

§ 1.1502-97

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

[T.D. 8824, 64 FR 36170, July 2, 1999, as amended by T.D. 9424, 73 FR 53985, Sept. 17, 2008]

§ 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/applicability 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.

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(b) *Special rules*—(1) *Election to treat subgroup parent requirement as satisfied.* Section 1.1502-91(d)(4), §1.1502-91(d)(7), Example 4, §1.1502-92(b)(1)(iii), §1.1502-92(b)(2), Example 5, the last two sentences of §1.1502-95(b)(3), §1.1502-95(d)(2)(i), and §1.1502-96(e)(all of which relate to the election under §1.1502-91(d)(4) to treat the loss subgroup parent requirement as satisfied) apply to corporations that become members of a consolidated group in taxable years for which the due date of the income tax return (without extensions) is after June 25, 1999.

(2) *Principal purpose of avoiding a limitation.* The third sentence of §1.1502-91(d)(5) (relating to members excluded from a loss subgroup) applies to corporations that become members of a consolidated group on or after June 25, 1999.

(3) *Ceasing to be a member of a loss subgroup*—(i) *Ownership change of a loss subgroup.* Section 1.1502-95(d)(2)(ii) and §1.1502-95(d)(3), Example 3 apply to corporations that cease to bear a relationship described in section 1504(a)(1) to a loss subgroup parent in taxable years for which the due date of the income tax return (without extensions) is after June 25, 1999.

(ii) *Expiration of 5-year period.* Section 1.1502-95(d)(2)(iii) applies with respect to the day after the last day of any 5 consecutive year period described in that section that ends in a taxable year for which the due date of the income tax return (without extensions) is after June 25, 1999.

(4) *Reattribution of losses under §1.1502-36(d)(6).* Section 1.1502-96(d) applies to reattributions of net operating loss carryovers, capital loss carryovers, and deferred deductions in connection with a transfer of stock to which §1.1502-36 applies, and the election under §1.1502-96(d)(5) (relating to an election to reattribute section 382 limitation) can be made with an election under §1.1502-36(d)(6) to reattribute a loss to the common parent that is filed at the time and in the manner provided in §1.1502-36(e)(5)(x).

(5) *Election to apportion net unrealized built-in gain.* In the case of corporations that cease to be members of a loss group (or loss subgroup) before June 25, 1999 in a taxable year for which the due