) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3).

(iii) *Issuing corporation* means the corporation that issued the shares of stock, some or all of which were transferred by a significant holder to such corporation in the exchange described in paragraph (d)(1) of this section.

(4) *Cross reference.* See section 6043 of the Code for requirements relating to a return by a liquidating corporation.

(e) *Example.* \* \* \*

(f) *Effective/applicability date.*

Paragraph (d) of this section applies to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply paragraph (d) of this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.331-1 as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.331-1T [Removed]**

■ **Par. 7.** Section 1.331-1T is removed.

■ **Par. 8.** Section 1.332-6 is added to read as follows:

**§ 1.332-6 Records to be kept and information to be filed with return.**

(a) *Statement filed by recipient corporation.* If any recipient corporation received a liquidating distribution from the liquidating corporation pursuant to a plan (whether or not that recipient corporation has received or will receive other such distributions from the liquidating corporation in other tax years as part of the same plan) during the current tax year, such recipient corporation must include a statement entitled, "STATEMENT PURSUANT TO SECTION 332 BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A CORPORATION RECEIVING A LIQUIDATING DISTRIBUTION," on or with its return for such year. If any recipient corporation is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto

must include this statement on or with its return. The statement must include—

(1) The name and employer identification number (if any) of the liquidating corporation;

(2) The date(s) of all distribution(s) (whether or not pursuant to the plan) by the liquidating corporation during the current tax year;

(3) The aggregate fair market value and basis, determined immediately before the liquidation, of all of the assets of the liquidating corporation that have been or will be transferred to any recipient corporation;

(4) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with the liquidation;

(5) The following representation: THE PLAN OF COMPLETE LIQUIDATION WAS ADOPTED ON [INSERT DATE (mm/dd/yyyy)]; and

(6) A representation by such recipient corporation either that—

(i) THE LIQUIDATION WAS COMPLETED ON [INSERT DATE (mm/dd/yyyy)]; or

(ii) THE LIQUIDATION IS NOT COMPLETE AND THE TAXPAYER HAS TIMELY FILED [INSERT EITHER FORM 952, "Consent To Extend the Time to Assess Tax Under Section 332(b)," OR NUMBER AND NAME OF THE SUCCESSOR FORM].

(b) *Filings by the liquidating corporation.* The liquidating corporation must timely file Form 966, "Corporate Dissolution or Liquidation," (or its successor form) and its final Federal corporate income tax return. See also section 6043 of the Code.

(c) *Definitions.* For purposes of this section:

(1) *Plan* means the plan of complete liquidation within the meaning of section 332.

(2) *Recipient corporation* means the corporation described in section 332(b)(1).

(3) *Liquidating corporation* means the corporation that makes a distribution of property to a recipient corporation pursuant to the plan.

(4) *Liquidating distribution* means a distribution of property made by the liquidating corporation to a recipient corporation pursuant to the plan.

(d) *Substantiation information.* Under § 1.6001-1(e), taxpayers are required to retain their permanent records and make such records available to any authorized Internal Revenue Service officers and employees. In connection with a liquidation described in this section, these records should specifically include information regarding the amount, basis, and fair market value of all distributed property,

and relevant facts regarding any liabilities assumed or extinguished as part of such liquidation.

(e) *Effective/applicability date.* This section applies to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.332-6 as contained in 26 CFR part 1 in effect on April 1, 2006.

#### § 1.332-6T [Removed]

■ **Par. 9.** Section 1.332-6T is removed.

■ **Par. 10.** Section 1.338-0 is amended by revising the entries for §§ 1.338-10(a)(4)(iii) and 1.338-10(c) and removing the entry for § 1.338-10T to read as follows:

#### § 1.338-0 Outline of topics.

\* \* \* \* \*

#### § 1.338-10 Filing of returns.

(a) \* \* \*

(4) \* \* \*

(iii) Procedure for filing a combined return.

\* \* \* \* \*

(c) Effective/applicability date.

\* \* \* \* \*

■ **Par. 11.** Section 1.338-10 is amended by revising paragraphs (a)(4)(iii) and (c) to read as follows:

#### § 1.338-10 Filing of returns.

(a) \* \* \*

(4) \* \* \*

(iii) *Procedure for filing a combined return.* A combined return is made by filing a single corporation income tax return in lieu of separate deemed sale returns for all targets required to be included in the combined return. The combined return reflects the deemed asset sales of all targets required to be included in the combined return. If the targets included in the combined return constitute a single affiliated group within the meaning of section 1504(a), the income tax return is signed by an officer of the common parent of that group. Otherwise, the return must be signed by an officer of each target included in the combined return. Rules similar to the rules in § 1.1502-75(j) apply for purposes of preparing the combined return. The combined return must include a statement entitled, "ELECTION TO FILE A COMBINED RETURN UNDER SECTION 338(h)(15)." The statement must include—

(A) The name, address, and employer identification number of each target

required to be included in the combined return; and

(B) The following declaration: EACH TARGET IDENTIFIED IN THIS ELECTION TO FILE A COMBINED RETURN CONSENTS TO THE FILING OF A COMBINED RETURN.

\* \* \* \* \*

(c) *Effective/applicability date.*

Paragraph (a)(4)(iii) of this section applies to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply paragraph (a)(4)(iii) of this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.338-10 as contained in 26 CFR part 1 in effect on April 1, 2006.

#### § 1.338-10T [Removed]

■ **Par. 12.** Section 1.338-10T is removed.

■ **Par. 13.** Section 1.351-3 is added to read as follows:

#### § 1.351-3 Records to be kept and information to be filed.

(a) *Significant transferor.* Every significant transferor must include a statement entitled, "STATEMENT PURSUANT TO § 1.351-3(a) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SIGNIFICANT TRANSFEROR," on or with such transferor's income tax return for the taxable year of the section 351 exchange. If a significant transferor is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The name and employer identification number (if any) of the transferee corporation;

(2) The date(s) of the transfer(s) of assets;

(3) The aggregate fair market value and basis, determined immediately before the exchange, of the property transferred by such transferor in the exchange; and

(4) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with the section 351 exchange.

(b) *Transferee corporation.* Except as provided in paragraph (c) of this section, every transferee corporation must include a statement entitled, "STATEMENT PURSUANT TO § 1.351-3(b) BY [INSERT NAME AND

EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A TRANSFEREE CORPORATION," on or with its income tax return for the taxable year of the exchange. If the transferee corporation is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The name and taxpayer identification number (if any) of every significant transferor;

(2) The date(s) of the transfer(s) of assets;

(3) The aggregate fair market value and basis, determined immediately before the exchange, of all of the property received in the exchange; and

(4) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with the section 351 exchange.

(c) *Exception for certain transferee corporations.* The transferee corporation is not required to file a statement under paragraph (b) of this section if all of the information that would be included in the statement described in paragraph (b) of this section is included in any statement(s) described in paragraph (a) of this section that is attached to the same return for the same section 351 exchange.

(d) *Definitions.* For purposes of this section:

(1) *Significant transferor* means a person that transferred property to a corporation and received stock of the transferee corporation in an exchange described in section 351 if, immediately after the exchange, such person—

(i) Owned at least five percent (by vote or value) of the total outstanding stock of the transferee corporation if the stock owned by such person is publicly traded, or

(ii) Owned at least one percent (by vote or value) of the total outstanding stock of the transferee corporation if the stock owned by such person is not publicly traded.

(2) *Publicly traded stock* means stock that is listed on—

(i) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(ii) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3).

(e) *Substantiation information.* Under § 1.6001-1(e), taxpayers are required to retain their permanent records and make such records available to any

authorized Internal Revenue Service officers and employees. In connection with the exchange described in this section, these records should specifically include information regarding the amount, basis, and fair market value of all transferred property, and relevant facts regarding any liabilities assumed or extinguished as part of such exchange.

(f) *Effective/applicability date.* This section applies to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.351-3 as contained in 26 CFR part 1 in effect on April 1, 2006.

