providing a judicial system for people within the exterior boundaries of the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony. The Department of the Interior is fulfilling its trust responsibility and complying with the unique government-to-government relationship that exists between the Federal Government and Indian tribes by assisting the Paiute-Shoshone Indian Tribe of the Fallon Reservation and Colony to support this justice system.

List of Subjects in 25 CFR Part 11

Courts, Indians—law, Law enforcement, Penalties.

■ For the reasons stated in the preamble, we are amending part 11, chapter I of title 25 of the Code of Federal Regulations, as follows:

PART 11—LAW AND ORDER ON INDIAN RESERVATIONS

■ 1. The authority citation for part 11 continues to read as follows:

Authority: 5 U.S.C. 301; R.S. 463; 25 U.S.C. 2; R.S. 465; 25 U.S.C. 9; 42 Stat. 208; 25 U.S.C. 13; 38 Stat. 586; 25 U.S.C. 200.

§ 11.100 [Amended]

■ 2. In § 11.100, remove paragraph (a)(15).

Dated: July 18, 2003.

Aurene M. Martin,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 03–19314 Filed 7–29–03; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9084]

RIN 1545–AY27

Dual Consolidated Loss Recapture Events

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 1503(d) regarding the events that require the recapture of dual consolidated losses. These regulations are issued to facilitate compliance by taxpayers with the dual consolidated loss provisions. The regulations generally provide that certain events will not trigger recapture of a dual consolidated loss or payment of the associated interest charge. The regulations provide for the filing of certain agreements in such cases. This document also makes clarifying and conforming changes to the current regulations.

DATES: *Effective Dates:* These regulations are effective January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Allison or Kathryn T. Holman, (202) 622–3860 (not a toll-free number).

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 1545–1583. Responses to this collection of information are required to obtain the benefit of avoiding entering into a closing agreement with the IRS.

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

The estimated annual burden per recordkeeper varies from 1 to 3 hours, depending on individual circumstances, with an estimated average of 2 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:T:T:SP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

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

Final regulations implementing section 1503(d) were adopted by TD 8434 (1992–C.B. 240), on September 9, 1992, and published in the **Federal Register** at 57 FR 41079 (REG–106879–00). On August 1, 2002, proposed regulations amending the final regulations, to reduce administrative burdens in certain cases, were published in the **Federal Register** at 67 FR 49892. Three written comments were received. No public hearing was requested or held. After consideration of the comments, these final regulations are adopted by this Treasury decision. The changes and clarifications made in the final regulations in response to the comments received are discussed below.

Explanation of Provisions and Summary of Comments

Section 1503(d) generally provides that a ''dual consolidated loss'' of a domestic corporation cannot offset the taxable income of any other member of the corporation's consolidated group. The statute, however, authorizes the issuance of regulations permitting the use of a dual consolidated loss to offset the income of a domestic affiliate if the loss does not offset the income of a foreign corporation under foreign law.

Section 1.1503–2(g)(2)(i) currently permits a taxpayer to elect to use a dual consolidated loss of a dual resident corporation or separate unit to offset the income of a domestic affiliate by filing an agreement ((g)(2)(i) agreement) under which the taxpayer certifies that the dual consolidated loss has not been, and will not be, used to offset the income of another person under the laws of a foreign country. Section 1.1503–2(g)(2)(iii) provides that, in the year of a ''triggering event,'' the taxpayer must recapture and report as gross income the amount of a dual consolidated loss that is subject to the (g)(2)(i) agreement and must pay the interest charge required by paragraph (g)(2)(vii). Section 1.1503–2(g)(2)(iv)(B), however, provides that specified acquisitions are not considered to be triggering events if certain conditions are satisfied. In particular, the parties to the acquisition must enter into a closing agreement with the IRS under section 7121, and the acquiring corporation or consolidated group must file a new (g)(2)(i) agreement with

The proposed regulations provided that a triggering event generally does not occur in two types of acquisitions, without any requirement to enter into a closing agreement or file a new (g)(2)(i) agreement: (1) When an unaffiliated dual resident corporation or unaffiliated domestic owner that filed a (g)(2)(i) agreement becomes a member of a consolidated group; and (2) when a dual resident corporation, or domestic owner, that is a member of a consolidated group that filed a (g)(2)(i) agreement (the acquired group) becomes a member of another consolidated group (the acquiring group) in an acquisition, so long as each member of the acquired group that is an includible corporation under section 1504(b) is included immediately after the acquisition in a consolidated U.S. income tax return filed by the acquiring group. Instead, in

such cases, the proposed regulations required the filing of an information statement, whereby taxpayers would provide the IRS with most of the information that otherwise would have been provided in a new (g)(2)(i) agreement.

