

taxable year, 182 days, bears to 365. See §1.382-5(c).

Example 2. No apportionment required for consolidated pre-change attribute. (i) P, the common parent of a consolidated group, forms L. For Year 1, L has an operating loss of \$70 that is not absorbed and is included in the group's consolidated net operating loss that is carried over to subsequent years. On January 1 of Year 3, A buys all of the P stock and the P group has an ownership change. The consolidated section 382 limitation based on the value of the P stock is \$10.

(ii) On April 13 of Year 4, P sells all of the stock of L to B and, under §1.1502-20(g), elects to reattribute to itself \$45 of L's net operating loss carryover. Following the reattribution, the \$45 portion of the Year 1 net operating loss carryover retains its character as a pre-change consolidated attribute, and remains subject to so much of the \$10 consolidated section 382 limitation as P does not elect to apportion to L under §1.1502-95(c).

(e) *Time and manner of making election under §1.1502-91(d)(4)*—(1) *In general.* This paragraph (e) prescribes the time and manner of making the election under §1.1502-91(d)(4), relating to treating two or more corporations as treating the section 1504(a)(1) requirement of §1.1502-91(d)(1)(ii) and (d)(2)(ii) as satisfied.

(2) *Election statement.* An election under §1.1502-91(d)(4) must be made by the common parent. The election must be made in the form of the following statement: "THIS IS AN ELECTION UNDER §1.1502-91(d)(4) TO TREAT THE FOLLOWING CORPORATIONS AS MEETING THE REQUIREMENTS OF §1.1502-91 (d)(1)(ii) AND (d)(2)(ii) IMMEDIATELY AFTER THEY BECAME MEMBERS OF THE GROUP." [List separately the name of each corporation, its E.I.N., and the date that it became a member of the group]. If separate elections are being made for corporations that became members at different times or that were acquired from different affiliated groups, provide a separate statement and list for each election.

(3) The election statement must be filed by the common parent with its income tax return for the consolidated return year in which the members with respect to which the election is made become members of the group. Such election must be filed on or before the

due date for such income tax return, including extensions.

(4) An election made under this paragraph (e) is irrevocable.

[T.D. 8824, 64 FR 36170, July 2, 1999]

§ 1.1502-97 Special rules under section 382 for members under the jurisdiction of a court in a title 11 or similar case. [Reserved]

§ 1.1502-98 Coordination with section 383.

The rules contained in §§1.1502-91 through 1.1502-96 also apply for purposes of section 383, with appropriate adjustments to reflect that section 383 applies to credits and net capital losses. For example, subgroups with respect to the carryover of general business credits, minimum tax credits, unused foreign tax, and net capital loss are determined by applying the principles of §1.1502-91(d)(1). Similarly, in the case of net capital losses, general business credits, and excess foreign taxes that are pre-change attributes, §1.383-1 applies the principles of §§1.1502-91 through 1.1502-96. For example, if a loss group has an ownership change under §1.1502-92 and has a carryover of unused general business credits from a pre-change consolidated return year to a post-change consolidated return year, the amount of the group's regular tax liability for the post-change year that can be offset by the carryover cannot exceed the consolidated section 383 credit limitation for that post-change year, determined by applying the principles of §§1.383-1(c)(6) and 1.1502-93 (relating to the computation of the consolidated section 382 limitation).

[T.D. 8824, 64 FR 36174, July 2, 1999, as amended by T.D. 8884, 65 FR 33760, May 25, 2000]

§ 1.1502-99 Effective dates.

(a) *In general.* Except as provided in paragraphs (b) and (c) of this section, §§1.1502-91 through 1.1502-96 and §1.1502-98 apply to any testing date on or after June 25, 1999. Sections 1.1502-94 through 1.1502-96 also apply to a corporation that becomes a member of a group or ceases to be a member of a group (or loss subgroup) on any date on or after June 25, 1999.