#### § 1.351-3T [Removed]

■ **Par. 14.** Section 1.351-3T is removed.

■ **Par. 15.** Section 1.355-0 is amended by removing the entry for § 1.355-5T and adding an entry for § 1.355-5.

The revision and addition read as follows:

#### § 1.355-0 Outline of sections.

\* \* \* \* \*

#### § 1.355-5 Records to be kept and information to be filed.

- (a) Distributing corporation.  
 (1) In general.  
 (2) Special rule when an asset transfer precedes a stock distribution.  
 (b) Significant distributee.  
 (c) Definitions.  
 (1) Significant distributee.  
 (2) Publicly traded stock.  
 (d) Substantiation information.  
 (e) Effective/applicability date.

\* \* \* \* \*

■ **Par. 16.** Section 1.355-5 is added to read as follows:

#### § 1.355-5 Records to be kept and information to be filed.

(a) *Distributing corporation*—(1) *In general.* Every corporation that makes a distribution (the distributing corporation) of stock or securities of a controlled corporation, as described in section 355 (or so much of section 356 as relates to section 355), must include a statement entitled, "STATEMENT PURSUANT TO § 1.355-5(a) BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A DISTRIBUTING CORPORATION," on or with its return for the year of the distribution. If the distributing corporation is a controlled foreign corporation (within the meaning of section 957), each United States

shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(i) The name and employer identification number (if any) of the controlled corporation;

(ii) The name and taxpayer identification number (if any) of every significant distributee;

(iii) The date of the distribution of the stock or securities of the controlled corporation;

(iv) The aggregate fair market value and basis, determined immediately before the distribution or exchange, of the stock, securities, or other property (including money) distributed by the distributing corporation in the transaction; and

(v) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with the transaction.

(2) *Special rule when an asset transfer precedes a stock distribution.* If the distributing corporation transferred property to the controlled corporation in a transaction described in section 351 or 368, as part of a plan to then distribute the stock or securities of the controlled corporation in a transaction described in section 355 (or so much of section 356 as relates to section 355), then, unless paragraph (a)(1)(v) of this section applies, the distributing corporation must also include on or with its return for the year of the distribution the statement required by § 1.351-3(a) or 1.368-3(a). If the distributing corporation is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include the statement required by § 1.351-3(a) or 1.368-3(a) on or with its return.

(b) *Significant distributee.* Every significant distributee must include a statement entitled, "STATEMENT PURSUANT TO § 1.355-5(b) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SIGNIFICANT DISTRIBUTE," on or with such distributee's return for the year in which such distribution is received. If a significant distributee is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The names and employer identification numbers (if any) of the distributing and controlled corporations;

(2) The date of the distribution of the stock or securities of the controlled corporation; and

(3) The aggregate basis, determined immediately before the exchange, of any stock or securities transferred by the significant distributee in the exchange, and the aggregate fair market value, determined immediately before the distribution or exchange, of the stock, securities or other property (including money) received by the significant distributee in the distribution or exchange.

(c) *Definitions.* For purposes of this section:

(1) *Significant distributee* means—

(i) A holder of stock of a distributing corporation that receives, in a transaction described in section 355 (or so much of section 356 as relates to section 355), stock of a corporation controlled by the distributing corporation if, immediately before the distribution or exchange, such holder—

(A) Owned at least five percent (by vote or value) of the total outstanding stock of the distributing corporation if the stock owned by such holder is publicly traded; or

(B) Owned at least one percent (by vote or value) of the stock of the distributing corporation if the stock owned by such holder is not publicly traded; or

(ii) A holder of securities of a distributing corporation that receives, in a transaction described in section 355 (or so much of section 356 as relates to section 355), stock or securities of a corporation controlled by the distributing corporation if, immediately before the distribution or exchange, such holder owned securities in such distributing corporation with a basis of \$1,000,000 or more.

(2) *Publicly traded stock* means stock that is listed on—

(i) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(ii) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3).

(d) *Substantiation information.* Under § 1.6001-1(e), taxpayers are required to retain their permanent records and make such records available to any authorized Internal Revenue Service officers and employees. In connection with the distribution or exchange described in this section, these records should specifically include information regarding the amount, basis, and fair market value of all property distributed or exchanged, and relevant facts

regarding any liabilities assumed or extinguished as part of such distribution or exchange.

(e) *Effective/applicability date.* This section applies to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.355-5 as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.355-5T [Removed]**

■ **Par. 17.** Section 1.355-5T is removed.

■ **Par. 18.** Section 1.368-3 is added to read as follows:

**§ 1.368-3 Records to be kept and information to be filed with returns.**

(a) *Parties to the reorganization.* The plan of reorganization must be adopted by each of the corporations that are parties thereto. Each such corporation must include a statement entitled, “STATEMENT PURSUANT TO § 1.368-3(a) BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A CORPORATION A PARTY TO A REORGANIZATION,” on or with its return for the taxable year of the exchange. If any such corporation is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. However, it is not necessary for any taxpayer to include more than one such statement on or with the same return for the same reorganization. The statement must include—

(1) The names and employer identification numbers (if any) of all such parties;

(2) The date of the reorganization;

(3) The aggregate fair market value and basis, determined immediately before the exchange, of the assets, stock or securities of the target corporation transferred in the transaction; and

(4) The date and control number of any private letter ruling(s) issued by the Internal Revenue Service in connection with this reorganization.

(b) *Significant holders.* Every significant holder, other than a corporation a party to the reorganization, must include a statement entitled, “STATEMENT PURSUANT TO § 1.368-3(b) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY)

OF TAXPAYER], A SIGNIFICANT HOLDER,” on or with such holder’s return for the taxable year of the exchange. If a significant holder is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The names and employer identification numbers (if any) of all of the parties to the reorganization;

(2) The date of the reorganization; and

(3) The fair market value, determined immediately before the exchange, of all the stock or securities of the target corporation held by the significant holder that is transferred in the transaction and such holder’s basis, determined immediately before the exchange, in the stock or securities of such target corporation.

(c) *Definitions.* For purposes of this section:

(1) *Significant holder* means—

(i) A holder of stock of the target corporation that receives stock or securities in an exchange described in section 354 (or so much of section 356 as relates to section 354) if, immediately before the exchange, such holder—

(A) Owned at least five percent (by vote or value) of the total outstanding stock of the target corporation if the stock owned by such holder is publicly traded; or

(B) Owned at least one percent (by vote or value) of the total outstanding stock of the target corporation if the stock owned by such holder is not publicly traded; or

(ii) A holder of securities of the target corporation that receives stock or securities in an exchange described in section 354 (or so much of section 356 as relates to section 354) if, immediately before the exchange, such holder owned securities in such target corporation with a basis of \$1,000,000 or more.

(2) *Publicly traded stock* means stock that is listed on—

(i) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(ii) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3).

(d) *Substantiation information.* Under § 1.6001-1(e), taxpayers are required to retain their permanent records and make such records available to any authorized Internal Revenue Service officers and employees. In connection with the reorganization described in this

section, these records should specifically include information regarding the amount, basis, and fair market value of all transferred property, and relevant facts regarding any liabilities assumed or extinguished as part of such reorganization.

(e) *Effective/applicability date.* This section applies to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.368-3 as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.368-3T [Removed]**

■ **Par. 19.** Section 1.368-3T is removed.

■ **Par. 20.** Section 1.381(b)-1 is amended by revising paragraphs (b)(3) and (e) to read as follows:

**§ 1.381(b)-1 Operating rules applicable to carryovers in certain corporate acquisitions.**

\* \* \* \* \*

(b) \* \* \*

(3) *Election*—(i) *Content of statements.* The statements referred to in paragraph (b)(2) of this section must be entitled, “ELECTION OF DATE OF DISTRIBUTION OR TRANSFER PURSUANT TO § 1.381(b)-1(b)(2),” and must include: [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF DISTRIBUTOR OR TRANSFEROR CORPORATION] AND [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF ACQUIRING CORPORATION] OF ACQUIRING CORPORATION] ELECT TO DETERMINE THE DATE OF DISTRIBUTION OR TRANSFER UNDER § 1.381(b)-1(b)(2). SUCH DATE IS [INSERT DATE (mm/dd/yyyy)].

