

such subsidiary (or a lower-tier corporation of such subsidiary) as expiring for all Federal income tax purposes, then the common parent may reapportion a separate, subgroup, or consolidated section 382 limitation with respect to such subsidiary or lower-tier corporation in a manner consistent with the principles of paragraph (i)(3)(iii)(A) through (D) of this section. Any reapportionment of a section 382 limitation made pursuant to the previous sentence shall have the effects described in paragraph (i)(3)(iii)(D)(ii) and (iii) of this section. For purposes of this section, a lower-tier corporation is a corporation that was a member of the group of which the subsidiary was a member immediately before becoming a member of the acquiring group and that became a member of the acquiring group as a result of the subsidiary becoming a member of the acquiring group.

(B) *Time and manner of adjustment of apportionment of section 382 limitation.* The common parent must include a statement entitled *Adjustment of Apportionment of Section 382 Limitation in Connection with Amendment of Election under § 1.1502-32(b)(4)* with or as part of any timely filed (including any extensions) original return for a taxable year that includes any date on or before May 7, 2003 or with or as part of an amended return filed before the date the original return for the taxable year that includes May 7, 2003 is due (with regard to extensions). The statement must set forth the name and employer identification number (E.I.N.) of the subsidiary and both the original and the adjusted apportionment of a separate section 382 limitation, a subgroup section 382 limitation, and a consolidated section 382 limitation, as applicable. The requirements of this paragraph (i)(3)(viii)(B) will be treated as satisfied if the information required by this paragraph (i)(3)(viii)(B) is included in the statement required by paragraph (i)(4) of this section rather than in a separate statement.

(C) *Effective date.* This paragraph (i)(3)(viii) is applicable on and after May 7, 2003.

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(5) *Special time for filing election in the case of a waiver under § 1.1502-32(b)(4).* (i) *In general.* Notwithstanding the provisions of paragraph (i)(4) of this section, the election to determine allowable loss or basis reduction provided in this paragraph (i) may be made by including the statement required by paragraph (i)(4) of this section with or as part of an original or amended return that is filed on or before June 15, 2003, if—

(A) The group that includes the acquirer of the subsidiary stock made an election pursuant to § 1.1502-32(b)(4) to treat all or a portion of the loss carryovers of the subsidiary (or a lower-tier corporation of such subsidiary) as expiring for all Federal income tax purposes;

(B) The timely filing of an election to determine allowable loss or basis reduction by applying the provisions described in paragraph (i)(2)(i) or (ii) of this section would permit the acquiring group to amend its election under § 1.1502-32(b)(4) pursuant to § 1.1502-32T(b)(4)(vii);

(C) June 6, 2003 is after the date the original return of the consolidated group for the taxable year that includes March 7, 2002, is due (including extensions); and

(D) The statement required by paragraph (i)(4) of this section specifies that the filing of the election is permitted under this paragraph (i)(5).

(ii) *Effective date.* This paragraph (i)(5) is applicable on and after May 7, 2003.

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■ **Par. 4.** Section 1.1502-32T is amended by adding paragraph (b)(4)(vii) to read as follows:

**§ 1.1502-32T—Investment adjustments (temporary).**

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(vii) *Special rules for amending waiver of loss carryovers from separate return limitation year—*(A) *Waivers that increased allowable loss or reduced basis reduction required.* If, in connection with the acquisition of S, the group made an election pursuant to § 1.1502-32(b)(4) to treat all or any portion of S's loss carryovers as expiring, and the prior group elected to determine the amount of the allowable loss or the basis reduction required with respect to the stock of S or a higher-tier corporation of S by applying the provisions described in § 1.1502-20T(i)(2)(i) or (ii), then the group may reduce the amount of any loss carryover deemed to expire (or increase the amount of any loss carryover deemed not to expire) as a result of the election made pursuant to § 1.1502-32(b)(4). The aggregate amount of loss carryovers that may be treated as not expiring as a result of amendments made pursuant to this paragraph (b)(4)(vii)(A) with respect to S and any higher- and lower-tier corporation of S may not exceed the amount described in § 1.1502-20(c)(1)(iii) with respect to the acquired stock (computed without regard to the effect of the group's election or elections

pursuant to § 1.1502-32(b)(4), but with regard to the effect of the prior group's election pursuant to § 1.1502-20(g), if any, prior to the application of § 1.1502-20T(i)(3)). For purposes of determining the aggregate amount of loss carryovers that may be treated as not expiring as a result of amendments made pursuant to this paragraph (b)(4)(vii)(A) with respect to S and any higher- and lower-tier corporation of S, the group may rely on a written notification provided by the prior group. Nothing in this paragraph shall be construed as permitting a group to increase the amount of any loss carryover deemed to expire (or reduce the amount of any loss carryover deemed not to expire) as a result of the election made pursuant to § 1.1502-32(b)(4).

(B) *Inadvertent waivers of loss carryovers previously subject to an election described in § 1.1502-20(g).* If, in connection with the acquisition of S, the group made an election pursuant to § 1.1502-32(b)(4) to waive loss carryovers of S by identifying the amount of each loss carryover deemed not to expire, the prior group elected to determine the amount of the allowable loss or the basis reduction required with respect to the stock of S or a higher-tier corporation of S by applying the provisions described in § 1.1502-20T(i)(2)(i) or (ii), and the amount of S's loss carryovers treated as reattributed to the prior group pursuant to the election described in § 1.1502-20(g) is reduced pursuant to § 1.1502-20T(i)(3), then the group may amend its election made pursuant to § 1.1502-32(b)(4) to provide that all or a portion of the loss carryovers of S that are treated as loss carryovers of S as a result of the prior group's election to apply the provisions described in § 1.1502-20T(i)(2)(i) or (ii) are deemed not to expire. This paragraph (b)(4)(vii)(B), however, does not permit a group to reduce the amount of any loss carryover deemed not to expire as a result of the election made pursuant to § 1.1502-32(b)(4).

(C) *Time and manner of amending an election under § 1.1502-32(b)(4).* The amendment of an election made pursuant to § 1.1502-32(b)(4) must be made in a statement entitled *Amendment of Election to Treat Loss Carryover as Expiring Under § 1.1502-32(b)(4) Pursuant to § 1.1502-32T(b)(4)(vii)*. The statement must be filed with or as part of any timely filed (including extensions) original return for the taxable year that includes May 7, 2003 or with or as part of an amended return filed before the date the original return for the taxable year that includes May 7, 2003 is due (with regard to extensions). A separate statement shall