

years that are prior to the taxable year that is 2 taxable years preceding the taxable year of the loss, provided that any other corporation joining the acquiring group that was affiliated with the member immediately before it joined the acquiring group is also included in the waiver and that the conditions of this paragraph are satisfied. The acquiring group cannot make the election described in this paragraph with respect to any consolidated net operating losses arising in a particular taxable year if a carryback to one or more taxable years that are prior to the taxable year that is 2 taxable years preceding the taxable year of the loss is claimed, as provided in paragraph (b)(3)(ii)(C)(4) of this section, with respect to any such losses on a return or other filing by a group of which the acquired member was previously a member and such claim is filed on or before the date the election described in this paragraph is filed. The election must be made in a separate statement entitled "THIS IS AN ELECTION UNDER SECTION 1.1502-21T (b)(3)(ii)(C)(3) TO WAIVE THE PRE-[insert first day of the first taxable year for which the member (or members) was a member of the acquiring group] EXTENDED CARRYBACK PERIOD FOR THE CNOLS ATTRIBUTABLE TO THE [insert taxable year of losses] TAXABLE YEAR(S) OF [insert names and employer identification numbers of members]." Such statement must be filed as provided in paragraph (b)(3)(ii)(C)(5) of this section.

(4) *Claim for a carryback.* For purposes of paragraphs (b)(3)(ii)(C)(2) and (3) of this section, a carryback is claimed with respect to a consolidated net operating loss if there is a claim for refund, an amended return, an application for a tentative carryback adjustment, or any other filing that claims the benefit of the net operating loss in a taxable year prior to the taxable year of the loss, whether or not subsequently revoked in favor of a claim based on a 5-year carryback period.

(5) *Time and manner for filing statement.* A statement described in paragraph (b)(3)(ii)(C)(2) or (3) of this section that relates to consolidated net operating losses attributable to a taxable year ending during 2001 must be filed with the acquiring consolidated group's timely filed (including extensions) original or amended return for the taxable year ending during 2001, provided that such original or amended return is filed on or before October 31, 2002. A statement described in paragraph (b)(3)(ii)(C)(2) or (3) of this section that relates to consolidated net operating losses attributable to a taxable

year ending during 2002 must be filed with the acquiring consolidated group's timely filed (including extensions) original or amended return for the taxable year ending during 2001 or 2002, provided that such original or amended return is filed on or before September 15, 2003.

(b)(3)(iii) and (b)(3)(iv) [Reserved]. For further guidance, see § 1.1502-21(b)(3)(iii) and (b)(3)(iv).

■ 3. On page 12292, column 1, § 1.1502-32T, paragraphs (b)(4) through (b)(4)(v) is corrected to read as follows:

§ 1.1502-32T Investment adjustments (temporary).

(b)(4) through (b)(4)(iv) [Reserved]. For further guidance, see § 1.1502-32(b)(4) through (b)(4)(iv).

(b)(4)(v) *Special rule for loss carryovers of a subsidiary acquired in a transaction for which an election under § 1.1502-20T(i)(2) is made—(A) Expired losses.* Notwithstanding § 1.1502-32(b)(4)(iv), to the extent that S's loss carryovers are increased by reason of an election under § 1.1502-20T(i)(2) and such loss carryovers expire or would have been properly used to offset income in a taxable year for which the refund of an overpayment is prevented by any law or rule of law as of the date the group files its original return for the taxable year in which S receives the notification described in § 1.1502-20T(i)(3)(iv) and at all times thereafter, the group will be deemed to have made an election under § 1.1502-32(b)(4) to treat all of such expired loss carryovers as expiring for all Federal income tax purposes immediately before S became a member of the consolidated group.

(B) *Available losses.* Notwithstanding § 1.1502-32(b)(4)(iv), to the extent that S's loss carryovers are increased by reason of an election under § 1.1502-20T(i)(2) and such loss carryovers have not expired and would not have been properly used to offset income in a taxable year for which the refund of an overpayment is prevented by any law or rule of law as of the date the group files its original return for the taxable year in which S receives the notification described in § 1.1502-20T(i)(3)(iv) and at all times thereafter, the group may make an election under § 1.1502-32(b)(4) to treat all or a portion of such loss carryovers as expiring for all Federal income tax purposes immediately before S became a member of the consolidated group. Such election must be filed with the group's original return for the taxable year in which S receives the notification described in § 1.1502-20T(i)(3)(iv).

(C) *Effective date.* This paragraph (b)(4)(v) is applicable on and after March 7, 2002.

§ 1.1502-35T [Corrected]

■ 4. On page 12293, column 1, § 1.1502-35T, paragraph (b)(3)(i)(C), line 2 from the bottom of the paragraph, the language "distributtee), section 351, or section 361" is corrected to read "distributtee), section 351, section 354, or section 361".

■ 5. On page 12293, column 1, § 1.1502-35T, paragraph (b)(3)(ii)(B), line 3 from the bottom of the paragraph, the language "of subsidiary member stock that they" is corrected to read "of the subsidiary member stock that they".

■ 6. On page 12293, column 1, § 1.1502-35T, paragraph (b)(3)(ii)(C) is correctly designated paragraph (b)(3)(ii)(D).

■ 7. On page 12293, column 1, § 1.1502-35T, new paragraph (b)(3)(ii)(C) is added to read as follows.

■ 8. On page 12293, column 2, § 1.1502-35T, paragraph (b)(6)(ii), line 2 from the bottom of the paragraph, the language "and paragraph (c) of this section are" is corrected to read "and paragraphs (c) and (f) of this section are".

■ 9. On page 12295, column 2, § 1.1502-35T, paragraph (e), the first sentence is revised to read as follows.

■ 10. On page 12297, column 2, § 1.1502-35T, paragraph (f)(1), lines 4 and 5 from the bottom of the paragraph, the language "as expired, but not as absorbed by the group, as of the beginning of the group's" is corrected to read "as expired, but shall not be treated as a noncapital, nondeductible expense for purposes of § 1.1502-32(b)(3)(iii), as of the beginning of the group's".

§ 1.1502-35T Transfers of subsidiary member stock and deconsolidations of subsidiary members (temporary).

(b) * * *
(3) * * *
(ii) * * *

(C) The members of the group are allowed a worthless stock loss under section 165(g) with respect to all of the shares of the subsidiary member stock that they own immediately before the deconsolidation; or

(e) *Examples.* For purposes of the examples in this section, unless otherwise stated, all groups file consolidated returns on a calendar-year basis, the facts set forth the only corporate activity, all transactions are