(ii) *Filing of statements.* One statement must be included on or with the timely filed Federal income tax return of the distributor or transferor corporation for its taxable year ending with the date of distribution or transfer. An identical statement must be included on or with the timely filed Federal income tax return of the acquiring corporation for its first taxable year ending after that date. If the distributor or transferor corporation, or the acquiring corporation, is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return.

\* \* \* \* \*

(e) *Effective/applicability date.* Paragraph (b)(3) of this section applies to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply paragraph (b)(3) of this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.381(b)-1 as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.381(b)-1T [Removed]**

■ **Par. 21.** Section 1.381(b)-1T is removed.

■ **Par. 22.** Section 1.382-1 is amended by:

- 1. Revising the entry for § 1.382-8(c)(2).
- 2. Revising the entry for § 1.382-8(e)(4).
- 3. Revising the entry for § 1.382-8(h).
- 4. Revising the entry for § 1.382-8(j)(4).
- 5. Removing the entry for § 1.382-8T.
- 6. Adding the entry for § 1.382-11.
- 7. Removing the entry for § 1.382-11T.

The additions and revisions read as follows:

**§ 1.382-1 Table of contents.**

\* \* \* \* \*

**§ 1.382-8 Controlled groups.**

\* \* \* \* \*

(c) \* \* \*  
(2) Restoration of value.

\* \* \* \* \*

(e) \* \* \*  
(4) Foreign component member.  
(i) In general.  
(ii) Exception.

\* \* \* \* \*

(h) Time and manner of filing election to restore.

- (1) Statements required.
  - (i) Filing by loss corporation.
  - (ii) Filing by electing member.
  - (iii) Agreement.
- (2) Special rule for foreign component members.
  - (i) Deemed election to restore full value.
  - (ii) Election not to restore full value.
  - (iii) Agreement.
- (3) Revocation of election.

\* \* \* \* \*

(j) \* \* \*  
(4) Effective/applicability date.

\* \* \* \* \*

**§ 1.382-11 Reporting requirements.**

- (a) Information statement required.
- (b) Effective/applicability date.

■ **Par. 23.** Section 1.382-8 is amended by revising paragraphs (c)(2), (e)(4), (h) and (j)(4) to read as follows:

**§ 1.382-8 Controlled groups.**

\* \* \* \* \*

(c) \* \* \*

(2) *Restoration of value.* After the value of the stock of each component member is reduced pursuant to paragraph (c)(1) of this section, the value of the stock of each component member is increased by the amount of value, if any, restored to the component member by another component member (the electing member) pursuant to this paragraph (c)(2). The electing member may elect (or may be deemed to elect under paragraph (h)(2)(i) of this section in the case of a foreign component member) to restore value to another component member in an amount that does not exceed the lesser of—

- (i) The sum of—
  - (A) The value, determined immediately before the ownership change, of the electing member’s stock (after adjustment under paragraph (c)(1) of this section and before any restoration of value under this paragraph (c)(2)); plus

(B) Any amount of value restored to the electing member by another component member under this paragraph (c)(2); or

- (ii) The value, determined immediately before any ownership change, of the electing member’s stock (without regard to any adjustment under this section) that is directly owned by the other component member immediately after the ownership change.

\* \* \* \* \*

(e) \* \* \*

(4) *Foreign component member*—(i) *In general.* Except as provided in paragraph (e)(4)(ii) of this section, foreign component member means a component member that is a foreign corporation.

(ii) *Exception.* A foreign component member shall not include a foreign corporation that has items treated as connected with the conduct of a trade or business in the United States that it takes into account in determining its value pursuant to section 382(e)(3).

\* \* \* \* \*

(h) *Time and manner of filing election to restore*—(1) *Statements required*—(i) *Filing by loss corporation.* The election to restore value described in paragraph (c)(2) of this section must be in the form set forth in this paragraph (h)(1)(i). It must be filed by the loss corporation by including a statement on or with its income tax return for the taxable year in which the ownership change occurs (or with an amended return for that year filed on or before the due date (including extensions) of the income tax



return of any component member with respect to the taxable year in which the ownership change occurs). The common parent of a consolidated group must make the election on behalf of the group. The election is made in the form of a statement entitled, "STATEMENT PURSUANT TO § 1.382-8(h)(1) TO ELECT TO RESTORE ALL OR PART OF THE VALUE OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF THE ELECTING MEMBER] TO [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF THE CORPORATION TO WHICH VALUE IS RESTORED]." The statement must include the amount of the value being restored and must also indicate that an agreement signed and dated by both parties, as described in paragraph (h)(1)(iii) of this section, has been entered into. Each such party must retain either the original or a copy of this agreement as part of its records. See § 1.6001-1(e).

(ii) *Filing by electing member.* An electing member must include a statement identical to the one described in paragraph (h)(1)(i) of this section on or with its income tax return (or with an amended return for that year filed on or before the due date (including extensions) of the income tax return of any component member with respect to the taxable year in which the ownership change occurs) (if any) for the taxable year which includes the change date in connection with which the election described in paragraph (c)(2) of this section is made. If the electing member is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. It is not necessary for the electing member (or the United States shareholder, as the case may be) to include this statement on or with its return if the loss corporation includes an identical statement on or with the same return for the same election.

(iii) *Agreement.* Both the electing member and the corporation to which value is restored must sign and date an agreement. The agreement must—

(A) Identify the change date for the loss corporation in connection with which the election is made;

(B) State the value of the electing member's stock (without regard to any adjustment under paragraph (c) of this section) immediately before the ownership change;

(C) State the amount of any reduction required under paragraph (c)(1) of this section with respect to stock of the

electing member that is owned directly or indirectly by the corporation to which value is restored;

(D) State the amount of value that the electing member elects to restore to the corporation; and

(E) State whether the value of either component member's stock was adjusted pursuant to paragraph (c)(4) of this section.

(2) *Special rule for foreign component members—(i) Deemed election to restore full value.* Unless the election described in paragraph (h)(2)(ii) of this section is made for a foreign component member, each foreign component member of the controlled group is deemed to have elected to restore to each other component member the maximum value allowable under paragraph (c)(2) of this section, taking into account the limitations of this section.

(ii) *Election not to restore full value.*

(A) A loss corporation may elect to reduce the amount of value restored from a foreign component member (the electing foreign component member) to another component member under paragraph (h)(2)(i) of this section in the form set forth in this paragraph (h)(2)(ii). It must be filed by the loss corporation by including a statement on or with its income tax return for the taxable year in which the ownership change occurs (or with an amended return for that year filed on or before the due date (including extensions) of the income tax return of any component member with respect to the taxable year in which the ownership change occurs). The common parent of a consolidated group must make the election on behalf of the group. The election is made in the form of a statement entitled,

"STATEMENT PURSUANT TO § 1.382-8(h)(2)(ii) TO ELECT NOT TO RESTORE FULL VALUE OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF ELECTING FOREIGN COMPONENT MEMBER] TO [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF THE CORPORATION TO WHICH SUCH VALUE IS NOT TO BE RESTORED]." The statement must include the amount of the value not being restored and must also indicate that an agreement signed and dated by both parties, as described in paragraph (h)(2)(iii) of this section, has been entered into. Each such party must retain either the original or a copy of the agreement as part of its records. See § 1.6001-1(e).

(B) An electing foreign component member must include a statement identical to the one described in paragraph (h)(2)(ii)(A) of this section on or with its income tax return (or with an

amended return for that year filed on or before the due date (including extensions) of the income tax return of any component member with respect to the taxable year in which the ownership change occurs) (if any) for the taxable year which includes the change date in connection with which the election described in paragraph (h)(2)(ii)(A) of this section is made. If the electing foreign component member is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. It is not necessary for the electing foreign component member (or United States shareholder, as the case may be) to include this statement on or with its return if the loss corporation includes an identical statement on or with the same return for the same election.