The proposed regulations were intended to relieve the burden of entering into a closing agreement in circumstances where the several liability imposed by § 1.1502–6, in combination with the original (g)(2)(i) agreement, would provide for liability by the acquiring group sufficiently comparable to that provided by a closing agreement. A commentator, who raised questions regarding comparable liability under § 1.1502–6 in such cases, in particular with respect to the interest charge, recommended that the regulations should retain the existing requirement for the acquiring corporation or consolidated group to enter into a new (g)(2)(i) agreement with respect to the dual consolidated loss. Although the IRS and Treasury believe that § 1.1502–6 provides an independent assurance of several liability, the recommendation to retain the existing requirement for a new (g)(2)(i) agreement has been adopted in these final regulations. The IRS and Treasury have concluded that the intended reduction in administrative burden can be accomplished through the elimination of the requirement to enter into a closing agreement in the cases specified in the proposed regulations. Moreover, with the retention of the requirement to file a new (g)(2)(i) agreement, the requirement in the proposed regulations to file a separate information statement containing essentially the same information has been eliminated. Additional changes have been made to clarify the nature of the new (g)(2)(i) agreement.

The commentators also suggested that any affiliated dual resident corporation or affiliated domestic owner should be permitted to join the acquiring group without causing a triggering event, regardless of whether all members of the consolidated group that filed the original (g)(2)(i) agreement also join the acquiring group, provided that the acquiring group files a new (g)(2)(i) agreement. This suggestion has not been adopted in these final regulations. The final regulations contain a modified description of the types of transactions for which a closing agreement no longer is required, to make clear that all members of an acquired group (or their successors-in-interest) must be members of the acquiring group immediately after the acquisition (*i.e.*, that no member of the acquired group, or its successor-in-interest, is excluded from the acquiring group due to any applicable restriction such as section 1504(a)(3) or section 1504(c)). However, the IRS and Treasury are continuing to consider this suggestion as well as other alternatives for further reducing the administrative and compliance burdens under the section 1503(d) regulations, and invite additional comments in this regard.

In order to accomplish the intended reduction in administrative burdens promptly, the final regulations are applicable with respect to transactions otherwise constituting triggering events occurring on or after January 1, 2002.

Special Analyses

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 also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations will primarily affect affiliated groups of corporations that also have a foreign affiliate, which tend to be larger businesses. Moreover, the number of taxpayers affected and the average burden are minimal. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the proposed regulations preceding 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 authors of these regulations are Kenneth D. Allison and Kathryn T. Holman of the Office of Associate Chief Counsel (International). 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 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

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

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

Section 1.1503–2 also issued under 26 U.S.C. 1502 * * *

■ **Par. 2.** In § 1.1503–2 paragraphs (g)(2) and (h)(1) are amended as follows:

■ 1. Paragraphs (g)(2)(iv)(B)(*1*) introductory text, and (g)(2)(iv)(B)(*1*)(*i*) are revised.

■ 2. Paragraph (g)(2)(iv)(B)(*1*)(*ii*) is removed.

■ 3. Paragraphs (g)(2)(iv)(B)(*1*)(*iii*) and (*iv*) are redesignated as paragraphs (g)(2)(iv)(B)(*1*)(*ii*) and (*iii*), respectively.

■ 4. Paragraph (g)(2)(iv)(B)(*2*) and (g)(2)(iv)(B)(*2*)(*iii*) are revised and redesignated as paragraph (g)(2)(iv)(B)(*3*) and (g)(2)(iv)(B)(*3*)(*iii*) respectively.

■ 5. Newly designated paragraph (g)(2)(4)(B)(*3*)(*iii*) is revised.

■ 6. New paragraph (g)(2)(iv)(B)(*2*) is added.

■ 7. Paragraph (g)(2)(iv)(D) is added.

■ 8. Paragraph (h)(1) is amended by adding a sentence at the end of the paragraph.

The revisions and additions read as follows:

§ 1.1503–2 Dual consolidated loss.

* * * * *

(g) * * *

(2) * * *

(iv) * * *

(B) * * * (*1*) If all the requirements of paragraph (g)(2)(iv)(B)(*3*) of this section are met, the following events shall not constitute triggering events requiring the recapture of the dual consolidated loss under paragraph (g)(2)(vii) of this section:

(*i*) An affiliated dual resident corporation or affiliated domestic owner becomes an unaffiliated domestic corporation or a member of a new consolidated group (other than in a transaction described in paragraph (g)(2)(iv)(B)(*2*)(*ii*) of this section);

* * * * *

(*2*) If the requirements of paragraph (g)(2)(iv)(B)(*3*)(*iii*) of this section are met, the following events shall not constitute triggering events requiring the recapture of the dual consolidated loss under paragraph (g)(2)(vii) of this section—

(*i*) An unaffiliated dual resident corporation or unaffiliated domestic

owner becomes a member of a consolidated group;

(*ii*) A consolidated group that filed an agreement under this paragraph (g)(2) ceases to exist as a result of a transaction described in § 1.1502–13(j)(5)(i) (other than a transaction in which any member of the terminating group, or the successor-in-interest of such member, is not a member of the surviving group immediately after the terminating group ceases to exist).

