(ii) Analysis. Pursuant to paragraph (a)(2) of this section, the tax attributes attributable to S1 must first be reduced to take into account its excluded COD income in the amount of $55. For this purpose, S1's attributes that remain after the determination of tax for the group for Year 2 are subject to reduction. Pursuant to section 108(b)(2)(A) and paragraph (a) of this section, the net operating loss and the net operating loss carryover attributable to S1 under the principles of §1.1502-21(b)(2)(iv) are reduced. Accordingly, the consolidated net operating loss for Year 2 is reduced by $25, the portion of the consolidated net operating loss for Year 2 attributable to S1, to $25. Then, the consolidated net operating loss carryover from Year 1 is reduced by $30, the portion of that consolidated net operating loss carryover attributable to S1 (which includes the portion attributable to P), to $20.

(d) Effective dates. This section applies to discharges of indebtedness that occur after March 21, 2005. Groups, however, may apply this section in whole, but not in part, to discharges of indebtedness that occur on or before March 21, 2005, and after August 29, 2003. For discharges of indebtedness occurring on or before March 21, 2005, and after August 29, 2003, with respect to which a group chooses not to apply this section, see §1.1502-28T as contained in 26 CFR part 1 revised as of April 1, 2004. Furthermore, groups may apply paragraph (b)(4) of this section to discharges of indebtedness that occur on or before August 29, 2003, in cases in which section 1017(b)(3)(D) was applied. Paragraph (b)(5)(i) of this section and the last sentence of paragraph (b)(5)(ii) of this section applies to transactions occurring in consolidated return years beginning on or after December 24, 2006.


BASIS, STOCK OWNERSHIP, AND EARNINGS AND PROFITS RULES

§ 1.1502-30 Stock basis after certain triangular reorganizations.

(a) Scope. This section provides rules for determining the basis of the stock of an acquiring corporation as a result of a triangular reorganization. The definitions and nomenclature contained in §1.358-6 apply to this section.

(b) General rules—(1) Forward triangular merger, triangular C reorganization, or triangular B reorganization. P adjusts its basis in the stock of S as a result of a forward triangular merger, triangular C reorganization, or triangular B reorganization under §1.358-6(c) and (d), except that §1.358-6(c)(1)(ii) and (d)(2) do not apply. Instead, P adjusts such basis by taking into account the full amount of—

(i) T liabilities assumed by S or the amount of liabilities to which the T assets acquired by S are subject, and

(ii) The fair market value of any consideration not provided by P pursuant to the plan of reorganization.

(2) Reverse triangular merger. If P adjusts its basis in the T stock acquired as a result of a reverse triangular merger under §1.358-6(c)(2)(i) and (d), §1.358-6(c)(1)(ii) and (d)(2) do not apply. Instead, P adjusts such basis by taking into account the full amount of—

(i) T liabilities deemed assumed by S or the amount of liabilities to which the T assets deemed acquired by S are subject, and

(ii) The fair market value of any consideration not provided by P pursuant to the plan of reorganization.

(3) Excess loss accounts. Negative adjustments under this section may exceed P’s basis in its S or T stock. The resulting negative amount is P’s excess loss account in its S or T stock. See §1.1502-19 for rules treating excess loss accounts as negative basis, and treating references to stock basis as including references to excess loss accounts.

(4) Application of other rules of law. If a transaction otherwise subject to this section is also a group structure change subject to §1.1502-31, the provisions of §1.1502-31 and not this section apply to determine stock basis. See §1.1502-80(a) regarding the general applicability of other rules of law and a limitation on duplicative adjustments. See §1.1502-80(d) for the non-application of section 357(c) to P.

(5) Examples. The rules of this paragraph (b) are illustrated by the following examples. For purposes of these examples, P, S, and T are domestic corporations, P and S file consolidated returns, P owns all of the only class of S stock, the P stock exchanged in the transaction satisfies the requirements...
of the applicable triangular reorganization provisions, the facts set forth the only corporate activity, and tax liabilities are disregarded.

Example 1. Liabilities. (a) Facts. T has assets with an aggregate basis of $60 and fair market value of $100. T’s assets are subject to $70 of liabilities. Pursuant to a plan, P forms S with $5 of cash (which S retains), and T merges into S. In the merger, the T shareholders receive P stock worth $30 in exchange for their T stock. The transaction is a reorganization to which sections 368 (a)(1)(A) and (a)(2)(D) apply. Thus, section 368. Under the rules of this section, the limitations described in §1.358–6(d)(2) do not apply. Consequently, as a result of the reorganization, P has an excess loss account of $5 in its S stock. (The results would be the same if the appreciated asset provided by S was P stock with respect to which S recognized gain. See §1.1032–2(c)).

Example 3. Reverse triangular merger. (a) Facts. T has assets with an aggregate basis of $60 and fair market value of $100. T’s assets are subject to $70 of liabilities. P owns all of the only class of S stock. P has a $5 basis in its S stock. Pursuant to a plan, S merges into T with T surviving. In the merger, the T shareholders exchange their T stock for $2 cash from P and $28 worth of P stock provided by P pursuant to the plan. The transaction is a reorganization to which sections 368 (a)(1)(A) and (a)(2)(E) apply.

(b) Basis adjustment. Under §1.358–6, P’s basis in the T stock acquired equals its $5 basis in its S stock immediately before the transaction adjusted by the $60 basis in the T assets deemed transferred, and the $70 of liabilities to which the T assets are subject. Under the rules of this section, the limitation described in §1.358–6(c)(1)(i) does not apply. Consequently, P has an excess loss account of $5 in its T stock as a result of the transaction.

(c) Effective/applicability date. This section applies to reorganizations occurring on or after December 21, 1995. However, paragraph (b)(4) of this section applies to reorganizations occurring on or after September 17, 2008.

§1.1502–31 Stock basis after a group structure change.

(a) In general.—(1) Overview. If one corporation (P) succeeds another corporation (T) under the principles of §1.1502–75(d) (2) or (3) as the common parent of a consolidated group in a group structure change, the basis of members in the stock of the former common parent (or the stock of a successor) is adjusted or determined under this section. See §1.1502–33(f)(1) for the definition of group structure change. For example, if P owns all of the stock of another corporation (S), and T merges into S in a group structure change that is a reorganization described in section 368(a)(2)(D) in which P becomes the common parent of the T group, P’s basis in S’s stock must be adjusted to reflect the change in S’s assets and liabilities. The rules of this section coordinate with the earnings.