(iii) *Agreement.* Both the electing foreign component member and the corporation to which full value is not restored must sign and date an agreement. The agreement must—

(A) Identify the change date for the loss corporation in connection with which the election is made;

(B) State the value of the electing foreign component member's stock (without regard to any adjustment under paragraph (c) of this section) immediately before the ownership change;

(C) State the amount of any reduction required under paragraph (c)(1) of this section with respect to stock of the electing foreign component member that is owned directly or indirectly by the corporation to which value is not restored;

(D) State the amount of value that the electing foreign component member elects not to restore to the corporation; and

(E) State whether the value of either component member's stock was adjusted pursuant to paragraph (c)(4) of this section.

(3) *Revocation of election.* An election (other than the deemed election described in paragraph (h)(2)(i) of this section) made under this section is revocable only with the consent of the Commissioner.

\* \* \* \* \*

(j) \* \* \*

(4) *Effective/applicability date.* Paragraphs (c)(2), (e)(4) and (h) of this section apply to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply paragraphs (c)(2), (e)(4) and (h) of this section to any original Federal income

tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.382–8 as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.382–8T [Removed]**

■ **Par. 24.** Section 1.382–8T is removed.

■ **Par. 25.** Section 1.382–11 is added to read as follows:

**§ 1.382–11 Reporting requirements.**

(a) *Information statement required.* A loss corporation must include a statement entitled, “STATEMENT PURSUANT TO § 1.382–11(a) BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF TAXPAYER], A LOSS CORPORATION,” on or with its income tax return for each taxable year that it is a loss corporation in which an owner shift, equity structure shift or other transaction described in § 1.382–2T(a)(2)(i) occurs. The statement must include the date(s) of any owner shifts, equity structure shifts, or other transactions described in § 1.382–2T(a)(2)(i), the date(s) on which any ownership change(s) occurred, and the amount of any attributes described in § 1.382–2(a)(1)(i) that caused the corporation to be a loss corporation. A loss corporation may also be required to include certain elections on this statement, including—

(1) An election made under § 1.382–2T(h)(4)(vi)(B) to disregard the deemed exercise of an option if the actual exercise of that option occurred within 120 days of the ownership change; and

(2) An election made under § 1.382–6(b)(2) to close the books of the loss corporation for purposes of allocating income and loss to periods before and after the change date for purposes of section 382.

(b) *Effective/applicability date.* This section applies to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.382–2T as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.382–11T [Removed]**

■ **Par. 26.** Section 1.382–11T is removed.

■ **Par. 27.** Section 1.1081–11 is added to read as follows:

**§ 1.1081–11 Records to be kept and information to be filed with returns.**

(a) *Distributions and exchanges; significant holders of stock or securities.* Every significant holder must include a statement entitled, “STATEMENT PURSUANT TO § 1.1081–11(a) BY [INSERT NAME AND TAXPAYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SIGNIFICANT HOLDER,” on or with such holder’s income tax return for the taxable year in which the distribution or exchange occurs. If a significant holder is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The name and employer identification number (if any) of the corporation from which the stock, securities, or other property (including money) was received by such significant holder;

(2) The aggregate basis, determined immediately before the exchange, of any stock or securities transferred by the significant holder in the exchange, and the aggregate fair market value, determined immediately before the distribution or exchange, of the stock, securities or other property (including money) received by the significant holder in the distribution or exchange; and

(3) The date of the distribution or exchange.

(b) *Distributions and exchanges; corporations subject to Commission orders.* Each corporation which is a party to a distribution or exchange made pursuant to an order of the Commission must include on or with its income tax return for its taxable year in which the distribution or exchange takes place a statement entitled, “STATEMENT PURSUANT TO § 1.1081–11(b) BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A DISTRIBUTING OR EXCHANGING CORPORATION.” If the distributing or exchanging corporation is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The date and control number of the Commission order, pursuant to which the distribution or exchange was made;

(2) The names and taxpayer identification numbers (if any) of the significant holders;

(3) The aggregate fair market value and basis, determined immediately before the distribution or exchange, of the stock, securities, or other property (including money) transferred in the distribution or exchange; and

(4) The date of the distribution or exchange.

(c) *Sales by members of system groups.* Each system group member must include a statement entitled, “STATEMENT PURSUANT TO § 1.1081–11(c) BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER (IF ANY) OF TAXPAYER], A SYSTEM GROUP MEMBER,” on or with its income tax return for the taxable year in which the sale is made. If any system group member is a controlled foreign corporation (within the meaning of section 957), each United States shareholder (within the meaning of section 951(b)) with respect thereto must include this statement on or with its return. The statement must include—

(1) The dates and control numbers of all relevant Commission orders;

(2) The aggregate fair market value and basis, determined immediately before the sale, of all stock or securities sold; and

(3) The date of the sale.

(d) *Definitions.* (1) For purposes of this section, *Commission* means the Securities and Exchange Commission.

(2) For purposes of this section, *significant holder* means a person that receives stock or securities from a corporation (the distributing corporation) pursuant to an order of the Commission, if, immediately before the transaction, such person—

(i) In the case of stock—

(A) Owned at least five percent (by vote or value) of the total outstanding stock of the distributing corporation if the stock owned by such person is publicly traded, or

(B) Owned at least one percent (by vote or value) of the total outstanding stock of the distributing corporation if the stock owned by such person is not publicly traded; or

(ii) In the case of securities, owned securities of the distributing corporation with a basis of \$1,000,000 or more.

(3) *Publicly traded stock* means stock that is listed on—

(i) A national securities exchange registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(ii) An interdealer quotation system sponsored by a national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3).

(4) For purposes of paragraph (b) of this section, exchange means exchange, expenditure, or investment.

(5) For purposes of paragraph (c) of this section, *system group member* means each corporation which is a member of a system group and which, pursuant to an order of the Commission, sells stock or securities received upon an exchange (pursuant to an order of the Commission) and applies the proceeds derived therefrom in retirement or cancellation of its own stock or securities.

(e) *Substantiation information.* Under § 1.6001-1(e), taxpayers are required to retain their permanent records and make such records available to any authorized Internal Revenue Service officers and employees. In connection with the distribution or exchange described in this section, these records should specifically include information regarding the amount, basis, and fair market value of all property distributed or exchanged, and relevant facts regarding any liabilities assumed or extinguished as part of such distribution or exchange.

(f) *Effective/applicability date.* This section applies to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.1081-11 as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.1081-11T [Removed]**

■ **Par. 28.** Section 1.1081-11T is removed.

■ **Par. 29.** Section 1.1221-2 is amended by revising paragraphs (e)(2)(iv) and (j) to read as follows:

**§ 1.1221-2 Hedging transactions.**

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(iv) *Making and revoking the election.*

Unless the Commissioner otherwise prescribes, the election described in paragraph (e)(2) of this section must be made in a separate statement that provides, “[INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF COMMON PARENT] HEREBY ELECTS THE APPLICATION OF § 1.1221-2(e)(2) (THE SEPARATE-ENTITY APPROACH).” The statement must also indicate the date as of which the election is to be effective. The election must be filed by including the statement on or with the consolidated

group’s income tax return for the taxable year that includes the first date for which the election is to apply. The election applies to all transactions entered into on or after the date so indicated. The election may only be revoked with the consent of the Commissioner.

\* \* \* \* \*

(j) *Effective/applicability date.*

Paragraph (e)(2)(iv) of this section applies to any original consolidated Federal income tax return due (without extensions) after June 14, 2007. For original consolidated Federal income tax returns due (without extensions) after May 30, 2006, and on or before June 14, 2007, see § 1.1221-2T as contained in 26 CFR part 1 in effect on April 1, 2007. For original consolidated Federal income tax returns due (without extensions) on or before May 30, 2006, see § 1.1221-2 as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.1221-2T [Removed]**

■ **Par. 30.** Section 1.1221-2T is removed.