(*3*) If the following requirements (as applicable) are satisfied, the events listed in paragraphs (g)(2)(iv)(B)(*1*) and (*2*) of this section shall not constitute triggering events requiring recapture under paragraph (g)(2)(vii) of this section.

* * * * *

(iii) The unaffiliated domestic corporation or new consolidated group must file, with its timely filed income tax return for the taxable year in which the event described in paragraph (g)(2)(iv)(B)(*1*) or (*2*) of this section occurs, an agreement described in paragraph (g)(2)(i) of this section (new (g)(2)(i) agreement), whereby it assumes the same obligations with respect to the dual consolidated loss as the corporation or consolidated group that filed the original (g)(2)(i) agreement with respect to that loss. The new (g)(2)(i) agreement must be signed under penalties of perjury by the person who signs the return and must include a reference to this paragraph (g)(2)(iv)(B)(*3*)(*iii*).

* * * * *

(D) Example. The following example illustrates the application of paragraph (g)(2)(iv)(B)(*2*)(*ii*) of this section:

Example. (i) Facts. C is the common parent of a consolidated group (the C Group) that includes DRC, a domestic corporation. DRC is a dual resident corporation and incurs a dual consolidated loss in its taxable year ending December 31, Year 1. The C Group elects to be bound by the provisions of this paragraph (g)(2) with respect to the Year 1 dual consolidated loss. No member of the C Group incurs a dual consolidated loss in Year 2. On December 31, Year 2, stock of C is acquired by D in a transaction described in § 1.1502–13(j)(5)(i). As a result of the acquisition, all the C Group members, including DRC, become members of a consolidated group of which D is the common parent (the D Group).

(ii) Acquisition not a triggering event. Under paragraph (g)(2)(iv)(B)(*2*)(*ii*) of this section, the acquisition by D of the C Group is not an event requiring the recapture of the Year 1 dual consolidated loss of DRC, or the payment of an interest charge, as described in paragraph (g)(2)(vii) of this section, provided that the D Group files the new (g)(2)(i) agreement described in paragraph (g)(2)(iv)(B)(*3*)(*iii*) of this section.

(iii) Subsequent event. A triggering event occurs on December 31, Year 3, that requires recapture by the D Group of the dual consolidated loss that DRC incurred in Year 1, as well as the payment of an interest charge, as provided in paragraph (g)(2)(vii) of this section. Each member of the D Group, including DRC and the other former members of the C Group, is severally liable for the additional tax (and the interest charge) due upon the recapture of the dual consolidated loss of DRC.

* * * * *

(h) * * *

(1) * * * Paragraph (g)(2)(iv)(B)(*2*) of this section shall apply with respect to transactions otherwise constituting triggering events occurring on or after January 1, 2002.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

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

Authority: 26 U.S.C. 7805.

■ **4.** In § 602.101, paragraph (b) is amended by adding an entry for 1.1503–2 to read as follows:

§ 602.601 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.1503–2	1545–1583
* * * * *	

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

Approved: July 17, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–19366 Filed 7–29–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Paducah–03–014]

RIN 1625–AA00

Safety Zone; Upper Mississippi River, Mile Marker 51.5 to 52.5, Cape Girardeau, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Upper Mississippi River from mile marker 51.5 to 52.5 near Cape Girardeau, MO. This safety zone is needed to protect vessels from the safety hazards associated with the construction operations on the Cape Girardeau Bridge. Entry into this zone is prohibited unless specifically authorized by the Coast Guard Captain of the Port Paducah or a designated representative.

DATES: This rule is effective from 8 a.m. on July 13, 2003 until 5 p.m. on August 15, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP Paducah-03–014] and are available for inspection or copying at Marine Safety Office Paducah, 225 Tully, Paducah, KY 42003 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade (LTJG) Patrick Mounsey, Marine Safety Office Paducah, Port Operations at (270) 442–1621 ext 350.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM and delaying its effective date would be contrary to public interest because immediate action is needed to protect vessels and mariners from the hazards associated with construction operations on the Cape Girardeau Bridge.

Background and Purpose

The Captain of the Port Paducah is establishing a temporary safety zone for all waters of the Upper Mississippi River from mile marker 51.5 to 52.5 near Cape Girardeau, MO. This safety zone is needed to protect vessels and mariners from the safety hazards associated with the construction operations on the Cape Girardeau Bridge. Construction operations have been ongoing for several months with an average of one closure a week. Scheduled meetings between the contractor, industry, the Eighth Coast Guard District Bridge Branch and the Captain of the Port