■ **Par. 31.** Section 1.1502-13 is amended by revising paragraphs (f)(5)(ii)(E), (f)(6)(i)(C)(2) and (m) to read as follows:

**§ 1.1502-13 Intercompany transactions.**

\* \* \* \* \*

(f) \* \* \*

(5) \* \* \*

(ii) \* \* \*

(E) *Election.* An election to apply paragraph (f)(5)(ii) of this section is made in a separate statement entitled, “[INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF COMMON PARENT] HEREBY ELECTS THE APPLICATION OF § 1.1502-13(f)(5)(ii) FOR AN INTERCOMPANY TRANSACTION INVOLVING [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF S] AND [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF T].” A separate election must be made for each such application. The election must be filed by including the statement on or with the consolidated group’s income tax return for the year of T’s liquidation (or other transaction). The Commissioner may impose reasonable terms and conditions to the application of paragraph (f)(5)(ii) of this section that are consistent with the purposes of such section. The statement must—

(1) Identify S’s intercompany transaction and T’s liquidation (or other transaction); and

(2) Specify which provision of paragraph (f)(5)(ii) of this section applies and how it alters the otherwise

applicable results under this section (including, for example, the amount of S’s intercompany items and the amount deferred or offset as a result of paragraph (f)(5)(ii) of this section).

(6) \* \* \*

(i) \* \* \*

(C) \* \* \*

(2) *Election.* The election described in paragraph (f)(6)(i)(C)(1) of this section must be made in a separate statement entitled, “ELECTION TO REDUCE BASIS OF P STOCK UNDER § 1.1502-13(f)(6) HELD BY [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF MEMBER WHOSE BASIS IN P STOCK IS REDUCED].” The election must be filed by including the statement on or with the consolidated group’s income tax return for the year in which the nonmember becomes a member. The statement must identify the member’s basis in the P stock (taking into account the effect of this election) and the number of shares of P stock held by the member.

\* \* \* \* \*

(m) *Effective/applicability date.*

Paragraphs (f)(5)(ii)(E) and (f)(6)(i)(C)(2) of this section apply to any original consolidated Federal income tax return due (without extensions) after June 14, 2007. For original consolidated Federal income tax returns due (without extensions) after May 30, 2006, and on or before June 14, 2007, see § 1.1502-13T as contained in 26 CFR part 1 in effect on April 1, 2007. For original consolidated Federal income tax returns due (without extensions) on or before May 30, 2006, see § 1.1502-13 as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.1502-13T [Removed]**

■ **Par. 32.** Section 1.1502-13T is removed.

■ **Par. 33.** Section 1.1502-31 is amended by revising paragraphs (e)(2) and (j) to read as follows:

**§ 1.1502-31 Stock basis after a group structure change.**

\* \* \* \* \*

(e) \* \* \*

(2) *Election.* The election described in paragraph (e)(1) of this section must be made in a separate statement entitled, “ELECTION TO TREAT LOSS CARRYOVER AS EXPIRING UNDER § 1.1502-31(e).” The election must be filed by including the statement on or with the consolidated group’s income tax return for the year that includes the group structure change. The statement must identify the amount of each loss carryover deemed to expire (or the amount of each loss carryover deemed

not to expire, with any balance of any loss carryovers being deemed to expire).

\* \* \* \* \*

(j) *Effective/applicability date.*

Paragraph (e)(2) of this section applies to any original consolidated Federal income tax return due (without extensions) after June 14, 2007. For original consolidated Federal income tax returns due (without extensions) after May 30, 2006, and on or before June 14, 2007, see § 1.1502-31T as contained in 26 CFR part 1 in effect on April 1, 2007. For original consolidated Federal income tax returns due (without extensions) on or before May 30, 2006, see § 1.1502-31 as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.1502-31T [Removed]**

■ **Par. 34.** Section 1.1502-31T is removed.

■ **Par. 35.** Section 1.1502-32 is amended by revising paragraphs (b)(4)(iv) and (j) to read as follows:

**§ 1.1502-32 Investment adjustments.**

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(iv) *Election.* The election described in paragraph (b)(4) of this section must be made in a separate statement entitled, "ELECTION TO TREAT LOSS CARRYOVER OF [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF S] AS EXPIRING UNDER § 1.1502-32(b)(4)." The election must be filed by including a statement on or with the consolidated group's income tax return for the year S becomes a member. A separate statement must be made for each member whose loss carryover is deemed to expire. The statement must identify the amount of each loss carryover deemed to expire (or the amount of each loss carryover deemed not to expire, with any balance of any loss carryovers being deemed to expire) and the basis of any stock reduced as a result of the deemed expiration.

\* \* \* \* \*

(j) *Effective/applicability date.*

Paragraph (b)(4)(iv) of this section applies to any original consolidated Federal income tax return due (without extensions) after June 14, 2007. For original consolidated Federal income tax returns due (without extensions) after May 30, 2006, and on or before June 14, 2007, see § 1.1502-32T as contained in 26 CFR part 1 in effect on April 1, 2007. For original consolidated Federal income tax returns due (without extensions) on or before May 30, 2006, see § 1.1502-32 as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.1502-32T [Amended]**

■ **Par. 36.** Section 1.1502-32T is amended by removing and reserving paragraphs (b)(4)(iv) and (j).

■ **Par. 37.** Section 1.1502-33 is amended by revising paragraphs (d)(5)(i)(D) and (k) to read as follows:

**§ 1.1502-33 Earnings and profits.**

\* \* \* \* \*

(d) \* \* \*

(5) \* \* \*

(i) \* \* \*

(D) If a method is permitted under paragraph (d)(4) of this section, provide the date and control number of the private letter ruling issued by the Internal Revenue Service approving such method.

\* \* \* \* \*

(k) *Effective/applicability date.*

Paragraph (d)(5)(i)(D) of this section applies to any original consolidated Federal income tax return due (without extensions) after June 14, 2007. For original consolidated Federal income tax returns due (without extensions) after May 30, 2006, and on or before June 14, 2007, see § 1.1502-33T as contained in 26 CFR part 1 in effect on April 1, 2007. For original consolidated Federal income tax returns due (without extensions) on or before May 30, 2006, see § 1.1502-33 as contained in 26 CFR part 1 in effect on April 1, 2006.

**§ 1.1502-33T [Removed]**

■ **Par. 38.** Section 1.1502-33T is removed.

■ **Par. 39.** Section 1.1502-90 is amended by:

■ 1. Revising the entry for § 1.1502-95(e)(8).

■ 2. Revising the entry for § 1.1502-95(f).

■ 3. Revising the entry for § 1.1502-95(g).

■ 4. Removing the entry for § 1.1502-95T.

The revisions read as follows:

**§ 1.1502-90 Table of contents.**

\* \* \* \* \*

**§ 1.1502-95 Rules on ceasing to be a member of a consolidated group (or loss subgroup).**

\* \* \* \* \*

(e) \* \* \*

(8) Reporting requirements.

(i) Common parent.

(ii) Former member.

(iii) Exception.

(f) Filing the election to apportion the section 382 limitation and net unrealized built-in gain.

(1) Form of the election to apportion.

(i) Statement.

(ii) Agreement.

(2) Signing the agreement.

(3) Filing the election.

(i) Filing by the common parent.

(ii) Filing by the former member.

(4) Revocation of election.

(g) Effective/applicability date.

\* \* \* \* \*

■ **Par. 40.** Section 1.1502-95 is amended by revising paragraphs (e)(8), (f) and (g) to read as follows:

**§ 1.1502-95 Rules on ceasing to be a member of a consolidated group (or loss subgroup).**

\* \* \* \* \*

(e) \* \* \*

(8) *Reporting requirements—(i)*

*Common Parent.* Except as provided in paragraph (e)(8)(iii) of this section, if a net unrealized built-in loss is allocated under paragraph (e) of this section, the common parent must include a statement entitled, "STATEMENT OF NET UNREALIZED BUILT-IN LOSS ALLOCATION PURSUANT TO § 1.1502-95(e)," on or with its income tax return for the taxable year in which the former member(s) (or a new loss subgroup that includes that member) ceases to be a member. The statement must include—

(A) The name and employer identification number of the departing member;

(B) The amount of the remaining NUBIL balance for the taxable year in which the member departs;

(C) The amount of the net unrealized built-in loss allocated to the departing member; and

(D) A representation that the common parent has delivered a copy of the statement to the former member (or the common parent of the group of which the former member is a member) on or before the day the group files its income tax return for the consolidated return year that the former member ceases to be a member.

(ii) *Former member.* Except as provided in paragraph (e)(8)(iii) of this section, the former member must include a statement on or with its first income tax return (or the first return in which the former member joins) that is filed after the close of the consolidated return year of the group of which the former member (or a new loss subgroup that includes that member) ceases to be a member. The statement will be identical to the statement filed by the common parent under paragraph (e)(8)(i) of this section except that instead of including the information described in paragraph (e)(8)(i)(A) of this section the former member must provide the name, employer identification number and tax year of the former common parent, and instead of the representation described in

paragraph (e)(8)(i)(D) of this section the former member must represent that it has received and retained the copy of the statement delivered by the common parent as part of its records. See § 1.6001-1(e).

(iii) *Exception.* This paragraph (e)(8) does not apply if the required information (other than the amount of the remaining NUBIL balance) is included in a statement of election under paragraph (f) of this section (relating to apportioning a section 382 limitation).

(f) *Filing the election to apportion the section 382 limitation and net unrealized built-in gain*—(1) *Form of the election to apportion*—(i) *Statement.* An election under paragraph (c) of this section must be made in the form set forth in this paragraph (f)(1)(i). The election must be made by the common parent and the party described in paragraph (f)(2) of this section. It must be filed in accordance with paragraph (f)(3) of this section and be entitled,

“THIS IS AN ELECTION UNDER § 1.1502-95 TO APPORTION ALL OR PART OF THE [INSERT THE CONSOLIDATED SECTION 382 LIMITATION, THE SUBGROUP SECTION 382 LIMITATION, THE LOSS GROUP'S NET UNREALIZED BUILT-IN GAIN, OR THE LOSS SUBGROUP'S NET UNREALIZED BUILT-IN GAIN, AS APPROPRIATE] IN THE AMOUNT OF [INSERT THE AMOUNT OF THE LOSS LIMITATION OR NET UNREALIZED BUILT-IN GAIN] TO [INSERT NAME(S) AND EMPLOYER IDENTIFICATION NUMBER(S) OF THE CORPORATION (OR THE CORPORATIONS THAT COMPOSE A NEW LOSS SUBGROUP) TO WHICH ALLOCATION IS MADE].” The statement must also indicate that an agreement, as described in paragraph (f)(1)(ii) of this section, has been entered into.

(ii) *Agreement.* Both the common parent and the party described in paragraph (f)(2) of this section must sign and date the agreement. The agreement must include, as appropriate—

(A) The date of the ownership change that resulted in the consolidated section 382 limitation (or subgroup section 382 limitation) or the loss group's (or loss subgroup's) net unrealized built-in gain;

(B) The amount of the departing member's (or loss subgroup's) pre-change net operating loss carryovers and the taxable years in which they arose that will be subject to the limitation that is being apportioned to that member (or loss subgroup);

(C) The amount of any net unrealized built-in loss allocated to the departing member (or loss subgroup) under paragraph (e) of this section, which, if

recognized, can be a pre-change attribute subject to the limitation that is being apportioned;

(D) If a consolidated section 382 limitation (or subgroup section 382 limitation) is being apportioned, the amount of the consolidated section 382 limitation (or subgroup section 382 limitation) for the taxable year during which the former member (or new loss subgroup) ceases to be a member of the consolidated group (determined without regard to any apportionment under this section);

(E) If any net unrealized built-in gain is being apportioned, the amount of the loss group's (or loss subgroup's) net unrealized built-in gain (as determined under paragraph (c)(2)(ii) of this section) that may be apportioned to members that ceased to be members during the consolidated return year;

(F) The amount of the value element and adjustment element of the consolidated section 382 limitation (or subgroup section 382 limitation) that is apportioned to the former member (or new loss subgroup) pursuant to paragraph (c) of this section;

(G) The amount of the loss group's (or loss subgroup's) net unrealized built-in gain that is apportioned to the former member (or new loss subgroup) pursuant to paragraph (c) of this section;

(H) If the former member is allocated any net unrealized built-in loss under paragraph (e) of this section, the amount of any adjustment element apportioned to the former member that is attributable to recognized built-in gains (determined in a manner that will enable both the group and the former member to apply the principles of § 1.1502-93(c)); and

(1) The name and employer identification number of the common parent making the apportionment.

(2) *Signing the agreement.* The agreement must be signed by both the common parent and the former member (or, in the case of a loss subgroup, the common parent and the loss subgroup parent) by persons authorized to sign their respective income tax returns. If the allocation is made to a loss subgroup for which an election under § 1.1502-91(d)(4) is made, and not separately to its members, the agreement under this paragraph (f) must be signed by the common parent and any member of the new loss subgroup by persons authorized to sign their respective income tax returns. Each party signing the agreement must retain either the original or a copy of the agreement as part of its records. See § 1.6001-1(e).

(3) *Filing of the election*—(i) *Filing by the common parent.* The election must be filed by the common parent of the group that is apportioning the

consolidated section 382 limitation (or the subgroup section 382 limitation) or the loss group's net unrealized built-in gain (or loss subgroup's net unrealized built-in gain) by including the statement on or with its income tax return for the taxable year in which the former member (or new loss subgroup) ceases to be a member.

(ii) *Filing by the former member.* An identical statement must be included on or with the first return of the former member (or the first return in which the former member, or the members of a new loss subgroup, join) that is filed after the close of the consolidated return year of the group of which the former member (or the members of a new loss subgroup) ceases to be a member.

(4) *Revocation of election.* An election statement made under paragraph (c) of this section is revocable only with the consent of the Commissioner.

(g) *Effective/applicability date.* Paragraphs (e)(8) and (f) of this section apply to any original consolidated Federal income tax return due (without extensions) after June 14, 2007. For original consolidated Federal income tax returns due (without extensions) after May 30, 2006, and on or before June 14, 2007, see § 1.1502-95T as contained in 26 CFR part 1 in effect on April 1, 2007. For original consolidated Federal income tax returns due (without extensions) on or before May 30, 2006, see § 1.1502-95 as contained in 26 CFR part 1 in effect on April 1, 2006.

#### § 1.1502-95T [Removed]

■ **Par. 41.** Section 1.1502-95T is removed.

■ **Par. 42.** Section 1.1563-3 is amended by revising paragraph (d)(2)(iv), adding paragraph (d)(2)(v) and revising (e) to read as follows:

#### § 1.1563-3 Rules for determining stock ownership.

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(iv) *Statement.* If the application of paragraph (d)(2)(ii) or (iii) of this section does not result in a corporation being treated as a component member of only one controlled group of corporations on a December 31, then such corporation will be treated as a component member of only one such group on such date. Such corporation may elect the group in which it is to be included by including on or with its income tax return a statement entitled, “STATEMENT TO ELECT CONTROLLED GROUP PURSUANT TO § 1.1563-3(d)(2)(iv).” The statement must include—

(A) A description of each of the controlled groups in which the

corporation could be included. The description must include the name and employer identification number of each component member of each such group and the stock ownership of the component members of each such group; and

(B) The following representation: [INSERT NAME AND EMPLOYER IDENTIFICATION NUMBER OF CORPORATION] ELECTS TO BE TREATED AS A COMPONENT MEMBER OF THE [INSERT DESIGNATION OF GROUP].

(v) *Election*—(A) *Election filed*. An election filed under paragraph (d)(2)(iv) of this section is irrevocable and effective until paragraph (d)(2)(ii) or (iii) of this section applies or until a change in the stock ownership of the corporation results in termination of membership in the controlled group in which such corporation has been included.

(B) *Election not filed*. In the event no election is filed in accordance with the provisions of paragraph (d)(2)(iv) of this section, then the Internal Revenue Service will determine the group in which such corporation is to be included. Such determination will be binding for all subsequent years unless the corporation files a valid election with respect to any such subsequent year or until a change in the stock ownership of the corporation results in termination of membership in the controlled group in which such corporation has been included.

\* \* \* \* \*

(e) *Effective/applicability date*. Paragraph (d)(2)(iv) and (v) of this section apply to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply paragraph (d)(2)(iv) and (v) of this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.1563-3 as contained in 26 CFR part 1 in effect on April 1, 2006.

#### § 1.1563-3T [Removed]

■ **Par. 43.** Section 1.1563-3T is removed.

■ **Par. 44.** Section 1.6012-2 is amended by revising paragraphs (c) and (k) to read as follows:

#### § 1.6012-2 Corporations required to make returns of income.

\* \* \* \* \*

(c) *Insurance companies*—(1) *Domestic life insurance companies*—(i) *In general*. A life insurance company subject to tax under section 801 shall make a return on Form 1120-L, “U.S. Life Insurance Company Income Tax Return.” Except as provided in paragraph (c)(4) of this section, such company shall file with its return—

(A) A copy of its annual statement which shows the reserves used by the company in computing the taxable income reported on its return; and

(B) A copy of Schedule A (real estate) and of Schedule D (bonds and stocks), or any successor thereto, of such annual statement.

(ii) *Mutual savings banks*. Mutual savings banks conducting life insurance business and meeting the requirements of section 594 are subject to partial tax computed on Form 1120, “U.S. Corporation Income Tax Return,” and partial tax computed on Form 1120-L. The Form 1120-L is attached as a schedule to Form 1120, together with the annual statement and schedules required to be filed with Form 1120-L.

(2) *Domestic nonlife insurance companies*. Every domestic insurance company other than a life insurance company shall make a return on Form 1120-PC, “U.S. Property and Casualty Insurance Company Income Tax Return.” This includes organizations described in section 501(m)(1) that provide commercial-type insurance and organizations described in section 833. Except as provided in paragraph (c)(4) of this section, such company shall file with its return a copy of its annual statement (or a pro forma annual statement), including the underwriting and investment exhibit (or any successor thereto) for the year covered by such return.

(3) *Foreign insurance companies*. The provisions of paragraphs (c)(1) and (c)(2) of this section concerning the returns and statements of insurance companies subject to tax under section 801 or section 831 also apply to foreign insurance companies subject to tax under those sections, except that the copy of the annual statement required to be submitted with the return shall, in the case of a foreign insurance company that is not required to file an annual statement, be a copy of the pro forma

annual statement relating to the United States business of such company.

(4) *Exception for insurance companies filing their Federal income tax returns electronically*. If an insurance company described in paragraph (c)(1), (c)(2), or (c)(3) of this section files its Federal income tax return electronically, it should not include on or with such return its annual statement (or pro forma annual statement), or any portion thereof. Such statement must be available at all times for inspection by authorized Internal Revenue Service officers or employees and retained for so long as such statements may be material in the administration of any internal revenue law. See § 1.6001-1(e).

(5) *Definition*. For purposes of this section, the term *annual statement* means the annual statement, the form of which is approved by the National Association of Insurance Commissioners (NAIC), which is filed by an insurance company for the year with the insurance departments of States, Territories, and the District of Columbia. The term annual statement also includes a pro forma annual statement if the insurance company is not required to file the NAIC annual statement.

\* \* \* \* \*

(k) *Effective/applicability date*. Paragraph (c) of this section applies to any taxable year beginning on or after May 30, 2006. However, taxpayers may apply paragraph (c) of this section to any original Federal income tax return (including any amended return filed on or before the due date (including extensions) of such original return) timely filed on or after May 30, 2006. For taxable years beginning before May 30, 2006, see § 1.6012-2 as contained in 26 CFR part 1 in effect on April 1, 2006.

#### § 1.6012-2T [Removed]

■ **Par. 45.** Section 1.6012-2T is removed.

§§ 1.338(h)(10)-1, 1.382-2T, 1.382-8, 1.1502-13, 1.1502-32, 1.502-92, 1.502-94, 1.502-95, 1.563-3, and 1.6043-2 [Amended]

■ **Par. 46.** For each entry in the “Location” column of the following table, remove the language in the “Remove” column and add the language in the “Add” column in its place:

Location	Remove	Add
The last sentence of the introductory text to § 1.302-4.	The rules described in paragraph (a) of § 1.302-4T and in paragraphs (b) through (g) of this section apply in determining whether the specific requirements of section 302(c)(2) are met.	The following rules shall be applicable in determining whether the specific requirements of section 302(c)(2) are met:
§ 1.338(h)(10)-1(f) .....	§ 1.331-1T(d) and § 1.332-6T .....	§ 1.331-1(d) and § 1.332-6.
§ 1.382-2T(a)(2)(ii) .....	§ 1.382-11T .....	§ 1.382-11.
The last sentence of § 1.382-2T(h)(4)(vi)(B) .....	paragraph (a) of § 1.382-11T .....	§ 1.382-11(a).
The first sentence of § 1.382-6(b)(2)(i) .....	§ 1.382-11T(a) .....	§ 1.382-11(a).
The second sentence of § 1.382-8(a) .....	paragraphs (c)(1), (c)(3), (c)(4) and (c)(5) of this section and paragraph (c)(2) of § 1.382-8T.	paragraph (c) of this section.
The third sentence of § 1.382-8(a) .....	paragraphs (c)(1), (c)(3), (c)(4) and (c)(5) of this section and paragraph (c)(2) of § 1.382-8T.	paragraph (c) of this section.
§ 1.382-8(c)(3) .....	paragraph (c)(2) of § 1.382-8T .....	paragraph (c)(2) of this section.
The first sentence of § 1.382-8(c)(4) .....	paragraphs (c)(1) and (c)(3) of this section and paragraph (c)(2) of § 1.382-8T.	paragraphs (c)(1), (2), and (3) of this section.
§ 1.382-8(c)(5) .....	paragraphs (c)(1), (c)(3), (c)(4), and (c)(5) of this section, and paragraph (c)(2) of § 1.382-8T.	this paragraph (c).
The fifth sentence of § 1.382-8(f) .....	paragraphs (c)(1), (c)(3), (c)(4), and (c)(5) of this section, and paragraph (c)(2) of § 1.382-8T.	paragraph (c) of this section.
§ 1.382-8(g), <i>Example</i> (1)(b)(2) .....	paragraphs (c)(1), (c)(3), (c)(4), and (c)(5) of this section, and paragraph (c)(2) of § 1.382-8T.	paragraph (c) of this section.
The second sentence of § 1.382-8(g), <i>Example</i> (1)(c).	paragraphs (c)(1), (c)(3), (c)(4), and (c)(5) of this section, and paragraph (c)(2) of § 1.382-8T.	paragraph (c) of this section.
§ 1.382-8(g), <i>Example</i> (2)(c) .....	paragraph (c)(2) of § 1.382-8T .....	paragraph (c)(2) of this section.
The first sentence of § 1.382-8(g), <i>Example</i> (2)(e).	paragraph (c)(2) of § 1.382-8T .....	paragraph (c)(2) of this section.
§ 1.382-8(g), <i>Example</i> (3)(b) .....	paragraph (c)(2) of § 1.382-8T .....	paragraph (c)(2) of this section.
§ 1.382-8(g), <i>Example</i> (3)(c)(1)(B) .....	paragraph (c)(1) of this section and paragraph (c)(2) of § 1.382-8T.	paragraphs (c)(1) and (2) of this section.
The second sentence of § 1.382-8(g), <i>Example</i> (4)(c).	paragraph (c)(2) of § 1.382-8T .....	paragraph (c)(2) of this section.
The second sentence of § 1.382-8(g), <i>Example</i> (5)(c).	paragraph (c)(2) of § 1.382-8T .....	paragraph (c)(2) of this section.
§ 1.1502-13(a)(6)(ii), <i>Matching rule, Example</i> 13.	Manufacturer incentive payments .....	[Reserved].
The first sentence of § 1.1502-32(b)(4)(v)(A) .....	paragraph (b)(4)(iv) of § 1.1502-32T .....	paragraph (b)(4)(iv) of this section.
The first sentence of § 1.1502-32(b)(4)(v)(B) .....	paragraph (b)(4)(iv) of § 1.1502-32T .....	paragraph (b)(4)(iv) of this section.
§ 1.1502-92(e)(1) .....	§ 1.382-11T(a) .....	§ 1.382-11(a).
The first sentence of § 1.1502-92(e)(2) .....	§ 1.382-11T(a) .....	§ 1.382-11(a).
The first sentence of § 1.1502-94(d) .....	§ 1.382-11T(a) .....	§ 1.382-11(a).
The second sentence of § 1.1502-94(d) .....	§ 1.382-11T(a) .....	§ 1.382-11(a).
The last sentence of § 1.1502-95(b)(3) .....	paragraph (f) of § 1.1502-95T .....	paragraph (f) of this section.
The second sentence of § 1.1563-3(d)(2)(i) .....	paragraphs (d)(2)(ii) and (iii) of this section, and paragraph (d)(2)(iv) of § 1.1563-3T.	paragraphs (d)(2)(ii), (iii) and (iv) of this section.
The first sentence of § 1.6043-2(a) .....	§ 1.332-6T(a), § 1.368-3T(a), or § 1.1081-11T.	§ 1.332-6(b), 1.368-3(a), or 1.1081-11.

**PART 301—PROCEDURE AND ADMINISTRATION**

■ **Par. 46a.** The authority citation for part 300 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805. \* \* \*  
Section 301.6011-5T also issued under 26 U.S.C. 6011.

**§ 301.6011-5T [Amended]**

■ **Par. 46b.** In the following table remove the language in the “remove” column and add the text from the “add” column in its place.

Location	Remove	Add
The first sentence of § 301.6011-5T(a)(twice) ...	paragraphs (a), (b) and (d) through (j) of § 1.6012-2, and paragraph (c) of § 1.6012-2T.	§ 1.6012-2.

**PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

■ **Par. 47.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

**§ 602.101 [Amended]**

■ **Par. 48.**

■ 1. In § 602.101(b), the following entries to the table are removed:

1.302-2T .....	1545-2019
1.302-4T .....	1545-2019
1.331-1T .....	1545-2019
1.332-6T .....	1545-2019
1.338-10T .....	1545-2019
1.351-3T .....	1545-2019
1.355-5T .....	1545-2019
1.368-3T .....	1545-2019
1.381(b)-1T .....	1545-2019
1.382-8T .....	1545-2019
1.382-11T .....	1545-2019
1.1081-11T .....	1545-2019
1.1221-2T .....	1545-2019
1.1502-13T .....	1545-2019
1.1502-31T .....	1545-2019
1.1502-32T .....	1545-2019
1.1502-33T .....	1545-2019
1.1502-95T .....	1545-2019
1.1563-3T .....	1545-2019
1.6012-2T .....	1545-2019

■ 2. The following entries are added in numerical order to the table:

1.332-6 .....	1545-2019
1.351-3 .....	1545-2019
1.355-5 .....	1545-2019
1.368-3 .....	1545-2019
1.382-11 .....	1545-2019
1.1081-11 .....	1545-2019

**Kevin M. Brown,**

*Deputy Commissioner for Services and Enforcement.*

Approved: June 4, 2007.

**Eric Solomon,**

*Assistant Secretary of the Treasury.*

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**OFFICE OF MANAGEMENT AND BUDGET**

**Office of Federal Procurement Policy**

**48 CFR Parts 9901 and 9903**

**Cost Accounting Standards Board (CAS) Changes to Acquisition Thresholds**

**AGENCY:** Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

**ACTION:** Final rule.

**SUMMARY:** The Office of Federal Procurement Policy, Cost Accounting Standards (CAS) Board, is revising the threshold for the application of CAS to negotiated Government contracts. This rulemaking is authorized pursuant to Section 26 of the Office of Federal Procurement Policy Act. The Board is taking final action on this topic in order to adjust the CAS applicability threshold in accordance with Section 822 of the 2006 National Defense Authorization Act (Pub. L. 109-163). Section 822 amended 41 U.S.C. 422(f)(2)(A) to require that the threshold for CAS applicability be the same as the threshold for compliance with the Truth in Negotiations Act (TINA).

**DATES:** This final rule is effective June 14, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Laura Auletta, Manager, Cost Accounting Standards Board, 725 17th Street, NW., Room 9013, Washington, DC 20503 (telephone: 202-395-3256).

**SUPPLEMENTARY INFORMATION:**

**A. Background**

On December 15, 2005, the CAS Board issued a proposed rule with request for comment (70 FR 73423) for the purpose of implementing Sec. 807 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005, Pub. L. 108-375, "Inflation Adjustment of Acquisition-Related Dollar Thresholds." Section 807 of Pub. L. 108-375 requires the periodic adjustment of acquisition-related thresholds contained in statutes that were in effect on October 1, 2000, with certain exceptions. The Federal Acquisition Regulation (FAR) Council is authorized to adjust these thresholds based on increases in the Consumer Price Index for all-urban consumers (CPI) and as prescribed in the Public Law.

Based on further review, the Board has determined that its thresholds are not subject to the provisions of Section 807 of the Pub. L 108-375 because these thresholds are not "acquisition related," as defined by Section 807. Therefore, this final rule does not adjust the CAS thresholds to reflect the provisions of Section 807.

However, subsequent to the issuance of the CAS Board's proposed rule, Section 822 of the 2006 National Defense Authorization Act (Pub. L. 109-163) amended 41 U.S.C. 422(f)(2)(A) to require that the threshold for CAS applicability be the same as the threshold for compliance with the Truth in Negotiations Act (TINA). The TINA threshold is currently \$650,000 (71 FR 57363). Accordingly, the Board is

increasing the CAS applicability threshold to \$650,000 to comply with Public Law 109-163.

**B. Public Comments**

The Board received three sets of public comments in response to the proposed rule.

*1. PL 108-375 Does Not Require Threshold Adjustments*

*Comment:* Two commenters opined that Section 807 of Public Law 108-375 does not apply to statutory thresholds in the Board's rules, regulations and standards. These commenters asserted that the law applies only to acquisition-related statutory dollar thresholds contained in the FAR. Thus, the Board is not required to adjust its statutory thresholds in response to Pub. L. 108-375.

*Response:* After further review of this issue, the Board agrees that Section 807 does not apply to the CAS thresholds. Section 807 of Public Law 108-375 requires the Federal Acquisition Regulatory Council to adjust each "acquisition-related dollar threshold." Section 807 defines an acquisition-related dollar threshold as "a dollar threshold that is specified in law as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of property or services by an executive agency, as determined by the Federal Acquisition Regulatory Council." The scope and applicability of the CAS is within the sole purview of the CAS Board. The Federal Acquisition Regulatory Council does not determine the scope or applicability of the Cost Accounting Standards. Therefore, for purposes of applying Section 807, the thresholds in the CAS do not meet the definition of an "acquisition threshold." Thus, the requirements of Public Law 108-375 do not apply to the CAS thresholds. However, the Board is issuing a final rule to adjust the CAS applicability threshold required by Public Law 109-163.

*2. Consistency Between CAS Applicability and TINA Thresholds*

*Comment:* One commenter recommended that the CAS applicability threshold be modified to adopt the Truth in Negotiations Act (TINA) threshold for requiring cost or pricing data (FAR 15.403-4) since it will be very difficult to administer the impact of CAS issues associated with such contracts.

*Response:* As previously noted, shortly after the publication of the proposed rule, 41 U.S.C. 422(f)(2)(A)